

No. 1984-100

## AN ACT

HB 1848

Amending the act of May 3, 1933 (P.L.242, No.86), entitled, as amended, "An act to promote the public health and safety by providing for examination and registration of those who desire to engage in the occupation of beauty culture; defining beauty culture, and regulating beauty culture shops, schools, students, apprentices, teachers, managers and operators; conferring powers and duties upon the Commissioner of Professional and Occupational Affairs in the Department of State; providing for appeals to certain courts by applicants and licensees; and providing penalties," reestablishing the State Board of Cosmetology; providing for its composition, powers and duties; making editorial changes; and making a repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of May 3, 1933 (P.L.242, No.86), entitled, as amended, "An act to promote the public health and safety by providing for examination and registration of those who desire to engage in the occupation of beauty culture; defining beauty culture, and regulating beauty culture shops, schools, students, apprentices, teachers, managers and operators; conferring powers and duties upon the Commissioner of Professional and Occupational Affairs in the Department of State; providing for appeals to certain courts by applicants and licensees; and providing penalties," amended July 20, 1968 (P.L.442, No.208), is amended to read:

## AN ACT

To promote the public health and safety by providing for examination, *licensing* and [registration] *granting of permits for* those who desire to engage in the [occupation] *profession of [beauty culture] cosmetology*; defining [beauty culture] *cosmetology*, and regulating [beauty culture] *cosmetology* shops, schools, students, apprentices, teachers, managers, *manicurists* and [operators] *cosmetologists*; conferring powers and duties upon the Commissioner of Professional and Occupational Affairs in the Department of State; providing for appeals to certain courts by applicants and licensees; and providing penalties.

Section 2. Section 1 of the act, amended May 12, 1949 (P.L.1285, No.382), July 20, 1968 (P.L.442, No.208) and October 4, 1978 (P.L.937, No.181) is amended to read:

Section 1. [Be it enacted, &c., That—Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:] *Definitions.—The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:*

"Affiliation" for purposes of section 1.1, means any person who is an owner, a stockholder, a member of the board of trustees or board of gover-

*nors, any professional employe, or consultant or any nonprofessional employe and any part-time personnel employed by a school of cosmetology.*

*“Board” means the State Board of Cosmetology.*

*“Bureau” means the Bureau of Professional and Occupational Affairs in the Department of State.*

*“Cosmetician” means an individual who engages only in the practice of massaging the face, applying cosmetic preparations, antiseptics, tonics, lotions or creams to the face, removing superfluous hair by tweezers, depilatories or waxes and the dyeing of eyelashes and eyebrows.*

*“Cosmetologist” means an individual who is engaged in the practice of cosmetology.*

[**“Beauty Culture”**] **“Cosmetology”** includes any or all work done for compensation by any person, which work is generally and usually performed by [hairstylists,] cosmetologists, [cosmeticians, beauticians or beauty culturists, and however denominated,] which work is for the embellishment, cleanliness and beautification of the human hair, such as arranging, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, pressing, or similar work thereon and thereabout, and the removal of superfluous hair, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work upon the scalp, face, arms or hands, or the upper part of the body, by the use of mechanical or electrical apparatus or appliances or cosmetics, preparations, tonics, antiseptics, creams or lotions, or by any other means, and of manicuring the nails, which enumerated practices shall be inclusive of the term [beauty culture] cosmetology but not in limitation thereof.

[**“Board”** means the State Board of Cosmetology.]

*“Department”* means the Commissioner of Professional and Occupational Affairs in the Department of State.

*“School of [Beauty Culture] Cosmetology”* includes any individual, partnership, association, business corporation, nonprofit corporation, municipal corporation, school district or any group of individuals however organized whose purpose is to provide courses of instruction in [beauty culture] cosmetology, the management of [beauty culture] cosmetology shops, or the teaching of [beauty culture] cosmetology.

*“Tanning units”* means equipment that utilizes ultraviolet light for the purpose of cosmetic tanning.

Section 3. The act is amended by adding a section to read:

**Section 1.1. Membership of Board.**—(a) *The board shall consist of thirteen members: the Commissioner of Professional and Occupational Affairs; the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee; three public members appointed by the Governor with the advice and consent of the Senate, which members shall represent the public at large; and eight professional members appointed by the Governor with the advice and consent of the Senate, which members have had at least five years practical and/or managerial experience in the majority of the practices of cosmetology and shall be actively engaged in the profession. No more than one professional member shall be currently*

*employed as a vocational education teacher of cosmetology in the public schools. No more than two professional members of the board shall be currently affiliated with a private school of cosmetology. No other person who has been affiliated with a private cosmetology school within three years prior to nomination may be nominated. Members currently serving on the board shall continue to serve until the expiration of their terms and until successors are appointed and qualified according to law, but for no longer than six months.*

*(b) Professional and public members appointed after the expiration of the terms of current board members shall serve the following terms: two professional members and one public member shall serve one year; two professional members and one public member shall serve two years; and two professional members and one public member shall serve three years. Thereafter, professional and public members shall serve three-year terms. No member may serve more than two consecutive terms.*

*(c) Seven members of the board shall constitute a quorum. The board shall select, from among their number, a chairman, a vice chairman and a secretary.*

*(d) Each public and professional member of the board shall be paid reasonable traveling, hotel and other necessary expenses and per diem compensation at the rate of sixty dollars (\$60) for each day of actual service while on board business.*

*(e) A member who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.*

*(f) In the event that a member of the board dies or resigns during the term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in subsections (a) and (b) and shall hold office for the unexpired term.*

Section 4. Section 2 of the act, amended July 20, 1968 (P.L.442, No.208), is amended to read:

Section 2. Practice of **[Beauty Culture] Cosmetology** without **[Registration] License** Prohibited.—It shall be unlawful for any person to practice or teach **[beauty culture] cosmetology**, **[or]** manage a **[beauty] cosmetology, manicurist or cosmetician** shop, **[or]** to use or maintain any place for the practice of **[beauty culture] cosmetology**, for compensation, or to use or maintain any place for the teaching of **[beauty culture] cosmetology**, unless he or she shall have first obtained from the department a **[certificate of registration] license** as provided in this act. **[Nothing contained in this act, however, shall apply to or affect any person who is now actually engaged in any such occupation, except as hereinafter provided.]**

Section 5. Section 3 of the act, amended May 12, 1949 (P.L.1285, No.382), is amended to read:

Section 3. Requirements to Practice.—Before any person may practice or teach **[beauty culture] cosmetology** or manage a **[beauty] cosmetology**

shop, such person shall file with the board a written application for **[registration] license**, accompanied by a health certificate issued by a **[registered]** licensed physician of Pennsylvania, **[, under oath,]** on a form which shall be prescribed and supplied by the board, and shall deposit with the department the **[registration] license** fee, and pass an examination **[to be given] approved** by the board as to fitness to practice or teach **[beauty culture] cosmetology** or manage a **[beauty] cosmetology** shop, as hereinafter provided in this act.

Section 6. Section 4 of the act, amended July 20, 1968 (P.L.442, No.208), is amended to read:

Section 4. Eligibility Requirements for Examination.—No person shall be permitted by the board to take an examination to receive a **[certificate] license** as **[an operator] a cosmetologist** unless such person (1) shall be at least sixteen years of age and of good moral character at the time of making application, and (2) shall have completed a tenth grade education or the equivalent thereof, or in lieu of such education or the equivalent thereof shall have received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry, and (3) shall have either (i) completed not less than one thousand two hundred fifty hours as a student in a duly registered school of **[beauty culture] cosmetology** as hereinafter provided in this act, or (ii) shall have been registered and served as an apprentice at least **[three years] two thousand hours** in a licensed **[beauty] cosmetology** shop as hereinafter provided in this act, **[, or (iii) established to the satisfaction of the board that he or she has been an operator in the active practice of beauty culture for at least twenty-four months prior to the date of filing application for admission to an examination].** *The application shall be accompanied by a notarized statement from either the licensed cosmetology school the applicant attended or the licensed cosmetology teacher in the licensed cosmetology shop where the applicant studied and trained, stating that the applicant has completed the study and training period required under this act.* No person shall be permitted to take an examination for a **[certificate] license** to teach **[beauty culture] cosmetology** unless such person shall have **[an operator's] a cosmetologist's** license, be at least eighteen years of age, shall have completed a twelfth grade education or the equivalent thereof and have had five hundred hours of specialized training as set forth in section 6 of this act which hours shall be in addition to the hours necessary to qualify for **[an operator's] a cosmetologist's** license. No person shall be permitted to take an examination for a **[certificate] license** to act as a manager of a **[beauty] cosmetology** shop unless such person shall have **[an operator's] a cosmetologist's** license, be at least eighteen years of age, shall have completed a tenth grade education or the equivalent thereof and have had at least eighteen months' experience as **[an operator] a cosmetologist** in a **[beauty] cosmetology** shop *or shared shop* or have had three hundred hours of specialized training as set forth in section 6 of this act which hours shall be in addition to the hours necessary to qualify for **[an operator's] a cosmetologist's** license.

Section 7. Section 4.1 of the act, added November 19, 1959 (P.L.1533, No.544), is amended to read:

Section 4.1. Educational Requirement Waived for Certain Persons.—A person thirty-five years of age or over, or a veteran desiring to take an examination to receive a **[certificate] license** as **[an operator] a cosmetologist**, shall not be required to have completed a tenth grade education, or the equivalent thereof, as set forth in clause (2) of section 4 of this act.

Section 8. Sections 4.2 and 4.3 of the act, added July 20, 1968 (P.L.442, No.208), are amended to read:

**[Section 4.2. Eligibility Requirements for Enrolling in a School of Beauty Culture.—No person shall be permitted to enroll as a student in a school of beauty culture nor shall a school of beauty culture enroll a student until an application for a student permit shall have been filed with the board and a student permit issued by the board. No student permit shall be issued unless the prospective student applying therefore shall have established to the satisfaction of the board that he or she is of good moral character and has completed a ninth grade education or the equivalent thereof in lieu of such education or the equivalent thereof shall have received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry.]**

Section 4.3. Eligibility Requirements for Registration as an Apprentice.—No person shall be permitted to register as an apprentice of **[beauty culture] cosmetology** nor shall a licensed **[beauty] cosmetology** shop employ or cause to be registered a person until an application for an apprentice permit shall have been filed with the board and an apprentice permit issued by the board. No apprentice permit shall be issued unless the prospective apprentice applying therefor shall have established to the satisfaction of the board that he or she is of good moral character **[and]**, has completed a tenth grade education or the equivalent thereof or in lieu of such education or the equivalent thereof **[shall have] has** received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry *and is free from contagious or infectious disease.*

Section 9. Section 4.4 of the act, added July 15, 1976 (P.L.1027, No.206), is amended to read:

Section 4.4. Management of **[Beauty] Cosmetology** Shops.—An owner of a **[beauty] cosmetology** shop, licensed as **[an operator] a cosmetologist**, may manage his own shop if he operates therein exclusively; otherwise, he shall employ a licensed manager. *This section does not prohibit coownership of cosmetology shops by licensed cosmetologists who operate therein exclusively. This section does not prohibit an owner who is a barber from employing a cosmetologist without the requirement that a cosmetologist-manager also be employed.*

Section 10. Section 5 of the act is amended to read:

Section 5. **[Manicuring] Limited Licenses.**—A limited **[certificate of registration] license** to manicure the nails only *and as a cosmetician only* may be applied for and granted under all of the terms and conditions of this act, except that the examination therefor may be limited to such practice only and the required schooling shall be not less than one month. *A manicurist may operate a shop limited to manicuring. A cosmetician may operate a shop*

*limited to that license. The board may promulgate regulations with respect to such shops.*

Section 11. Section 6 of the act, amended July 20, 1968 (P.L.442, No.208), is amended to read:

Section 6. Requirements of a School of **[Beauty Culture] Cosmetology**.—(a) No school of **[beauty culture] cosmetology** shall be granted a **[certificate of registration] license or renewal thereof** unless it shall: (1) *enroll only those students who have completed a ninth grade education or the equivalent thereof, or in lieu of such education or the equivalent thereof have received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry; are of good moral character; and are free from contagious or infectious disease;* (2) attach to its staff, as a consultant, a person licensed by this Commonwealth to practice medicine~~], and~~; (3) employ and maintain a sufficient number of competent teachers, registered as such~~], and shall~~; (4) possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum~~], shall~~; (5) keep a daily record of the attendance of each student~~], shall~~; (6) maintain regular class and instruction hours~~], shall~~; (7) establish grades and hold examinations before issuance of diplomas~~], and shall~~; *and* (8) require a day school term of training of not less than one thousand two hundred fifty hours within a period of not less than ~~[nine] eight~~ consecutive months or a night school term of training for a period of not less than fifteen consecutive months for a complete course, comprising all or a majority of the practices of cosmetology, as provided by this act, and to include practical demonstrations and theoretical studies, and study in sanitation, sterilization, and the use of antiseptics, cosmetics and electrical appliances consistent with the practical and theoretical requirements as applicable to **[beauty culture] cosmetology** or any practice thereof. The hours of training required shall be accomplished within four consecutive years. In no case shall there be less than one teacher to each twenty-five pupils. A separate curriculum of five hundred hours shall be established for persons seeking to become teachers of **[beauty culture] cosmetology** which shall include methods of teaching, principles of education and shop management: Provided, however, That teachers in public school programs of **[beauty culture] cosmetology** who have shop managers' licenses and who meet the standards established by the Department of **[Public Instruction] Education** for vocational education teachers in the public schools shall be deemed to have satisfied such additional separate curriculum for teachers. A separate curriculum of three hundred hours shall be established for persons seeking to become managers of **[beauty] cosmetology** shops which shall include the conduct and administration of a **[beauty] cosmetology** shop. *Each school shall report to the board student hours quarterly on forms provided by the board.*

(b) *Upon renewal of the license, the school owner shall supply an affidavit stating that, at the time of renewal, the school is in compliance with this act and the regulations promulgated under this act.*

(c) *No member of the board may inspect or be physically present during the original inspection of a cosmetology shop or a school of cosmetology.*

Section 12. Sections 7 and 8 of the act, amended January 14, 1952 (1951 P.L.2047, No.578), are amended to read:

Section 7. Student Practice upon the Public for Pay Prohibited.—It shall be unlawful for any school of **[beauty culture] cosmetology** to permit its students to practice **[beauty culture] cosmetology** upon the public under any circumstances except by way of clinical work upon persons willing to submit themselves to such practice after having first been properly informed that the operator is a student. No school of **[beauty culture] cosmetology** shall, directly or indirectly, charge any money whatsoever for treatment by its students **[or for materials used in such treatment.]** *and shall only charge the reasonable cost of materials used in such treatment.*

Section 8. Practice in **[Beauty] Cosmetology** Shops Only.—It shall be unlawful for any person to practice **[beauty culture] cosmetology** for pay in any place other than a **[registered beauty] licensed cosmetology** shop, *manicurist shop or barber shop as defined in the act of June 19, 1931 (P.L.589, No.202), referred to as the Barbers' License Law*: Provided, That a **[registered operator] licensed cosmetologist** may furnish **[beauty culture] cosmetology** treatments to persons in residences of such persons by appointment.

Section 13. Section 9 of the act, amended October 2, 1959 (P.L.1010, No.421), is amended to read:

Section 9. Exceptions to Examination Requirements; Present Students and Apprentices.—Any person who has practiced or taught **[beauty culture] cosmetology** or acted as manager of a **[beauty] cosmetology** shop or school of **[beauty culture,] cosmetology**, under a certificate, license or permit, for not less than two years in another state, territory, or *the* District of Columbia, may secure the **[certificate of registration] license** required by this act without an examination or compliance with other requirements as to age or education: Provided, That the Board shall be satisfied that the standards provided for licensure under the laws of the place wherein the applicant's license was issued are the same or substantially the same as those provided for hereunder, that similar privileges are accorded persons licensed under the laws of the Commonwealth, that the applicant holds a valid license from the place wherein he is entitled to practice, and that all the terms and conditions prescribed by the Board are complied with by the applicant. Such application shall be accompanied by an affidavit of a **[practicing] licensed** physician that the applicant was examined and is free from all contagious and infectious diseases, and the **[registration] license** fee required by this act. **[Any person studying beauty culture in a school of beauty culture or as an apprentice in a beauty shop in this Commonwealth at the time this act goes into effect shall receive credit for such time and studies without complying with the requirements of this act as to age and preliminary education, provided such person shall make application to the department for registration as a student or apprentice within three months after this act goes into effect.]** Students, upon graduating from **[registered] licensed** schools of **[beauty culture] cosmetology**, may apply for, and receive from the department, a temporary **[permit] license** to practice **[as an operator] in the field of cosmetology** until the next regular examination held by the department under the provisions of this act.

Section 14. Section 9.1 of the act, added November 17, 1982 (P.L.674, No.190), is amended to read:

Section 9.1. Credit for Registered Barbers.—If a registered barber wishes to become a licensed cosmetologist, he or she shall have successfully completed the one thousand two hundred fifty-hour barber training course or shall possess a current barber [certificate of registration] license. Upon application to the board he or she shall be given five hundred fifty-five hours of credit for subjects previously covered in the barber training course, which subjects shall be enumerated by joint regulation of the State Board of Barber Examiners and the State Cosmetology Board. Before such person is permitted to take the cosmetology practical and theory State Board examination, he or she shall have successfully passed both the theory and practical portions of the State Barber Board examination.

Section 15. The act is amended by adding a section to read:

*Section 9.2. Shared Shops.—(a) A licensed barber and a licensed cosmetologist shall be permitted to work in the same shop if the requirements of this section are met. Any licensed shop which employs a licensed barber and a licensed cosmetologist shall not be required to erect or install any physical barriers which separate the barber and the cosmetologist. All licensed shops shall conform with the provisions of section 4.4 of this act.*

*(b) A cosmetology shop licensee who shall employ a licensed barber shall also be a licensed cosmetologist manager and a barber or employ a cosmetologist manager who is licensed as a barber.*

*(c) All shops licensed one year prior to the effective date of this section shall not be required to comply with subsection (b), but shall comply with all other provisions of this act.*

*(d) All owners or managers of shops licensed within one year prior to or after the effective date of this section who shall employ licensed barbers shall themselves or their cosmetologist managers be eligible for the barber license examination if they have a current cosmetologist manager's license or own as an owner-operator a current licensed cosmetology shop. No additional curriculum hours shall be required. If the owner or the manager fails the examination, they shall be required to obtain an additional six hundred ninety-five curriculum hours as prescribed in section 3.2 of the act of June 19, 1931 (P.L.589, No.202), referred to as the Barbers' License Law.*

*(e) For the purpose of this section only, when a licensee under this act and a licensee under the Barbers' License Law are subject to formal proceedings for violations of this act or the Barbers' License Law, the board and the State Board of Barber Examiners shall consolidate all formal actions against such licensees for the purpose of prosecution and hearing provided that the board shall retain to itself exclusively the power to revoke or suspend licenses after such prosecution and hearing.*

Section 16. Sections 10 and 11 of the act, amended July 20, 1968 (P.L.442, No.208), section 11 repealed in part July 31, 1968 (P.L.769, No.240), are amended to read:

Section 10. Apprentices in [Beauty] Cosmetology Shops.—Any cosmetologist[, hairdresser, or cosmetician,] who is a [beauty] cosmetology shop



owner, at least twenty-three years of age, who is a high school graduate or the equivalent thereof, who has had at least five years experience as a licensed **[beautician] cosmetologist** in Pennsylvania, and who is a holder of a teacher's **[certificate] license**, may instruct apprentices in a duly licensed **[beauty] cosmetology** shop, provided that there shall be no less than two licensed **[operators] cosmetologists** in addition to the teacher for each apprentice in any shop and there shall be no more than two apprentices in any shop, and provided such shop is not held out as a school of **[beauty culture] cosmetology and provided each teacher instructing an apprentice shall report quarterly hours to the board on a form provided by the board.** Such apprentices may apply for examination at the end of their apprenticeship at the next regular examination held by the board, and, if successful therein, shall be **[registered] licensed** as **[operators] cosmetologists**. Registered apprentices upon completion of their required term of apprenticeship, may apply for, and receive from the department, a temporary permit to practice **[as an operator] in the field of cosmetology** until the next regular examination. *Nothing in this act shall prohibit an owner from hiring a cosmetology teacher to instruct apprentices.*

Section 11. **[Rules] Regulations** by Board.—The board after at least one public hearing shall prescribe reasonable **[rules] regulations** for its conduct, and for the **[registration and] examination and licensing** of applicants to practice or teach **[beauty culture, and for the registration of teachers, students,] cosmetology** and **[managers of beauty] to manage cosmetology** shops or schools of **[beauty culture, and] cosmetology**, for temporary licenses to be issued by the department, and generally for the conduct of persons, copartnerships, associations or corporations affected by this act.

Section 17. The act is amended by adding a section to read:

*Section 11.1. Annual Reports to Legislative Committees.—(a) The board shall submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.*

*(b) The board shall submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.*

Section 18. Section 12 of the act, amended May 12, 1949 (P.L.1285, No.382), is amended to read:

Section 12. Examinations; Issuance of **[Certificates of Registration] Licenses**.—If the board finds that the applicant has submitted the credentials required by this act for admission to *the* examination, and has paid the **[registration] license** fee required by this act, the board shall admit such applicant to *the* examination and the department shall issue a **[certificate of registration] license** to practice as **[operator] a cosmetologist**, manager, or teacher as the case may be to those successfully passing the required examinations:

Provided, That if the applicant fails to pass the examination he or she may be eligible to take the next examination [without any additional fee]. [Every certificate of registration issued by the department shall have attached securely thereto a photograph of the person to whom the same is issued, and where a certificate is issued in the name of a corporation it shall have attached thereto the photograph of the manager thereof. Such photographs shall be furnished by the applicant for registration and shall be of such size as the board may require. The board] *Examinations* shall [hold public examinations on the third Tuesday in January, April, July, and October in the cities] *be held at least four times a year in the metropolitan areas* of Philadelphia, Pittsburgh, Wilkes-Barre, Harrisburg, and Erie at such hours as it shall prescribe *pursuant to section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."* The examination for teachers' and managers' licenses shall differ from the examination for [operators'] *cosmetology* licenses in that it shall be of a more exacting nature and require higher standards of knowledge of the practice and theories of [beauty culture] *cosmetology*, including, *with respect to a teacher's license*, ability to teach properly the various practices and theories of [beauty culture] *cosmetology*.

Section 19. Section 12.1 of the act, added July 15, 1976 (P.L.1027, No.206), is amended to read:

Section 12.1. Temporary [Certificates of Registration] *Licenses*.— [(a) The department shall issue a temporary certificate of registration to practice as operator, manager, or teacher as the case may be to those successfully passing the required examinations and after completing the other requirements imposed by this act.

(b) The temporary certificate of registration shall be issued by the inspector to the applicant upon the satisfactory completion of his inspection.

(c) The temporary certificate of registration shall be effective until the applicant receives the permanent certificate of registration from the department. The temporary certificate of registration shall have the same effect as the certificate of registration provided for in section 12.

(d) Notification to a student stating he passed the examination is sufficient to comply with this section.] *Upon payment of the required fee, a temporary license may be issued to any applicant who is eligible for admission to a cosmetologist's examination or a manicurist's examination. An applicant who is thus licensed shall practice only under the supervision of a licensed teacher-manager or cosmetologist until the time of the next scheduled examination. Temporary licenses are granted for a nine-month period.*

Section 20. Section 13 of the act, amended January 14, 1952 (1951 P.L.2047, No.578), is amended to read:

Section 13. Powers and Duties of Board.—(a) The board shall have the power to refuse, revoke, *refuse to renew* or suspend licenses [or certificates], upon due hearing, on proof of violation of any provisions of this act, or the rules and regulations established by the board under this act, or for gross incompetency or dishonest or unethical practices, *or for failing to submit to an inspection of a licensee's shop during the business hours of the shop* [or for performing beauty culture work on Sunday, with the exception of educa-

tional programs by licensed members of the profession, to be conducted for educational purposes only, no fees to be charged by the demonstrator or participant,] and shall have the power to require the attendance of witnesses and the production of such books, records, and papers as may be necessary. Before any [certificate] licenses shall be suspended or revoked for any of the reasons contained in this section, the holder thereof shall have notice in writing of the charge or charges against him or her and shall, at a day specified in said notice [which shall be at least five days after the service thereof], be given a public hearing before a duly authorized representative of the board with a full opportunity to produce testimony in his or her behalf and to confront the witnesses against him or her. Any person whose [certificate of registration] license has been so suspended [or revoked] may on application to the board have the same reissued to him or her, upon satisfactory proof that the disqualification has ceased. [Before the board may institute any of the above proceedings, it shall send a notice in writing to the certificate holder of any alleged violation of this act or rules thereunder together with a notice that if the violation is not abated within fifteen days the proceedings above outlined will be initiated.]

(b) *The bureau, after consultation with the board, shall contract with a professional testing organization for the preparation and administration of the examination in accordance with section 812.1(a) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." The testing organization shall provide for proctors and testing support staff.*

(c) *Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice pursuant to this act which has been revoked, and such person shall be required to apply for a license, after a period of five years, in accordance with section 12 of this act if he desires to practice at any time after such revocation.*

Section 21. Section 14 of the act, amended May 12, 1949 (P.L.1285, No.382), is amended to read:

Section 14. Sanitary Rules.—The board shall prescribe such sanitary rules as it may deem necessary, with particular reference to the precautions necessary to be employed to prevent the creating and spreading of infectious and contagious diseases; and it shall be unlawful for the owner or manager of any [beauty] cosmetology shop or school of [beauty culture] cosmetology to permit any person to sleep in or use for residential purposes any room used wholly or in part as a [beauty] cosmetology shop or school of [beauty culture] cosmetology.

Section 22. The act is amended by adding a section to read:

*Section 14.1. Tanning Units.—The board may not prescribe or enforce any regulation prohibiting the use of any type of tanning unit in cosmetology shops unless the United States Food and Drug Administration, or another Federal or Commonwealth agency of comparable expertise on matters of public health, determines that the use of that type of tanning unit in accordance with the manufacturer's instructions presents a serious risk to the public.*

Section 23. Section 16 of the act, amended December 22, 1959 (P.L.2020, No.741), is amended to read:

Section 16. Fees.—[The registration fee for the issuance of a license, with or without examination, shall be as follows: Five dollars (\$5.00) for beauty shop owners, managers, and teachers; two dollars (\$2.00) for operators and manicurists; one dollar (\$1.00) for students or apprentices; and fifty dollars (\$50.00) for schools of beauty culture. Biennial renewal fees shall be ten dollars (\$10.00) for shop owners and managers and school instructors; four dollars (\$4.00) for operators and manicurists; and fifty dollars (\$50.00) for schools of beauty culture. The above fees for registration, examination, and certificate shall be paid in advance to the department, and by it paid into the State Treasury through the Department of Revenue.] (a) *The board shall, by regulation, fix the following fees: (1) for the issuance of a license, with or without examination, for cosmetology shop owners, managers, teachers, cosmetologists, manicurists, manicurist shops, students, cosmetology schools and for registration fee for apprentices; and (2) biennial renewal fees for cosmetology shop owners, managers, school instructors, cosmetologists, manicurists, cosmetology schools and manicurist shops. Fees for registration, licensure and examination shall be paid in advance to the department into the Professional Licensure Augmentation Account.*

(b) In case a [beauty] cosmetology shop owner changes the location of his or her shop a new license must be secured. [No additional registration fee shall be required for such new license.] *The board shall, by regulation, fix the fee required for such new license.*

(c) *All fees required pursuant to this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.*

(d) *If the Bureau of Professional and Occupational Affairs determines that the fees established by the board pursuant to subsection (c) of this section are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the "Regulatory Review Act," shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.*

(e) *Current fees charged by the board shall continue until such time as changes are made in accordance with the "Regulatory Review Act."*

Section 24. Section 18 of the act is amended to read:

Section 18. Display of [Certificates] Licenses.—Every holder of a [certificate] license granted by the said department, as provided in this act, shall display it in a conspicuous place in his or her principal office, place of business, or employment.

Section 25. The act is amended by adding a section to read:

*Section 18.1. Customer Complaints.—Each shop shall have displayed in a conspicuous place near the shop entrance a notice to customers listing the*

*phone number at which a customer may report a complaint to the State Board of Cosmetology.*

Section 26. Section 19 of the act, amended December 22, 1959 (P.L.2020, No.741), is amended to read:

Section 19. Duration and Renewal of **[Certificates of Registration.—The certificates of registration issued in the year in which this act goes into effect shall expire as of December thirty-first, one thousand nine hundred and thirty-four. Thereafter certificates shall be issued for a period of two years. All certificates]** Licenses.—(a) *With the period ending January 31, 1986, the Bureau of Professional and Occupational Affairs shall designate approximately one-half of the renewals to expire in twelve months and the remainder of the renewals to expire in twenty-four months. Thereafter, licenses shall expire on the thirty-first day of [December] January of each succeeding biennium unless renewed for the next biennium. [Certificates] Licenses may be renewed by application made prior to the thirty-first day of [December] January of each succeeding biennium, and the payment of the renewal fees provided in this act.*

(b) *A cosmetologist who is not engaged in the practice of cosmetology shall request the board, in writing, to place his license in escrow and thus protect his right to obtain a license at any such time within a five-year period if he desires to again become engaged in the practice of cosmetology.*

(c) *Any person who fails to renew his license or has escrowed his license for a period of five years without renewing his license shall, prior to receiving a license, submit to and pass an examination appropriate to the license being sought.*

Section 27. Section 20 of the act, amended July 20, 1968 (P.L.442, No.208), is amended to read:

Section 20. Penalties.—(a) Any person who shall practice or teach **[beauty culture] cosmetology**, or act in any capacity wherein **[registration] licensing** is required, without complying with this act, shall upon conviction, in a summary proceeding, be sentenced to pay a fine not exceeding **[two hundred dollars (\$200.00)] three hundred dollars (\$300.00)**, **[and, in default of the payment of such fine and costs,] and/or** shall be sentenced to imprisonment not exceeding **[six (6)] three (3)** months.

(b) Any **[operator] cosmetologist**, manager, teacher, student or apprentice who shall practice the **[occupation] profession** of **[beauty culture] cosmetology** while knowingly suffering from contagious or infectious disease, or who shall knowingly serve any person afflicted with such disease, shall be guilty of a **[misdemeanor] summary offense**, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding **[one hundred dollars (\$100.00)] three hundred dollars (\$300.00)**, or undergo an imprisonment not exceeding thirty (30) days, or both, at the discretion of the court.

(c) Any **[operator] cosmetologist**, manager, teacher, student or apprentice who shall infect any person, or who shall impart any contagious or infectious disease, by reason of carelessness or negligence in the practice of such **[occupation] profession**, shall be guilty of a **[misdemeanor] summary offense**, and, upon conviction, shall be sentenced to pay a fine not exceeding

[five hundred dollars (\$500.00)] *three hundred dollars (\$300.00)*, or to undergo an imprisonment not exceeding [six] *three* months, or both, at the discretion of the court.

*(c.1) Any person, partnership or corporation violating any provision of this act shall, upon conviction for the first offense, be sentenced to pay a fine not exceeding three hundred dollars (\$300.00) or to undergo imprisonment not exceeding three (3) months and shall, upon conviction for the second and subsequent offenses, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) or to undergo imprisonment not exceeding six (6) months, or both. This section specifically governs unlicensed activity in the practice of cosmetology.*

*(c.2) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by this act or by a vote of the majority of the qualified and confirmed membership or a minimum of five members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000.00) on any current licensee who violates any provisions of this act or on any person who practices cosmetology without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).*

*(d) All fines and civil penalties imposed in accordance with this section shall be paid [to the department and by it paid into the State Treasury through the Department of Revenue] into the Professional Licensure Augmentation Account.*

*(e) The owner or manager of any shop employing an unlicensed [operator] cosmetologist shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars (\$500.00), or to undergo imprisonment not exceeding six (6) months, or both, at the discretion of the court.*

Section 28. Nothing contained in this act, or the act to which this is an amendment, shall be construed as prohibiting any municipality or any county department of health or joint-county department of health from adopting appropriate ordinances or regulations, not inconsistent with the provisions of this act or the rules and regulations adopted thereunder, as may be deemed necessary to promote the public health and safety and regulate the conduct of cosmetology shops and schools. Any municipality shall have power, by proper ordinances, to fix the days and hours during which cosmetology shops in the said municipality may be open for business. All municipalities with proper ordinances shall have power to enforce the provisions of this section.

Section 29. (a) Section 459 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 30. This act, with respect to the State Board of Cosmetology, constitutes the legislation required to reestablish an agency under section 7

of the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 31. A person who holds a certificate under the act of May 3, 1933 (P.L.242, No.86), referred to as the Beauty Culture Law, which certificate is not suspended, revoked or expired on the effective date of this act shall be deemed to be a "current licensee" and the holder of a "license" under this act.

Section 32. Each rule and regulation of the board in effect on June 30, 1984, shall remain in effect after such date until repealed or amended by the board.

Section 33. This act shall take effect July 1, 1984.

APPROVED—The 30th day of June, A. D. 1984.

DICK THORNBURGH