

Act No. 97
Public Acts of 1997
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Reps. Varga and Hale

Reps. Bogardus, Gagliardi, Kelly, Kilpatrick, Murphy, Parks, Schermesser, Scott and Vaughn named co-sponsors

ENROLLED HOUSE BILL No. 4219

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 1201, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1214, 1217, and 1218 (MCL 339.1201, 339.1204, 339.1205, 339.1206, 339.1207, 339.1208, 339.1209, 339.1210, 339.1211, 339.1214, 339.1217, and 339.1218), sections 1204, 1205, 1207, 1208, 1209, 1211, and 1214 as amended by 1988 PA 463, and by adding sections 1203a, 1203b, and 1210a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1201. As used in this article:

- (a) "Apprentice" means an individual engaged in learning cosmetology in a cosmetology establishment.
- (b) "Braiding" means providing or offering to the general public for compensation any of the following services solely for development or improvement of physical qualities of the natural hair structure:
 - (i) Intertwining in a systematic motion to create patterns in a 3-dimensional form.
 - (ii) Inversion or outversion flat against the scalp along the part of a straight or curved row.
 - (iii) Twisting in a systematic motion.
 - (iv) Extension with natural or synthetic fibers.
- (c) "Cosmetologist" means an individual who renders or offers to render cosmetology services.
- (d) "Cosmetology" means 1 of the following services or a combination of the following services:
 - (i) Hair care services.
 - (ii) Skin care services.
 - (iii) Manicuring services.
 - (iv) Electrology.
- (e) "Cosmetology establishment" means the premises on which cosmetology or 1 or more of its services are rendered or are offered to be rendered. Cosmetology establishment does not include a school of cosmetology.
- (f) "Electrologist" means an individual who renders or offers to render electrology.

(g) "Electrology" means the permanent removal of hair from the body of an individual by the use of electricity.

(h) "Esthetician" means an individual who renders or offers to render skin care services.

(i) "Hair care services" means arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, tinting, trimming, styling, relaxing, perming, straightening, or similar work upon the hair of the head or a wig that an individual is wearing.

(j) "Instructor" means an individual who teaches or offers to teach 1 or more cosmetology services in a school of cosmetology.

(k) "Manicuring services" means the cleansing, filing, shaping, buffing, polishing, or beautifying of the nails of the hands or feet, and the cleansing, massaging, stimulating, exercising, or beautifying of the skin of the hands, arms, and feet, manually or with the use of tools, appliances, or cosmetic preparations, including the repair of nails, or the creation or decoration of artificial nails. Manicuring services do not include the practice of podiatric medicine and surgery as defined in section 18001 of the public health code, 1978 PA 368, MCL 333.18001.

(l) "Manicurist" means an individual who renders or offers to render manicuring services.

(m) "Natural hair cultivation" means techniques that result in tension on hair strands such as twisting, wrapping, weaving, extending, locking, or braiding of the hair by hand, which work does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair.

(n) "Natural hair culturist" means a person engaged in natural hair cultivation but does not include a person engaged in natural hair cultivation if that activity is performed as part of the practice of a recognized religion.

(o) "Owner" means a person who owns and conducts a cosmetology establishment or a school of cosmetology.

(p) "School of cosmetology" means the premises where cosmetology or 1 or more of its services are taught.

(q) "Skin care services" includes the following services or combination of services:

(i) Beautifying the skin of the body of an individual by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.

(ii) Cleansing or stimulating the skin of the body by the use of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(iii) The temporary removal of hair from the body of an individual by the use of depilatories, waxes, razors, scissors, clippers, or tweezers.

(iv) Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual but does not include applying permanent makeup or the use of tanning equipment.

(r) "Student" means an individual engaged in learning cosmetology or 1 or more of its services in a school of cosmetology.

Sec. 1203a. (1) An individual shall not render any form of cosmetology services, with or without compensation, on any individual other than a member of his or her immediate family without a license under this article. However, this article does not apply to an individual, person, or premises licensed under article 11 while rendering the services of a barber.

(2) An individual licensed as a cosmetologist under this article may render hair care services, skin care services, natural hair cultivation, and manicuring services as part of the practice of cosmetology, but shall not render electrology without being licensed as an electrologist.

(3) The department may license an individual to render manicuring services, natural hair cultivation, or skin care services in accordance with his or her training. An individual licensed as a manicurist, natural hair culturist, or esthetician shall only render that particular service and shall not render any other cosmetology service without being licensed for that service. An individual licensed as a manicurist, natural hair culturist, or esthetician shall not render electrology without being licensed as an electrologist.

(4) An individual licensed as an electrologist shall render only electrology services and shall not render any other cosmetology service without separately being licensed to render those services.

Sec. 1203b. A person shall not conduct or operate a cosmetology establishment or school of cosmetology without a school or establishment license issued under this article.

Sec. 1204. (1) The department shall issue a license to a person for the operation of a cosmetology establishment if all of the following requirements are met:

(a) An application is submitted by the owners or managers of the establishment.

(b) The application includes a drawing or diagram indicating the premises to be licensed and the location of required equipment and facilities.

(c) The premises has satisfactorily passed an inspection conducted by the department for the purpose of determining whether the establishment has met sanitation and equipment standards prescribed in rules promulgated by the director.

(d) Except as provided in subsection (3), the cosmetology establishment shall be under the daily attendance and supervision of a licensed cosmetologist who is not less than 18 years of age and has had not less than 1 year's practical experience in cosmetology.

(2) A cosmetology establishment shall be completely separated by full partitions and doors from a dwelling or a school of cosmetology.

(3) The department may issue a limited cosmetology establishment license to a person who seeks to perform only 1 or more services of cosmetology on the premises. If the establishment license is limited to only manicuring services or skin care services, the supervising licensee may be an individual licensed only in that service. A licensed cosmetologist working in a limited licensed cosmetology establishment shall not perform cosmetology services for which the premises are not licensed. If the cosmetology establishment license is limited to electrology, the supervising licensee shall be a licensed electrologist with 1 year of experience in electrology. A licensed cosmetologist shall not supervise a cosmetology establishment whose cosmetology license is limited to rendering electrology unless the cosmetologist is licensed as an electrologist.

(4) The department may grant a temporary establishment license to a person who has fulfilled all licensure requirements except for the completion of the inspection.

(5) The transfer of ownership or location of a cosmetology establishment voids the license. The filing of a new license application is a predicate to the change in ownership or location of an establishment.

(6) The license of the establishment and of each individual working in the establishment shall be displayed in a prominent place which is visible to the public at all times. The license of an individual working in the establishment may be posted at the individual's work station.

Sec. 1205. (1) The department shall issue a license to a person for the operation of a school of cosmetology if all of the following requirements are met:

(a) An application is submitted by the owner or manager of the school.

(b) The application includes a drawing or diagram that indicates the premises to be licensed, showing that the premises are fully partitioned from any other activity, business, or dwelling. The location of required equipment and facilities shall also be shown on the diagram.

(c) A cash or surety bond of \$10,000.00 has been furnished in favor of the people of this state for the use and benefit of students and conditioned upon the faithful performance and satisfaction of the contractual rights of students.

(d) Provisions have been made for the school to be under the daily supervision of a licensed instructor who has at least 3 years' experience in all services of cosmetology being taught in the school.

(e) The premises has successfully passed an inspection by the department conducted for the purpose of determining whether the school has met the standards set forth in this article and rules promulgated by the director.

(2) A school of cosmetology shall fulfill all of the following requirements:

(a) Shall maintain a course of practical training and technical instruction, as outlined in the various curricula set forth in rules promulgated by the director, equal to the requirements for prelicensure training under this article. A school of cosmetology shall teach hair care services, skin care services, and manicuring services and may hold a limited license for the teaching of electrology. However, a school of cosmetology with a license limited only to the teaching of electrology shall teach only electrology and not any other cosmetology service.

(b) Shall possess efficient apparatus and equipment prescribed in rules promulgated by the director sufficient for the ready and full teaching of each subject in the curriculum.

(c) Shall maintain 1 person licensed as an instructor, competent to impart instruction in each subject of its curriculum, for every 20 students.

(d) Shall be operated for teaching purposes only. Instructors shall practice on the public only to demonstrate techniques to students and to correct the work of students.

(e) Shall provide for the display of the license of the school of cosmetology and of each instructor working in the school in a prominent place that is visible to the public at all times. A sign shall be displayed indicating that services are rendered by students of the school.

(f) At the time of the enrollment of a student, shall furnish the student a financial contract showing the total cost and all charges involved in the complete course of study. Advertising matter put out by schools, when mentioning the cost of tuition or related subjects, shall furnish the same financial information as described in this subsection.

(3) A cosmetology establishment exacting a fee for the teaching of cosmetology or 1 or more services of cosmetology is considered a school of cosmetology and is required to comply with this section. A cosmetology establishment

conducting an apprenticeship program without charging a fee for the teaching of cosmetology shall comply with subsection (5). A cosmetology establishment which has successfully trained 1 apprentice is eligible to train additional apprentices except that a cosmetology establishment shall not have more than 2 apprentices at the same time.

(4) The department may issue a limited school of cosmetology license to a school teaching only electrology. A school of cosmetology whose license is limited to teaching only electrology shall fulfill all of the requirements of this section, except that daily supervision of the school shall be provided by an electrology instructor and the curriculum offered and equipment and facilities required shall be only those required for the teaching of electrology.

(5) A school of cosmetology or a cosmetology establishment conducting an apprenticeship program shall comply with all of the following requirements:

(a) Require that a student or apprentice be in attendance not more than 7 hours per day or not more than 40 hours per week.

(b) Keep a daily record of the attendance of each student or apprentice, a copy of which shall be sent to the department monthly, establish grades, and require a student or apprentice to pass an examination before certifying to the department that an individual has completed training.

(c) Permit a cosmetology student or apprentice to practice on the public only after completing at least 350 hours of instruction in the general cosmetology curriculum, including both theory and practical hours. A student or apprentice in a natural hair cultivation, manicuring, skin care, or electrology curriculum may practice on the public only after completing at least 1/4 of the hours required by the applicable curriculum, including both theory and practical hours.

(6) The transfer of ownership or location of a school of cosmetology voids the license. The filing of a new license application is a predicate to the change in ownership or location of a school.

Sec. 1206. (1) The department shall issue a license as a cosmetology instructor to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as a cosmetologist under this article.

(d) Has at least 3 years of practical experience in natural hair cultivation, hair care services, skin care services, and manicuring services, at least 1 year of which shall be in a cosmetology establishment.

(e) Has completed not less than 500 hours of instructor training.

(f) Has passed an examination approved by the department and the board.

(2) The department shall issue a license as an electrology instructor to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as an electrologist under this article.

(d) Has at least 3 years of practical experience in electrology, at least 1 year of which shall be in a cosmetology establishment holding a limited license for the practice of electrology.

(e) Has completed not less than 300 hours of instructor training.

(f) Has passed an examination approved by the department and the board.

(3) The department may issue a limited instructor's license to an individual who meets all of the requirements of either subsection (1) except for subsection (1)(d) or subsection (2) except for subsection (2)(d). The holder of a limited instructor's license shall not supervise a school of cosmetology at any time.

(4) The department may issue a limited specialist instructor's license to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has a high school diploma or its equivalent.

(c) Is licensed as a manicurist, natural hair culturist, or esthetician.

(d) Has completed not less than 300 hours of instructor training.

(e) Has passed an examination approved by the department and the board.

(5) The specialist instructor's license shall limit the instruction given by that individual to only the service in which he or she is licensed.

Sec. 1207. The department shall issue a cosmetologist license to an individual who fulfills all of the following requirements:

- (a) Is not less than 17 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.
- (d) Has completed either not less than a 1,500-hour course of study in a licensed school of cosmetology or has served as an apprentice for not less than 2 years in a licensed cosmetology establishment in which hair care services, skin care services, and manicuring services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.
- (e) Has passed an examination prescribed by the department and the board.

Sec. 1208. The department shall issue a license as an electrologist to an individual who fulfills all of the following:

- (a) Is not less than 18 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.
- (d) Has completed not less than 400 hours of training in a licensed school of cosmetology in which the practice is taught or has studied for not less than 6 months as an apprentice in a licensed cosmetology establishment where electrology services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.
- (e) Has passed an examination prescribed by the board and the department.

Sec. 1209. The department shall issue a license as a manicurist to an individual who fulfills all of the following:

- (a) Is at least 17 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.
- (d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where manicuring is practiced. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.
- (e) Has passed an examination prescribed by the board and the department.

Sec. 1210. (1) After the expiration of 12 months after the effective date of the 1997 amendatory act that amended this section, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

- (a) Is at least 17 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.
- (d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where skin care services are rendered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.
- (e) If an examination is available, has passed an examination prescribed by the board and the department.

(2) Until the expiration of 12 months after the effective date of the 1997 amendatory act that added this subsection, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

- (a) Is at least 17 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.
- (d) Provides evidence of having obtained the equivalent of 6 months of full-time experience in skin care services in this or any other state within the 12 months immediately preceding the date of application.
- (e) If an examination is available, has passed an examination prescribed by the board and the department.

Sec. 1210a. (1) After December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

- (a) If an examination is available, has passed an examination prescribed by the department and the board. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.
- (b) Is at least 17 years of age.
- (c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(e) Has training either of at least 400 hours extending over a period of at least 3 months in a school of cosmetology approved by the department where services relating to natural hair cultivation are rendered or has served at least 6 months as an apprentice in a licensed cosmetology establishment in which natural hair cultivation is practiced.

(2) Until December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

(a) If an examination is available, has passed an examination prescribed by the board and the department. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.

(b) Is at least 17 years of age.

(c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(3) Notwithstanding any other provision in this article, an individual may engage in natural hair cultivation for compensation and may operate an establishment where natural hair cultivation only is practiced without having first obtained an individual or establishment license under this article.

Sec. 1211. (1) Upon submission of an application to the department, an individual licensed to perform cosmetology services under the laws of another state shall, without examination, be granted a license to practice the services for which that individual was previously licensed if the applicant is not less than 17 years of age, is of good moral character, and the requirements for registration or licensure in the particular state were substantially equal to the requirements then in force in this state.

(2) Years or months of experience may be substituted for hours of training in a ratio of 100 hours of training credited for each 6 months of experience. An individual applying for licensure having qualifications acquired outside of the United States shall provide proof of training or experience, or both. The department may determine whether or not an applicant is qualified to be licensed without examination.

Sec. 1214. (1) A school of cosmetology upon enrolling a student or a cosmetology establishment upon accepting an apprentice shall file an application with the department and shall obtain proof of at least a ninth grade education or the equivalent of a ninth grade education. The application and proof of education shall be kept on file until the student or apprentice applies for examination to obtain a license.

(2) The ninth grade education requirement does not apply to a student enrolling in a program offered as a part of the regular curriculum of a public school and approved by the state board of education.

Sec. 1217. A licensee who commits or has committed 1 or more of the following is subject to the penalties set forth in article 6:

(a) Continued practice by a person knowingly having an infectious or contagious disease.

(b) Practicing cosmetology on the public outside of a licensed cosmetology establishment or school of cosmetology. However, a licensed cosmetologist may serve a patron in premises not licensed as a cosmetology establishment provided that the services rendered involve a special event in which the cosmetology service is required to be performed for an on-site participant of the event.

(c) Contracting with, being employed by, or being provided space or leasing space from a hospital, nursing home, convalescent home, or similar facility for the purpose of practicing cosmetology, without a cosmetology establishment license. However, a licensed cosmetologist may practice on a patient in a hospital, nursing home, convalescent home, or similar facility, or on a person requiring home care because of an illness or infirmity.

Sec. 1218. (1) The department shall inspect each cosmetology establishment at least once annually. The department shall inspect each school of cosmetology or cosmetology establishment training apprentices at least twice annually.

(2) A representative of the department shall be allowed to enter and inspect, during regular business hours, a cosmetology establishment or school of cosmetology to determine whether the licensee is conforming to this article and the rules promulgated under this article.

(3) A representative of the department, when inspecting a cosmetology establishment or school of cosmetology, may require an individual working in the establishment or school to present identification in order to substantiate his or her identity as the holder of a posted license.

Enacting section 1. Section 1216 of the occupational code, 1980 PA 299, MCL 339.1216, is repealed.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4220 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.