

1 AN ACT relating to beauty services.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 317A.020 is amended to read as follows:

- 4 (1) No person shall engage in the practice of cosmetology, esthetic practices, or nail
5 technology for other than cosmetic purposes nor shall any person engage in the
6 practice of cosmetology, esthetic practices, or nail technology for the treatment of
7 physical or mental ailments. This chapter does not apply to:
- 8 (a) Persons authorized by the law of this state to practice medicine, podiatry,
9 optometry, dentistry, chiropractic, nursing, or embalming who perform
10 incidental practices of cosmetology, esthetic practices, and nail technology in
11 the normal course of the practice of their profession;
 - 12 (b) Commissioned medical or surgical personnel of the United States Armed
13 Forces who perform incidental practices of cosmetology, esthetic practices, or
14 nail technology in the course of their duties;
 - 15 (c) Cosmetology, esthetic practices, or nail technology services performed at an
16 institution operated or under contract to the Department of Corrections or the
17 Department of Juvenile Justice; and
 - 18 (d) Persons engaged in natural hair braiding.
- 19 (2) Except as provided in subsection (1) of this section, no person shall engage in the
20 practice of cosmetology, esthetic practices, or nail technology for the public,
21 generally, or for consideration without the appropriate license required by this
22 chapter.
- 23 (3) No person unless duly and properly licensed pursuant to this chapter shall:
- 24 (a) Teach cosmetology, esthetic practices, or nail technology;
 - 25 (b) Operate a beauty salon;
 - 26 (c) Operate an esthetic salon;
 - 27 (d) Act as an esthetician;

- 1 (e) Operate a nail salon;
2 (f) Act as a nail technician; or
3 (g) Conduct or operate a school for cosmetologists, estheticians, or nail
4 technicians.

5 (4) No person shall aid or abet any person in violating this section, nor shall any person
6 engage or employ for consideration any person to perform any practice licensed by
7 this chapter unless the person to perform the practice holds and displays the
8 appropriate license.

9 (5) No licensed cosmetology or esthetic practices instructors, licensed cosmetologists,
10 licensed estheticians, or licensed nail technicians shall hold clinics for teaching or
11 demonstrating for personal profit, either monetary or otherwise, if the clinics are not
12 sponsored by a recognized professional cosmetologist's, esthetician's, or nail
13 technician's group.

14 (6) Whenever a person engages in different practices separately licensed, certified, or
15 permitted by this chapter, that person shall procure a separate license, certificate, or
16 permit for each of the practices in which the person engages.

17 (7) ~~{The board may:~~

18 ~~(a) Bring and maintain actions in its own name to enjoin any person in violation~~
19 ~~of any provision of this chapter. These actions shall be brought in the Circuit~~
20 ~~Court of the county where the violation is alleged to have occurred;~~

21 ~~(b) Issue an emergency order in accordance with KRS 13B.125 against any~~
22 ~~facility licensed by the board. The emergency order shall be based upon~~
23 ~~probable cause by the board that the emergency order is in the public interest~~
24 ~~and that there is substantial evidence of immediate danger to the health,~~
25 ~~welfare, and safety of any customer, patient, or the general public; and~~

26 ~~(c) Institute civil and criminal proceedings against violators of this chapter. The~~
27 ~~Attorney General, Commonwealth's attorneys, and county attorneys shall~~

1 ~~assist the board in prosecuting violations of this chapter.~~

2 ~~(8)~~—]The board shall:

3 (a) Govern all issues related to this chapter;

4 (b) Investigate alleged violations brought to its attention, conduct investigations,
5 and schedule and conduct administrative hearings in accordance with KRS
6 Chapter 13B to enforce the provisions of this chapter and administrative
7 regulations promulgated pursuant to this chapter;

8 (c) Administer oaths, receive evidence, interview persons, and require the
9 production of books, papers, documents, or other evidence; and

10 (d) Have the authority to take emergency action affecting the legal rights, duties,
11 privileges, or immunities of named persons without a hearing to stop, prevent,
12 or avoid an immediate danger to the public health, safety, or welfare, in
13 accordance with KRS 13B.125(1), subject to the following:

14 1. An emergency order shall be based upon verified probable cause or
15 substantial evidence, documented by the board, that the emergency
16 order is in the interest of public health, welfare, and safety of any
17 customer, patient, or the general public; and

18 2. Upon the issuance of an emergency order, the board shall comply with
19 the administrative hearing procedures in KRS 13B.125(3) to determine
20 the reinstatement of operations of the licensed facility.

21 (8) Unless a documented and verified violation creates an immediate and present
22 danger to the health and safety of the public, a warning notice shall be first
23 issued prior to imposing incremental punitive action against an otherwise lawful
24 salon. The warning notice shall include a specific and detailed description of the
25 violation and the specific remediation required to bring the salon into
26 compliance.

27 (9) The board may:

1 (a) Bring and maintain actions in its own name to enjoin any person in
2 violation of any provision of this chapter. These actions shall be brought in
3 the Circuit Court of the county where the violation is alleged to have
4 occurred; and

5 (b) Refer violations of this chapter to county attorneys, Commonwealth's
6 attorneys, and to the Attorney General.

7 (10) Nothing in this section shall be construed to prohibit an instructor, student,
8 cosmetologist, or nail technician from using callus graters for callus removal,
9 and the board shall not promulgate any administrative regulation prohibiting the
10 use of callus graters for callus removal.

11 ➔Section 2. KRS 317A.030 is amended to read as follows:

12 (1) There is created an independent agency of the state government to be known as the
13 Kentucky Board of Cosmetology, which shall have complete supervision over the
14 administration of the provisions of this chapter relating to cosmetology,
15 cosmetologists, schools of cosmetology, or esthetic practices or nail technology,
16 students, estheticians, nail technicians, instructors of cosmetology, instructors of
17 esthetic practices, or instructors of nail technology, cosmetology salons, esthetic
18 salons, and nail salons.

19 (2) The board shall be composed of seven (7)~~five (5)~~ members appointed by the
20 Governor as follows:

21 (a) Four (4) of the members shall have been cosmetologists five (5) years prior to
22 their appointment and shall reside in Kentucky:

- 23 1. Two (2) of whom shall be cosmetology salon owners;
- 24 2. One (1) of whom shall be a cosmetology teacher in public education and
25 shall not own any interest in a cosmetology salon; and
- 26 3. One (1) of whom shall be an owner of or one who shall have a financial
27 interest in a licensed cosmetology school and shall be a member of a

1 nationally recognized association of cosmetologists;

2 (b) **One (1) member shall be a licensed nail technician;**

3 (c) **One (1) member shall be a licensed esthetician;**

4 (d) One (1) member shall be a citizen at large who is not associated with or
5 financially interested in the practices or businesses regulated; and

6 (e) None of whom nor the executive director shall be financially interested
7 in, or have any financial connection with, wholesale cosmetic supply or
8 equipment businesses.

9 At all times in the filling of vacancies of membership on the board, this balance of
10 representation shall be maintained.

11 (3) Appointments shall be for a term of two (2) years, ending on February 1.

12 (4) The Governor shall not remove any member of the board except for cause.

13 (5) The board shall elect from its members a chair, a vice chair, and a secretary.

14 (6) **Four (4)**~~Three (3)~~ members shall constitute a quorum for the transaction of any
15 board business.

16 (7) Each member of the board shall receive one hundred dollars (\$100) per day for each
17 day of attendance at board meetings, and shall be reimbursed for necessary
18 traveling expenses and necessary expenses incurred in the performance of duties
19 pertaining to official business of the board.

20 (8) The board shall hold meetings at the place in the state and at the times deemed
21 necessary by the board to discharge its duties.

22 ➔Section 3. KRS 317A.120 is amended to read as follows:

23 (1) Examinations given by the board shall cover all phases of qualifications for the
24 license applied for including skill and technique of applicant as well as scientific
25 and other knowledge. National exams may be used if approved by the board.

26 (2) Examinations shall be given by trained proctors.

27 (3) Examinations shall be given at regularly prescribed intervals.

- 1 (4) Examinations shall be given at locations that have been approved by the board.
- 2 (5) A nail technician applicant who fails a written theory test or an oral practical
- 3 demonstration shall be eligible to retake that portion after one (1) month has
- 4 passed from the date the applicant received actual notice of the failure.