

No. 2002-98

AN ACT

HB 2020

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, licensing and granting of permits for those who desire to engage in the profession of cosmetology; defining cosmetology, and regulating cosmetology shops, schools, students, apprentices, teachers, managers, manicurists and 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," further providing for the definition of "School of Cosmetology," for practice of cosmetology without license prohibited, requirements to practice, eligibility requirements for examination, for management of cosmetology shops, for requirements of a school of cosmetology, for exceptions to examination requirements, for shared shops, for regulations by the board, for examinations and issuance of licenses, for temporary licenses, for sanitary rules, for fees and for penalties.

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

Section 1. The definition of "School of Cosmetology" in section 1 of the act of May 3, 1933 (P.L.242, No.86), referred to as the Cosmetology Law, amended October 18, 2000 (P.L.607, No.81), is amended to read:

Section 1. 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:

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"School of 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 cosmetology[, **the management of cosmetology shops,**] or the teaching of cosmetology.

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Section 2. Sections 2, 3, and 4 of the act, amended June 30, 1984 (P.L.479, No.100), are amended to read:

Section 2. Practice of Cosmetology without License Prohibited.—It shall be unlawful for any person to practice or teach cosmetology, [**manage a cosmetology, manicurist or cosmetician shop,**] to use or maintain any place for the practice of cosmetology, for compensation, or to use or maintain any place for the teaching of cosmetology, unless he or she shall have first obtained from the department a license as provided in this act.

Section 3. Requirements to Practice.—Before any person may practice or teach cosmetology [**or manage a cosmetology shop**], such person shall file with the board a written application for license, accompanied by a health certificate issued by a licensed physician of Pennsylvania on a form which shall be prescribed and supplied by the board, and shall deposit with

the department the license fee, and pass an examination approved by the board as to fitness to practice or teach cosmetology [or **manage a cosmetology shop**], as hereinafter provided in this act.

Section 4. Eligibility Requirements for Examination.—No person shall be permitted by the board to take an examination to receive a license as 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 cosmetology as hereinafter provided in this act, or (ii) shall have been registered and served as an apprentice at least two thousand hours in a licensed cosmetology shop as hereinafter provided in this act. 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 license to teach cosmetology unless such person shall have 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 a cosmetologist's license. [No person shall be permitted to take an examination for a license to act as a manager of a cosmetology shop unless such person shall have 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 a cosmetologist in a 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 a cosmetologist's license.]

Section 3. Section 4.4 of the act, amended October 18, 2000 (P.L.607, No.81), is amended to read:

Section 4.4. Management of Cosmetology Shops.—[(a) A licensed manager of a cosmetology shop shall not be required in a cosmetology shop if the sole providers of cosmetology services in the shop are licensed cosmetologists who have ownership interests in the shop; otherwise, a licensed manager or licensed cosmetology teacher shall be employed. 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.]

(b) A licensed manager shall not be required in a cosmetology shop located within a special care facility, regardless of ownership, if the cosmetology services being provided in that shop are exclusively for the residents of the facility. The licensed cosmetologist may or may not own the shop. If cosmetology services are provided to nonresidents of the facility, a licensed cosmetology manager or licensed cosmetology teacher shall be employed to manage the shop. For purposes of this section, a "special care facility" shall include a hospital, nursing home or adult day-care center or any other similar facility.] *(a) Every shop owner shall designate a person in charge of the shop in the owner's absence.*

(b) The name of the owner or designated person in charge shall be posted in a conspicuous place in the shop.

(c) The owner or designated person in charge of the shop shall be readily available during regular business hours to bureau inspectors.

Section 4. Section 6(a) of the act, amended June 30, 1984 (P.L.479, No.100), is amended to read:

Section 6. Requirements of a School of Cosmetology.—(a) No school of cosmetology shall be granted a 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; (3)]** employ and maintain a sufficient number of competent teachers, registered as such; **[(4)] (3)** possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; **[(5)] (4)** keep a daily record of the attendance of each student; **[(6)] (5)** maintain regular class and instruction hours; **[(7)] (6)** establish grades and hold examinations before issuance of diplomas; and **[(8)] (7)** require a day school term of training of not less than one thousand two hundred fifty hours within a period of not less than 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 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 cosmetology which shall include methods of teaching[,] **and principles of education [and shop management]:** Provided, however,

That teachers in public school programs of cosmetology [**who have shop managers' licenses and**] who meet the standards established by the Department of 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 cosmetology shops which shall include the conduct and administration of a cosmetology shop.**] Each school shall report to the board student hours quarterly on forms provided by the board. *A cosmetology school shall be managed on a day-to-day basis by a school supervisor designated by the owner of the school. That person's name will be on file with the board as the responsible party at the school. The school's supervisor shall not be required to obtain a special license.*

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Section 5. Section 8.1 of the act, added October 18, 2000 (P.L.607, No.81), is amended to read:

Section 8.1. Booth Rental Prohibited.—The rental of booth space by an owner of a cosmetology shop [**or a licensed manager in a cosmetology shop**] to any holder of a license issued under this act is unlawful.

Section 6. Section 9 of the act, amended June 30, 1984 (P.L.479, No.100), is amended to read:

Section 9. Exceptions to Examination Requirements; Present Students and Apprentices.—Any person who has practiced or taught cosmetology [**or acted as manager of a cosmetology shop or school of 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 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 licensed physician that the applicant was examined and is free from all contagious and infectious diseases, and the license fee required by this act. Students, upon graduating from licensed schools of cosmetology, may apply for, and receive from the department, a temporary license to practice in the field of cosmetology until the next regular examination held by the department under the provisions of this act.

Section 7. Section 9.2 of the act, amended June 14, 1991 (P.L.64, No.7), is amended 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 or employ a cosmetologist manager.]

(c) 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 8. Sections 11, 12, 12.1, 14, 16(a) and 20(b), (c) and (e) of the act, amended June 30, 1984 (P.L.479, No.100), are amended to read:

Section 11. Regulations by Board.—The board after at least one public hearing shall prescribe reasonable regulations for its conduct, and for the examination and licensing of applicants to practice or teach cosmetology **[and to manage cosmetology shops or schools of 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 12. Examinations; Issuance of 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 license fee required by this act, the board shall admit such applicant to the examination and the department shall issue a license to practice as 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. Examinations shall 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 cosmetology licenses in that it shall be of a more exacting nature and require higher standards of knowledge of the practice and theories of cosmetology, including[, with respect to a teacher's license,] *the* ability to teach properly the various practices and theories of cosmetology.

Section 12.1. Temporary Licenses.—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**] *teacher* or cosmetologist until the time of the next scheduled examination. Temporary licenses are granted for a nine-month period.

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 cosmetology shop or school of cosmetology to permit any person to sleep in or use for residential purposes any room used wholly or in part as a cosmetology shop or school of cosmetology.

Section 16. Fees.—(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.

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Section 20. Penalties.—* * *

(b) Any cosmetologist, [**manager,**] teacher, student or apprentice who shall practice the profession of 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 summary offense, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300.00), or undergo an imprisonment not exceeding thirty (30) days, or both, at the discretion of the court.

(c) Any 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 profession, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300.00), or to undergo an imprisonment not exceeding three months, or both, at the discretion of the court.

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(e) The owner [**or manager**] of any shop employing an unlicensed 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 9. This act shall take effect immediately.

APPROVED—The 29th day of June, A.D. 2002.

MARK S. SCHWEIKER