



AN ACT GENERALLY REVISING BARBERING AND COSMETOLOGY LAWS; REVISING MEMBERSHIP OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING THE RULEMAKING AUTHORITY OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING REQUIREMENTS TO HOLD A LICENSE; REVISING REQUIREMENTS FOR SCHOOLS AND TEACHERS; DEFINING TERMS; REVISING CERTAIN QUALIFICATIONS FOR LICENSEES AND TEACHERS; PROVIDING FOR A TRANSITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, AND 37-31-331, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1747, MCA, is amended to read:

"2-15-1747. Board of barbers and cosmetologists. (1) There is a board of barbers and cosmetologists.

(2) The board consists of nine members appointed by the governor with the consent of the senate and must include:

(a) ~~three~~ two licensed cosmetologists each of whom has been a resident of this state for at least 5 years and has been actively engaged in the profession of cosmetology for at least 5 years immediately prior to being appointed to the board;

(b) ~~one member~~ licensed esthetician who has been a resident of this state for at least 5 years and has been actively engaged ~~as a licensed electrologist, esthetician, or manicurist~~ in the profession of esthetics for at least 5 years immediately prior to being appointed to the board;

(c) ~~three~~ two licensed barbers or barbers nonchemical, each of whom has been a resident of this state for at least 5 years and has been actively engaged in the profession of barbering for at least 5 years

immediately prior to appointment to the board; and

(d) one licensed manicurist who has been a resident of this state for at least 5 years and has been actively engaged in the profession of manicuring for at least 5 years immediately prior to being appointed to the board;

(e) two members, either licensed or not licensed under this chapter, who are affiliated with a school for at least 5 years immediately prior to being appointed to the board; and

(d)(f) two members one member of the public who are is not engaged in the practice of barbering, cosmetology, electrology, esthetics, or manicuring licensed under this chapter.

~~(3) Two members of the board must be affiliated with a school.~~

~~(4) (a) If there is not a licensed barber, or a barber nonchemical, esthetician, or manicurist who is qualified and willing to serve on the board in one of the three positions under subsection (2)(c) subsections (2)(b), (2)(c), and (2)(d), the governor may appoint a cosmetologist, electrologist, esthetician, or manicurist otherwise qualified under this section to fill the position.~~

~~(b) If there is not a licensed cosmetologist qualified and willing to serve on the board in one of the three positions under subsection (2)(a), the governor may appoint a barber, barber nonchemical, electrologist, esthetician, or manicurist otherwise qualified under this section to fill the position.~~

~~(5)(4) Each member shall serve for a term of up to 5 years. The terms must be staggered.~~

~~(6)(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."~~

Section 2. Section 37-31-101, MCA, is amended to read:

"37-31-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Affiliated" is an individual who owns more than 20% of or is employed 32 hours or more weekly at a school licensed under this chapter.

(2) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

(3) "Barbering" means any of the following practices performed for payment, either directly or indirectly, on the human body for tonsorial purposes and not performed for the treatment of disease or physical

or mental ailments:

- (a) shaving or trimming a beard;
- (b) cutting, styling, coloring, or waving hair;
- (c) straightening hair by the use of chemicals;
- (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other

preparations applied by hand or mechanical appliance:

- (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or
- (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands, or neck.

(4) "Barber nonchemical" means a person licensed under this chapter to engage in the practice of nonchemical barbering.

(5) "Barbering nonchemical" means the practice or teaching of barbering as provided in subsection (3) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.

~~(1)~~(6) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.

~~(2)~~(7) "Booth" means any part of a salon or shop that is rented or leased for the performance of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring services, as ~~specified~~ provided for in 39-51-204.

(8) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology.

(9) (a) "Cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics", and "beauty culture" when the work is done for the embellishment, cleanliness, and beautification of the hair and body.

(b) The term may not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state as a store or place of business.

~~(3)~~(10) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4)(11) "Electrologist" means a person licensed under this chapter to engage in the practice of

electrology.

(12)(a) "Electrology" means the study of and the professional practice of permanently removing superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle. Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the use of chemical depilatories.

(b) ~~Electrology~~ The term does not include pilethermology, which is the study and professional practice of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

~~(5)~~(13) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

~~(6)~~(14) "Esthetics" means skin care of the body, including but not limited to hot compresses or the use of safety-approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.

(15) "Instructor" or "teacher" means a person licensed under 37-31-303.

~~(7)~~(16) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and the application and maintenance of artificial nails.

(17) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

~~(8)~~(18) "Place of residence" means a home and the following residences defined under 50-5-101:

- (a) an assisted living facility;
- (b) an intermediate care facility for the developmentally disabled;
- (c) a hospice;
- (d) a critical access hospital;
- (e) a long-term care facility; or
- (f) a residential treatment facility.

~~(9)~~ "Practice or teaching of barbering" ~~means any of the following practices performed for payment, either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of disease or physical or mental ailments:~~

- ~~(a) shaving or trimming a beard;~~
- ~~(b) cutting, styling, coloring, or waving hair;~~
- ~~(c) straightening hair by the use of chemicals;~~
- ~~(d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations applied by hand or mechanical appliance;~~
- ~~(e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or~~
- ~~(f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands, or neck.~~

~~(10) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as provided in subsection (9) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.~~

~~(11) (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.~~

~~(b) The practice and teaching of cosmetology may not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state of Montana as a store or place of business.~~

~~(12)~~(19) (a) "Salon or shop" means the physical location in which a person licensed under this chapter practices barbering₁ ~~or barbering nonchemical~~, cosmetology, electrology, esthetics, or manicuring.

(b) The term does not include a room provided in a place of residence that is used for the purposes of barbering₁ ~~or barbering nonchemical~~, cosmetology, electrology, esthetics, or manicuring unless the owner, manager, or operator allows the room to be used for the practice of barbering₁ ~~or barbering nonchemical~~₁ ~~or the practice of cosmetology, electrology, esthetics, or manicuring~~ to serve nonresidents for compensation, in which case the room must be licensed as a salon or a shop.

~~(13)~~(20) "School" means a ~~program and~~ location approved by the board ~~with respect to its course of instruction for training persons~~ for licensure in barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring and that meets any other criteria established by the board as provided for in 37-31-

311.

(21) "Student teacher" means an individual enrolled in a teacher training course as provided for under 37-31-301(1)(d).

(22) "Teacher" means a person licensed under 37-31-305.

(23) "Teacher training" means a 650-hour course prescribed by the board by rule under this chapter. "

Section 3. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall, ~~prescribe by notice, hearing, and submission of views, adopt rules for:~~

- (1) the conduct of board business;
- (2) the qualification and licensure of applicants to practice ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring or to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring or teach under this chapter;~~
- (3) the regulation and instruction of ~~apprentices and students;~~
- (4) the conduct of schools of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring for apprentices and students;~~
- (5) the qualification and licensure of applicants for booth rental licenses; and
- (6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 4. Section 37-31-301, MCA, is amended to read:

"37-31-301. Prohibited acts. (1) Without an appropriate license issued under this chapter, it is unlawful to:

- (a) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, -or manicuring for compensation;
- (b) own, manage, operate, or conduct a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for an unlicensed student to provide services as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist other than in a licensed school;
- (c) manage or operate a salon or shop or a booth; or to own, manage, or operate a salon, shop,

booth, or school without a license, or

~~(d)~~ to teach in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring other than as a student enrolled in a teacher training course.

(2) It is unlawful:

~~(a)~~ for a person who owns, manages, or controls a salon or shop to employ or use an unlicensed person as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist;

~~(b)~~ to employ or use an unlicensed person as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist;

~~(b)~~ to operate a school of for a teacher or student teacher to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring without complying with all of the regulations of 37-31-314 on the public in a school;

~~(c)~~ for student teachers to substitute for full-time teachers;

~~(d)~~ to operate a salon, shop, or booth in connection with a school;

~~(e)~~~~(e)~~ to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring in any place other than in outside a licensed salon or shop as provided in this chapter, except when a licensee is requested:

(i) by a customer to go to a place other than a licensed salon or shop and is sent to the customer from a licensed salon or shop; or

(ii) by a customer with a disability or homebound customer to go to the customer's place of residence;

or

~~(d)~~~~(f)~~ to violate any of the provisions of this chapter."

Section 5. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon, or shop, booth, or school. (1) A person may not practice or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring ~~without~~ with a license as provided for in 37-31-304.

(2) ~~A place may not be used or maintained for the teaching of~~ A person may teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring ~~for compensation unless licensed as~~

~~a school with a license as provided for in 37-31-311.~~

(3) ~~A place may be used to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation with a license as provided for in 37-31-311.~~

~~(3)(4) A person may not operate or manage a salon or shop, without with a license or a temporary operating permit or a temporary operating permit as provided in 37-31-312.~~

~~(4) A person may not operate or conduct a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.~~

(5) A person may not ~~not~~ manage or operate a booth without a booth rental ~~without a booth rental~~ license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon, ~~or shop,~~ or booth shall apply to the department for a license. The application must be accompanied by the license fee.

(7) A license may ~~not~~ be issued until when the inspection fees required in 37-31-312 have been paid."

Section 6. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ under this chapter shall file an application provided by the department and pass the examination prescribed by the board by rule to qualify for licensure."

Section 7. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. ~~(1) Before a person may practice:~~

~~(a) barbering, the person shall obtain a license to practice barbering from the department;~~

~~(b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from the department;~~

~~(c) cosmetology, the person shall obtain a license to practice cosmetology from the department;~~

~~(d) electrology, the person shall obtain a license to practice electrology from the department;~~

~~(e) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology; or~~

~~(f) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.~~

~~(2) —(a) —(i) — (1) (a)~~ To be eligible to take the licensing examination ~~to practice barbering or barbering nonchemical under this chapter~~, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under this section shall file an application with the department, deposit the application fee with the department, and pass an examination as to fitness to practice.

(c) The board shall issue a license to practice under this chapter, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current, and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

~~(ii)(2)~~ An applicant to practice barbering must have completed a course of study of at least 1,100 hours in a licensed barbering school and must have received a diploma from ~~the a barbering school or must have completed the course of study in barbering at a school of cosmetology~~ authorized to offer a course of study in barbering as prescribed by the board by rule.

~~(iii)(3)~~ An applicant to practice barbering nonchemical must have completed a course of study of at least 900 hours in a licensed barbering or barbering nonchemical school, not including hours applicable to the use of chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a diploma from ~~the a barbering or barbering nonchemical school or must have completed the course of study in barbering or barbering nonchemical at a school of cosmetology~~ authorized to offer a course of study in barbering or barbering nonchemical as prescribed by the board by rule.

~~(b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee~~

with the department and pass an examination as to fitness to practice barbering or barbering nonchemical.

~~(c) The board shall issue a license to practice barbering or barbering nonchemical, without examination, to a person licensed in another state if the board determines that:~~

~~(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and~~

~~(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.~~

~~(3) (a) To be eligible to take the examination~~

~~(4) An applicant to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a licensed cosmetology school and must have received a diploma from the a cosmetology school or must have completed the authorized to offer a course of study in cosmetology as prescribed by the board by rule.~~

~~(b) A person qualified under subsection (3)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.~~

~~(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.~~

~~(b) A person qualified under subsection (4)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.~~

~~(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study~~

~~prescribed by the board in a licensed school of cosmetology or a licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational technical program. The board shall adopt by rule procedures for granting an exception.~~

~~(b) A person qualified under subsection (5)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.~~

~~(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a licensed school of cosmetology or a licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.~~

~~(b) A person qualified under subsection (6)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics.~~

(5) An applicant to practice electrology must have completed a course of study of at least 600 hours and received a diploma from a school authorized to offer a course of study in electrology as prescribed by the board by rule.

(6) An applicant to practice manicuring must have completed a course of study of at least 400 hours and received a diploma from a school authorized to offer a course of study in manicuring as prescribed by the board by rule.

(7) An applicant to practice esthetics must:

(a) have completed a course of study of at least 650 hours of training and received a diploma from a school authorized to offer a course of study in esthetics as prescribed by the board by rule; or

(b) be a licensed cosmetologist and file an application, deposit the application fee with the department, and pass the esthetics examination as to fitness to practice."

Section 8. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. ~~(1) Before a person may teach or instruct in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the person shall obtain from the department a license to teach.~~

~~(2) To be eligible for a license to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, a person must:~~

~~(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction;~~

~~(b)(1) An applicant for a license to teach under this chapter:~~

~~(a) must have a license to practice issued by the department in the particular area of practice or scope of practice, in which the person plans to teach;~~

~~(e)(b) must have been actively engaged in that particular area of practice for 12 continuous months before taking the teacher's examination; and~~

~~(d)(c) —(i)— must have:~~

~~(i) completed teacher training and received a diploma from a licensed school approved authorized to offer a course of study in teacher training as prescribed by the board, certifying satisfactory completion of 650 hours of student teacher training by rule; or~~

~~(ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license under this subsection (2)(d)(ii) (1)(c)(ii) has 2 years to complete board-approved coursework related to teaching methodology before a license to teach is renewed.~~

~~(d) except as provided in subsection (2), must have passed the examination prescribed by the board by rule to qualify for licensure; and~~

~~(e) shall file an application provided by the board.~~

~~(2) The board shall issue a license to teach under this chapter, without examination, to a person licensed in another state if the board determines that:~~

~~(a) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and~~

~~(b) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment."~~

Section 9. Section 37-31-308, MCA, is amended to read:

"37-31-308. Exemption for persons with disabilities. A person with a physical disability who is trained for ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ to practice under this chapter by the department of public health and human services is, for a period of 1 year immediately following graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~, the department shall issue the person the necessary license to practice the profession in this state."

Section 10. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may ~~not~~ operate a school for the purpose of teaching ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ for compensation unless with a licensed license issued by the department. Application for the license must be filed with the department on an ~~approved~~ a form approved by the board by rule.

(2) A school ~~for teaching barbering or barbering nonchemical~~ may not be granted a license unless the school complies with or is able to comply with the following requirements:

(a) It has in its employ ~~either a licensed~~ at least one teacher ~~who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may~~

(b) It does not have more than 25 students for each teacher.

(c) The school's course of training and technical instruction comply with rules prescribed by the board.

~~(b)(d)~~ (d) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering or barbering nonchemical consistent with industry standards.

(e) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing a diploma.

~~(f) It does not permit a person to sleep in, or use for residential purposes or for any other purpose, a room, wholly or in part, that could make the school unsanitary.~~

~~(e)(3) A school for teaching barbering may not be granted a license unless the school maintains a school term of not less than 1,100 hours for barbering and a course of practical training and technical instruction equal to the requirements for board examinations.~~

~~(4) A school for teaching barbering nonchemical may not be granted a license unless the school maintains a school term of and not less than 900 hours for barbering nonchemical and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board by rule.~~

~~(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.~~

~~(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering or barbering nonchemical.~~

~~(3)(5) A school for teaching cosmetology may not be granted a license unless the school complies with or is able to comply with the following requirements:~~

~~(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.~~

~~(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.~~

~~(c) It maintains a school term of not less than 1,500 hours and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board by rule.~~

~~(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.~~

~~(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.~~

~~(4)(6)~~ A school for teaching electrology may not be granted a license unless the school maintains a school term of not less than 600 hours and a course of practical training and technical instruction ~~prescribed by the board~~ equal to the requirements for board, and ~~possesses apparatus and equipment necessary for teaching electrology as prescribed by the board by rule~~ examinations.

~~(5)(7)~~ A school for teaching manicuring may not be granted a license unless the school ~~complies with subsections (3)(a) and (3)(d) and the following requirements:~~

~~(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.~~

~~(b) It maintains a school term and a course of practical training and technical instruction as prescribed by the board by rule.~~

~~(c) It does not~~ of not less than 400 hours and a course of practical training and technical instruction equal to permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring the requirements for board examinations.

~~(6)(8)~~ A school for teaching esthetics may not be granted a license unless the school ~~complies with subsections (3)(a) and (3)(d) and the following requirements:~~

~~(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.~~

~~(b) It maintains a school term and a course consisting of not less than 650 hours and a course of practical training and technical instruction as prescribed by the board~~ equal to the requirements for board examinations.

~~(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.~~

~~(9)~~ A school for teaching teachers may not be granted a license unless the school maintains a school term of not less than 650 hours and a course of practical training and technical instruction equal to the requirements for board examinations.

~~(7)(10)~~ Licenses for schools of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ may be refused, revoked, or suspended as provided in 37-31-331.

~~(8) A teacher or student teacher may not be permitted to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.~~

~~(9) The board may make further rules necessary for the proper conduct of schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring.~~

~~(10)~~(11) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other similar security in the amount of \$5,000 and in a form and manner prescribed by the board by rule.

~~(11) A professional salon or shop may not be operated in connection with a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.~~

~~(12) The board may, by rule, establish a suitable curriculum for teachers' training in licensed schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring."~~

Section 11. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection -- temporary permits. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or ~~or~~ shops, and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or ~~or~~ shop, booth, or school of barbering, school of barbering nonchemical, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, ~~and the~~. The refusal of a licensee or school ~~or~~ school to permit the inspection during business hours is cause for license revocation ~~of a licensee's or school's license~~.

(2) When an owner or operator applies for a shop or ~~or~~ salon license and pays licensure and inspection fees prescribed by the board, the board:

(a) may authorize the department to grant to a new salon or ~~or~~ shop a temporary operating permit; or

(b) shall, in order to avoid a disruption of business, authorize the department to grant a temporary operating permit to an existing shop ~~or~~ salon whose owner or operator is currently in good standing with the board, as defined by the board by rule, and who is relocating to a new location. An owner or operator of an existing shop ~~or~~ salon may not receive a temporary operating permit under this section within 90 days of a license renewal date.

(3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon, ~~or~~ shop to operate until an inspection is conducted of the salon ~~or~~ shop and the salon ~~or~~ shop owner ~~or manager~~ or manager has had 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted to a salon ~~or~~ shop if the board does not receive a response within 30 days from the date of the inspection or the response received does not indicate that all of the inspection violations have been corrected, in which case a new license application must be filed. A temporary permit is not renewable.

(4) The department shall require an inspector appointed under subsection (1) to conduct an annual inspection of each salon ~~or~~ shop in the state."

Section 12. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses must be paid to the department in amounts prescribed by the board by rule.

(2) The license fees must be paid in advance to the department unless otherwise ~~provided~~ prescribed ~~by the board by board~~ rule.

(3) Other or additional license fees may not be imposed by a municipal corporation or other political subdivision of this state ~~for the practice or teaching of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ to practice under this chapter."

Section 13. Section 37-31-331, MCA, is amended to read:

"37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing. (1) The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the following cases:

(a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon, ~~or~~ shop,

booth, or a school of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ to comply with this chapter;

(b) failure to comply with the sanitary rules ~~adopted~~ prescribed by the board by rule and approved by the department of public health and human services for the regulation of salons, ~~or shops, booths,~~ or schools of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~;

(c) gross malpractice;

(d) continued practice by a person who knowingly has an infectious or contagious disease;

(e) habitual drunkenness or habitual addiction to the use of any habit-forming drug;

(f) permitting a license to be used when the holder is not personally, actively, and continuously engaged in business; or

(g) failure to display the license.

(2) The board may not refuse to authorize the department to issue or renew a license or to revoke or suspend a license already issued until after notice and opportunity for a hearing."

Section 14. Transition -- application. Within 60 days after [the effective date of this section], the board membership must reflect [section 1]. All terms of all board members appointed under the previous composition of the board terminate 60 days following [the effective date of this section], and all appointments made and vacancies filled after [the effective date of this section] must be in accordance with [section 1]. The appointments must consist of 2, 3, 4, or 5-year terms at the governor's discretion, so the initial terms of the newly composed board members are staggered in accordance with [section 1].

Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective date. [This act] is effective January 1, 2022.

- END -

I hereby certify that the within bill,
HB 593, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 593

INTRODUCED BY K. SEEKINS-CROWE

AN ACT GENERALLY REVISING BARBERING AND COSMETOLOGY LAWS; REVISING MEMBERSHIP OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING THE RULEMAKING AUTHORITY OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING REQUIREMENTS TO HOLD A LICENSE; REVISING REQUIREMENTS FOR SCHOOLS AND TEACHERS; DEFINING TERMS; REVISING CERTAIN QUALIFICATIONS FOR LICENSEES AND TEACHERS; PROVIDING FOR A TRANSITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, AND 37-31-331, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.