

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 26

Session of  
1991

INTRODUCED BY LLOYD, GEIST, FREEMAN, E. Z. TAYLOR, STABACK,  
HERMAN, KAISER, VAN HORNE, DeLUCA, DALEY, BILLOW, GIGLIOTTI,  
NAILOR, HALUSKA, PISTELLA, MARKOSEK, NICKOL, LAUGHLIN, BOYES,  
PRESTON, PESCI AND BUNT, JANUARY 15, 1991

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
JANUARY 15, 1991

AN ACT

1 Amending the act of May 3, 1933 (P.L.242, No.86), entitled, as  
2 amended, "An act to promote the public health and safety by  
3 providing for examination, licensing and granting of permits  
4 for those who desire to engage in the profession of  
5 cosmetology; defining cosmetology, and regulating cosmetology  
6 shops, schools, students, apprentices, teachers, managers,  
7 manicurists and cosmetologists; conferring powers and duties  
8 upon the Commissioner of Professional and Occupational  
9 Affairs in the Department of State; providing for appeals to  
10 certain courts by applicants and licensees; and providing  
11 penalties," providing for electrologists and for the practice  
12 of electrology; creating a committee; and making an  
13 appropriation.

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

16 Section 1. Section 1 of the act of May 3, 1933 (P.L.242,  
17 No.86), referred to as the Cosmetology Law, is amended by adding  
18 definitions to read:

19 Section 1. Definitions.--The following words and phrases  
20 when used in this act shall have the meanings given to them in  
21 this section unless the context clearly indicates otherwise:

22 "Advisory committee" means the Electrology Advisory Committee

1 to the board.

2 \* \* \*

3 "Electrologist" means an individual licensed under this act  
4 to engage in the practice of electrology.

5 "Electrology" means the removal of hair permanently, in one  
6 or more treatments, from any part of the body, through the use  
7 of electrical or thermolytical instruments.

8 \* \* \*

9 Section 2. The act is amended by adding sections to read:

10 Section 5.1. Electrology Advisory Committee.--(a) There is  
11 hereby created an advisory committee to be known as the  
12 Electrology Advisory Committee, which shall be appointed by the  
13 Governor within sixty days of the effective date of this act,  
14 with the advice and consent of the majority of the members  
15 elected to the Senate. The advisory committee shall consist of  
16 five electrologists licensed under this act. To qualify as an  
17 initial appointee to the committee, an electrologist does not  
18 need to be licensed but must have been engaged in the practice  
19 of electrology for five years. For the initial advisory  
20 committee, appointments shall be staggered, with two members  
21 serving three-year terms, two members serving two-year terms and  
22 one member serving a one-year term. Thereafter, all advisory  
23 committee members shall serve terms of three years or until  
24 their successors have been appointed and qualified, but no  
25 longer than six months beyond the three-year period. In the  
26 event that a member dies or resigns or otherwise becomes  
27 disqualified during his term, a successor shall be appointed in  
28 the same way and with the same qualifications and shall hold  
29 office for the unexpired term. No member shall be eligible for  
30 appointment to serve more than two consecutive terms.

1     (b) A majority of the members appointed and confirmed shall  
2     constitute a quorum. The advisory committee shall annually  
3     select, from among its number, a chairman who shall conduct  
4     meetings of the committee.

5     (c) The advisory committee shall recommend to the board  
6     regulations governing the practice of electrology under this  
7     act, including, but not limited to, qualifications for license,  
8     fees, criteria for disciplinary proceedings and standards for  
9     the practice of electrology. All regulations governing the  
10    practice of electrology under this act shall be promulgated by  
11    the board in consultation with the advisory committee.

12    (d) The chairman of the advisory committee shall be a voting  
13    member of the board solely for the purposes of the promulgation  
14    of regulations hereunder and for disciplinary actions against  
15    electrologists licensed under this act.

16    (e) The advisory committee members shall receive sixty  
17    dollars (\$60) per diem when actually attending to the work of  
18    the advisory committee and shall also receive the amount of  
19    reasonable traveling, lodging and other necessary expenses  
20    incurred in the performance of their duties in accordance with  
21    Commonwealth regulations.

22    Section 5.2. Prohibition Against the Practice of Electrology  
23    Without a License.--(a) It shall be unlawful for a person to  
24    practice or teach electrology or to hold oneself out in any  
25    manner as an electrologist in this Commonwealth unless the  
26    person has first obtained a license from the board as an  
27    electrologist.

28    (b) The unlawful practice of electrology, as defined in this  
29    act, may be enjoined by the courts on petition of the board or  
30    the Commissioner of Professional and Occupational Affairs. In

1 any such proceeding, it shall not be necessary to show that any  
2 person is individually injured by the actions complained of. If  
3 the respondent is found guilty of the unlawful practice of  
4 electrology, the court shall enjoin him from so practicing  
5 unless he has been duly licensed. Procedure in such cases shall  
6 be the same as in any other injunction suit. The remedy of  
7 injunction shall be in addition to criminal prosecution and  
8 punishment.

9 Section 5.3. Application for and Granting of Limited  
10 Licenses.--(a) A limited license to engage only in the practice  
11 of electrology may be applied for and granted under all of the  
12 terms and conditions of this act and the regulations promulgated  
13 hereunder upon satisfactory completion of the educational  
14 requirements and examination established by board regulation.

15 (b) The board shall promulgate regulations establishing  
16 education and examination requirements for licensure. The  
17 education requirements shall not exceed six hundred hours.

18 Section 5.4. Waiver of Examination.--(a) For an applicant  
19 who is licensed to practice electrology or to teach electrology  
20 in another state, if that state offers similar privileges to  
21 electrologists licensed under this act, the board may waive the  
22 theory section of the examination if the applicant (1) submits  
23 an application and pays the required fee, (2) has passed, in  
24 the other state, an examination determined by the board to be  
25 substantially equivalent to the examination sought to be waived,  
26 and (3) has been licensed in the other state by meeting  
27 requirements determined by the board to be substantially  
28 equivalent to requirements promulgated by the board under this  
29 section.

30 (b) For an applicant practicing or teaching electrology on

1 the effective date of this section, the board may waive the  
2 examination if the applicant (1) submits an application under  
3 this section within one year of the effective date of the  
4 initial regulations promulgated under this act relating to  
5 electrology, (2) is a resident of this Commonwealth, (3) has  
6 practiced or taught electrology in this Commonwealth for two  
7 years prior to application, and (4) has a certificate  
8 evidencing completion of one hundred twenty-five credit hours of  
9 electrology training from a licensed school of cosmetology or an  
10 approved school of electrology, or has other education or  
11 experience deemed equivalent thereto by regulation of the board.

12 Section 5.5. Shops.--An electrologist licensed under this  
13 act may operate a shop limited to the practice of electrology.  
14 The board may promulgate regulations with respect to such shops.

15 Section 3. Sections 16, 19 and 20 of the act, amended June  
16 30, 1984 (P.L.479, No.100), are amended to read:

17 Section 16. Fees.--(a) The board shall, by regulation, fix  
18 the following fees: (1) for the issuance of a license, with or  
19 without examination, for cosmetology shop owners, electrology  
20 shop owners, managers, teachers, cosmetologists, electrologists,  
21 manicurists, manicurist shops, students, cosmetology schools and  
22 for registration fee for apprentices; and (2) biennial renewal  
23 fees for cosmetology shop owners, electrology shop owners,  
24 managers, school instructors, cosmetologists, electrologists,  
25 manicurists, cosmetology schools and manicurist shops. Fees for  
26 registration, licensure and examination shall be paid in advance  
27 to the department into the Professional Licensure Augmentation  
28 Account.

29 (b) In case a cosmetology shop owner or electrology shop  
30 owner changes the location of his or her shop a new license must

1 be secured. The board shall, by regulation, fix the fee required  
2 for such new license.

3 (c) All fees required pursuant to this act shall be fixed by  
4 the board by regulation and shall be subject to the act of June  
5 25, 1982 (P.L.633, No.181), known as the "Regulatory Review  
6 Act." If the revenues raised by fees, fines and civil penalties  
7 imposed pursuant to this act are not sufficient to meet  
8 expenditures over a two-year period, the board shall increase  
9 those fees by regulation so that the projected revenues will  
10 meet or exceed projected expenditures.

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

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

22 Section 19. Duration and Renewal of Licenses.--(a) With the  
23 period ending January 31, 1986, the Bureau of Professional and  
24 Occupational Affairs shall designate approximately one-half of  
25 the renewals to expire in twelve months and the remainder of the  
26 renewals to expire in twenty-four months. Thereafter, licenses  
27 shall expire on the thirty-first day of January of each  
28 succeeding biennium unless renewed for the next biennium.  
29 Licenses may be renewed by application made prior to the thirty-  
30 first day of January of each succeeding biennium, and the

1 payment of the renewal fees provided in this act.

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

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

12 Section 20. Penalties.--(a) Any person who shall practice  
13 or teach cosmetology or electrology, or act in any capacity  
14 wherein licensing is required, without complying with this act,  
15 shall upon conviction, in a summary proceeding, be sentenced to  
16 pay a fine not exceeding three hundred dollars (\$300.00), and/or  
17 shall be sentenced to imprisonment not exceeding three (3)  
18 months.

19 (b) Any cosmetologist, electrologist, manager, teacher,  
20 student or apprentice who shall practice the profession of  
21 cosmetology or electrology while knowingly suffering from  
22 contagious or infectious disease, or who shall knowingly serve  
23 any person afflicted with such disease, shall be guilty of a  
24 summary offense, and, upon conviction thereof, shall be  
25 sentenced to pay a fine not exceeding three hundred dollars  
26 (\$300.00), or undergo an imprisonment not exceeding thirty (30)  
27 days, or both, at the discretion of the court.

28 (c) Any cosmetologist, electrologist, manager, teacher,  
29 student or apprentice who shall infect any person, or who shall  
30 impart any contagious or infectious disease, by reason of

1 carelessness or negligence in the practice of such profession,  
2 shall be guilty of a summary offense, and, upon conviction,  
3 shall be sentenced to pay a fine not exceeding three hundred  
4 dollars (\$300.00), or to undergo an imprisonment not exceeding  
5 three months, or both, at the discretion of the court.

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

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

30 (d) All fines and civil penalties imposed in accordance with



1 this section shall be paid into the Professional Licensure  
2 Augmentation Account.

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

9 Section 4. The sum of \$38,000, or as much thereof as may be  
10 necessary, is hereby appropriated from the Professional  
11 Licensure Augmentation Account within the General Fund to the  
12 Bureau of Professional and Occupational Affairs in the  
13 Department of State for the payment of costs of processing  
14 licenses and renewals, for the operation of the board and for  
15 other general costs of the bureau operations relating to  
16 electrology. The appropriation granted shall be repaid by the  
17 board within three years of the beginning of issuance of  
18 licenses by the board.

19 Section 5. The board shall initiate the promulgation of the  
20 initial regulations relating to the practice of electrology  
21 within 120 days of the effective date of this act. Beginning 30  
22 days after the effective date of this act and every 30 days  
23 thereafter until the regulations required under this act have  
24 been promulgated, the Commissioner of Professional and  
25 Occupational Affairs shall report, in writing, to the  
26 Professional Licensure Committee of the House of Representatives  
27 and the Consumer Protection and Professional Licensure Committee  
28 of the Senate on the status of such regulations.

29 Section 6. The Electrology Advisory Committee shall  
30 terminate on the scheduled date for termination of the State

1 Board of Cosmetology, unless otherwise reestablished by the  
2 General Assembly, in accordance with procedures set forth in the  
3 act of December 22, 1981 (P.L.508, No.142), known as the Sunset  
4 Act.

5 Section 7. This act shall take effect as follows:

6 (1) The amendment or addition of sections 1 and 5.1 of  
7 the act shall take effect immediately.

8 (2) Sections 4, 5 and 6 of this act shall take effect  
9 immediately.

10 (3) The remainder of this act shall take effect six  
11 months after the effective date of the initial regulations  
12 promulgated under this act.