

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1226 Session of 2007

INTRODUCED BY MAJOR, GINGRICH, REICHLLEY, SAYLOR, PICKETT, CURRY, J. EVANS, FABRIZIO, GERGELY, MURT, PALLONE, SIPTROTH AND YOUNGBLOOD, MAY 4, 2007

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 3, 2007

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 salons, 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," amending the title of the act; providing for the
12 definitions of "electrologist," "electrology," "ELECTROLOGY <—
13 SALON" AND "electrology teacher" and "shop"; further <—
14 providing for membership of the State Board of Cosmetology;
15 providing for scope of practice of electrology, for practice
16 of electrology without a license, for qualifications, for
17 eligibility requirements for the teaching of electrology, for
18 licensure of electrology shops SALONS, for licensure <—
19 reciprocity, for examinations, for continuing education for
20 individuals licensed to practice or teach electrology and for
21 shop ELECTROLOGY SALON inspections; further providing for <—
22 powers and duties of board, for sanitary rules, for fees, for <—
23 customer complaints, for duration and renewal of licenses,
24 for penalties and for regulations.

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

27 Section 1. The title of the act of May 3, 1933 (P.L.242,
28 No.86), referred to as the Cosmetology Law, amended July 7, 2006

1 (P.L.704, No.99), is amended to read:

2 AN ACT

3 To promote the public health and safety by providing for
4 examination, licensing and granting of permits for those who
5 desire to engage in the profession of cosmetology; defining
6 cosmetology, and regulating cosmetology salons, schools,
7 students, apprentices, teachers, managers, manicurists and
8 cosmetologists; promoting the public health and safety by
9 providing for examination and licensing for individuals
10 engaging in the profession of electrology; defining
11 "electrology"; regulating electrology ~~shops~~ SALONS, students ←
12 and teachers; conferring powers and duties upon the
13 Commissioner of Professional and Occupational Affairs in the
14 Department of State; providing for appeals to certain courts
15 by applicants and licensees; and providing penalties.

16 Section 2. Section 1 of the act is amended by adding
17 definitions to read:

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

21 * * *

22 "Electrologist" means an individual who is licensed to
23 practice electrology.

24 "Electrology" means the permanent removal of hair through the
25 utilization of sterile needle/solid probe electrode-type
26 epilation, which may include any of the following:

27 (1) Thermolysis, known as alternating current/AC.

28 (2) Electrolysis, known as direct current/DC.

29 (3) Superimposed or sequential blend, known as a combination
30 of both thermolysis and electrolysis.

1 "ELECTROLOGY SALON" MEANS AN ESTABLISHMENT OR PLACE WHERE ONE <—
2 OR MORE INDIVIDUALS ENGAGE IN THE PRACTICE OF ELECTROLOGY.

3 "Electrology teacher" means an individual who is a licensed
4 electrologist and is additionally licensed to teach the clinical
5 and theoretical practice of electrology.

6 * * *

7 ~~"Shop" means an establishment or place where one or more~~ <—
8 ~~individuals engage in the practice of electrology.~~

9 * * *

10 ~~Section 3. Section 1.1(a) of the act, added June 30, 1984~~
11 ~~(P.L.479, No.100), is amended to read:~~

12 SECTION 3. SECTION 1.1(A) AND (C) OF THE ACT, ADDED JUNE 30, <—
13 1984 (P.L.479, NO.100), ARE AMENDED TO READ:

14 Section 1.1. Membership of Board.--(a) The board shall
15 consist of [thirteen] fifteen members: the Commissioner of
16 Professional and Occupational Affairs; the Director of the
17 Bureau of Consumer Protection in the Office of Attorney General,
18 or his designee; **[three]** FOUR public members appointed by the <—
19 Governor with the advice and consent of the Senate, which
20 members shall represent the public at large; and [eight] ~~ten~~ <—
21 NINE professional members appointed by the Governor with the <—
22 advice and consent of the Senate, [which members have] with
23 ~~eight~~ SEVEN members having had at least five years practical <—
24 and/or managerial experience in the majority of the practices of
25 cosmetology and shall be actively engaged in the profession[.]
26 ~~and two members~~ WITH ONE MEMBER having had at least five years <—
27 of practical or managerial experience in the practice of
28 electrology. No more than one professional member shall be

29 currently employed as a vocational education teacher of
30 cosmetology in the public schools. No more than two professional

1 members of the board shall be currently affiliated with a
2 private school of cosmetology. No other person who has been
3 affiliated with a private cosmetology school within three years
4 prior to nomination may be nominated. Members currently serving
5 on the board shall continue to serve until the expiration of
6 their terms and until successors are appointed and qualified
7 according to law, but for no longer than six months.

8 * * *

<—

9 (C) [SEVEN MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM.
10 THE BOARD SHALL SELECT, FROM AMONG THEIR NUMBER, A CHAIRMAN, A
11 VICE CHAIRMAN AND A SECRETARY.] A MAJORITY OF THE MEMBERS OF THE
12 BOARD SERVING IN ACCORDANCE WITH THE LAW SHALL CONSTITUTE A
13 QUORUM. A MEMBER MAY NOT BE COUNTED AS PART OF A QUORUM OR VOTE
14 ON ANY ISSUE UNLESS THE MEMBER IS PHYSICALLY IN ATTENDANCE AT
15 THE MEETING. THE BOARD SHALL ANNUALLY SELECT FROM AMONG ITS
16 MEMBERS A CHAIRMAN, A VICE CHAIRMAN AND A SECRETARY.

17 * * *

18 Section 4. The act is amended by adding sections to read:

19 Section 10.1. Scope of practice of electrology.--(a) The
20 practice of electrology is limited to:

21 (1) The use of a sterile needle/probe electrode-type
22 epilation.

23 (2) ~~Nothing~~ NOTWITHSTANDING ANY PROVISION OF LAW TO THE <—
24 CONTRARY, NOTHING in this act shall be construed to authorize an
25 electrologist to use surgery ~~or the use of any laser technology.~~ <—
26 , ANY LASER TECHNOLOGY, INTENSE-PULSED LIGHT DEVICES, LIGHT- <—
27 EMITTING DIODE DEVICES OR ANY OTHER HIGH-INTENSITY LIGHT
28 DEVICES.

29 (3) Nothing in this act shall be construed to require
30 licensure as an electrologist for the removal of superfluous

1 hair as provided for in the practice of cosmetology.

2 Section 10.2. Practice of Electrology Without a License.--

3 (a) Subject to subsection (c), it shall be unlawful for an
4 individual to practice or to teach electrology or to use or
5 maintain a ~~shop~~ AN ELECTROLOGY SALON for the practice or ←
6 teaching of electrology without first obtaining a license as
7 provided under this act.

8 (b) It shall be unlawful for an individual to use the title
9 "licensed electrologist" or "licensed electrology teacher" or to
10 use the letters "L.E." or "L.E.T." or to hold oneself out as a
11 licensed electrologist or licensed electrology teacher unless
12 that individual is licensed to practice electrology or licensed
13 to teach electrology as provided under this act.

14 (c) Subsection (a) shall not apply to a student in an
15 electrology education program if performing electrology is
16 necessary to complete the student's course of study.

17 Section 10.3. Qualifications.--(a) An individual shall be
18 eligible to apply for licensure as an electrologist if that
19 individual fulfills all of the following:

20 (1) Is of good moral character.

21 (2) Is at least eighteen years of age.

22 (3) Filed a written application, which shall be developed by
23 the board.

24 (4) Paid a licensure fee as established by the board by
25 regulation.

26 (5) Successfully completed an electrology education program
27 from a school licensed under this act as approved by the board, ←
28 EXCEPT AS PROVIDED UNDER SECTION 10.7.

29 (6) Passed an examination approved by the board, except as
30 provided under section 10.7.

1 (b) The board shall establish and maintain a list of
2 approved electrology education programs within this Commonwealth
3 that are consistent with the requirements of this act. The board
4 shall not approve an education program unless it is composed of
5 at least two hundred hours of instruction in the theory of
6 electrology and at least four hundred hours in the clinical
7 practice of electrology. The clinical program shall include
8 instruction in all modalities of electrology.

9 Section 10.4. Eligibility Requirements for the Teaching of
10 Electrology.--(a) An individual shall be eligible to apply for
11 licensure as an electrology teacher if that individual fulfills
12 all of the following:

13 (1) Holds a current license to practice electrology.

14 (2) Has been actively engaged in the practice of electrology
15 for at least five years immediately preceding the date of
16 application for licensure as an electrology teacher.

17 (3) Successfully pass a board-approved examination to teach
18 electrology.

19 (4) Paid a fee as set by the board by regulation.

20 (b) The board shall determine by regulation the minimum
21 standards for course subject matter, curriculum and content to
22 be taught by the teacher to electrology students.

23 Section 10.5. Licensure of Electrology ~~Shops~~ SALONS.--(a) <—
24 An individual, corporation, partnership or other legal entity
25 shall not operate, use or maintain a ~~shop~~ AN ELECTROLOGY SALON <—
26 or any other premises, where electrology is practiced without
27 having first obtained an electrology ~~shop~~ SALON license. <—

28 (b) In order to be eligible to apply for an electrology ~~shop~~ <—
29 SALON license, the individual, corporation, partnership or other <—
30 legal entity shall:

1 (1) File a written application on a form developed by the
2 board.

3 (2) Pay a licensure fee as set by the board by regulations.

4 Section 10.6. Licensure Reciprocity.--(a) Upon payment of
5 the fee and submission of the written application provided by
6 the board, the board shall issue, without written examination, a
7 license to an individual who satisfies the qualifications for
8 licensure under section 10.3 and who holds a valid license to
9 practice or teach electrology issued by another state, the
10 District of Columbia, the Commonwealth of Puerto Rico and
11 territories or possessions of the United States which have
12 standards substantially similar to the standards of this
13 Commonwealth.

14 Section 10.7. ~~Examinations~~ LICENSURE WITHOUT EXAMINATION.-- <—

15 (a) For a period of one year following the effective date of
16 this section, an individual shall be eligible to apply for
17 licensure without ~~examination~~ HAVING SATISFIED THE <—

18 QUALIFICATIONS UNDER SECTION 10.3(5) AND (6) if the individual:

19 (1) meets the REMAINING qualifications for licensure under <—
20 section 10.3;

21 (2) has submitted to the board a notarized affidavit stating
22 that the applicant has been engaged in the practice of
23 electrology for at least three years preceding the date of
24 application, at a minimum of four hundred hours per year; and

25 (3) has obtained certification by a national electrology
26 certifying body as approved by the board.

27 Section 10.8. Continuing Education for Individuals Licensed
28 to Practice or Teach Electrology.--(a) An individual holding a
29 license to practice or teach electrology shall, as a condition
30 of biennial renewal, complete twenty hours of continuing

1 education, four hours of which shall be infectious disease
2 awareness and prevention.

3 (b) The board shall adopt, promulgate and enforce rules and
4 regulations consistent with the provisions of this act including
5 establishing any fees necessary for the board to carry out its
6 responsibilities under this section. All courses, locations,
7 teachers and providers shall be approved by the board. No credit
8 shall be provided for courses in office management or practice
9 building. The board shall, by regulation, provide for the waiver
10 of continuing education requirements in case of illness,
11 hardship and armed services duties. A request for waiver shall
12 be evaluated on a case-by-case basis.

13 Section 10.9. ~~Shop~~ ELECTROLOGY SALON Inspection.--To ensure <—
14 compliance with this act, licensed electrology ~~shops~~ SALONS <—
15 shall be subject to inspection during business hours or at any
16 time during which electrolysis is being performed.

17 Section 5. ~~Sections 13(a) and 14 of the act, amended July 7,~~ <—
18 2006 (P.L.704, No.99), are amended to read:

19 Section 13. ~~Powers and Duties of Board. (a) The board~~
20 shall have the power to refuse, revoke, refuse to renew or
21 suspend licenses, upon due hearing, on proof of violation of any
22 provisions of this act, or the rules and regulations established
23 by the board under this act, or for gross incompetency or
24 dishonest or unethical practices, or for failing to submit to an
25 inspection of a licensee's salon or shop during the business
26 hours of the salon or shop and shall have the power to require
27 the attendance of witnesses and the production of such books,
28 records, and papers as may be necessary. Before any licenses
29 shall be suspended or revoked for any of the reasons contained
30 in this section, the holder thereof shall have notice in writing

1 ~~of the charge or charges against him or her and shall, at a day~~
2 ~~specified in said notice, be given a public hearing before a~~
3 ~~duly authorized representative of the board with a full~~
4 ~~opportunity to produce testimony in his or her behalf and to~~
5 ~~confront the witnesses against him or her. Any person whose~~
6 ~~license has been so suspended may on application to the board~~
7 ~~have the same reissued to him or her, upon satisfactory proof~~
8 ~~that the disqualification has ceased.~~

9 * * *

10 SECTION 5. SECTION 14 OF THE ACT, AMENDED JULY 7, 2006 <—
11 (P.L.704, NO.99), IS AMENDED TO READ:

12 Section 14. Sanitary Rules.--The board shall prescribe such
13 sanitary rules as it may deem necessary, with particular
14 reference to the precautions necessary to be employed to prevent
15 the creating and spreading of infectious and contagious
16 diseases; and it shall be unlawful for the owner of any salon, <—
17 ~~shop~~ or school of cosmetology or electrology to permit any
18 person to sleep in or use for residential purposes any room used
19 wholly or in part as a salon, ~~shop~~ or school of cosmetology or <—
20 electrology.

21 Section 6. ~~Section 16~~ SECTIONS 16, 19 AND 20 of the act, <—
22 amended June 30, 1984 (P.L.479, No.100) and July 7, 2006
23 (P.L.704, No.99), ~~is~~ ARE amended to read: <—

24 Section 16. Fees.--(a) The board shall, by regulation, fix
25 the following fees: (1) for the issuance of a license, with or
26 without examination, for cosmetology salon owners, teachers,
27 cosmetologists, nail technicians, nail technology salons,
28 estheticians, esthetician salons, electrologists, electrology
29 teachers, electrology shops SALONS, natural hair braiders, <—
30 natural hair braiding salons, students and cosmetology schools;

1 (1.1) for registration fee for apprentices; and
2 (2) for biennial renewal of cosmetology salon owners, school
3 instructors, cosmetologists, nail technicians, estheticians,
4 electrologists, electrology teachers, electrology ~~shops~~ SALONS, ←
5 natural hair braiders, cosmetology schools, nail technology
6 salons, esthetician salons and natural hair braiding salons.

7 (a.1) Fees for registration, licensure and examination shall
8 be paid in advance to the department into the Professional
9 Licensure Augmentation Account.

10 (b) In case a salon ~~or shop~~ owner changes the location of ←
11 his or her salon ~~or shop~~, a new license must be secured. The ←
12 board shall, by regulation, fix the fee required for such new
13 license.

14 (c) All fees required pursuant to this act shall be fixed by
15 the board by regulation and shall be subject to the act of June
16 25, 1982 (P.L.633, No.181), known as the "Regulatory Review
17 Act." If the revenues raised by fees, fines and civil penalties
18 imposed pursuant to this act are not sufficient to meet
19 expenditures over a two-year period, the board shall increase
20 those fees by regulation so that the projected revenues will
21 meet or exceed projected expenditures.

22 (d) If the Bureau of Professional and Occupational Affairs
23 determines that the fees established by the board pursuant to
24 subsection (c) of this section are inadequate to meet the
25 minimum enforcement efforts required by this act, then the
26 bureau, after consultation with the board and subject to the
27 "Regulatory Review Act," shall increase the fees by regulation
28 in an amount that adequate revenues are raised to meet the
29 required enforcement effort.

30 (e) Current fees charged by the board shall continue until

1 such time as changes are made in accordance with the "Regulatory
2 Review Act."

3 ~~Section 7. Section 18.1 of the act, amended July 7, 2006~~ ←
4 ~~(P.L.704, No.99), is amended to read:~~

5 ~~Section 18.1. Customer Complaints. Each salon or shop shall~~
6 ~~have displayed in a conspicuous place near the salon or shop~~
7 ~~entrance a notice to customers listing the phone number at which~~
8 ~~a customer may report a complaint to the State Board of~~
9 ~~Cosmetology.~~

10 ~~Section 8. Sections 19 and 20 of the act, amended June 30,~~
11 ~~1984 (P.L.479, No.100) and July 7, 2006 (P.L.704, No.99), are~~
12 ~~amended to read:~~

13 Section 19. Duration and Renewal of Licenses.--(a) With the
14 period ending January 31, 1986, the Bureau of Professional and
15 Occupational Affairs shall designate approximately one-half of
16 the renewals to expire in twelve months and the remainder of the
17 renewals to expire in twenty-four months. Thereafter, licenses
18 shall expire on the thirty-first day of January of each
19 succeeding biennium unless renewed for the next biennium.
20 Licenses may be renewed by application made prior to the thirty-
21 first day of January of each succeeding biennium, and the
22 payment of the renewal fees provided in this act.

23 (b) An individual holding a license to practice cosmetology
24 or to practice electrology or an individual holding a limited
25 license who is not engaged in practice shall request the board,
26 in writing, to place his license in escrow and thus protect his
27 right to obtain a license at any such time within a five-year
28 period if he desires to again become engaged in the practice of
29 cosmetology, electrology or the practice of nail technology,
30 natural hair braiding or esthetics.

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

5 Section 20. Penalties.--(a) Any person who shall practice
6 or teach cosmetology or electrology, or act in any capacity
7 wherein licensing is required, without complying with this act,
8 shall upon conviction, in a summary proceeding, be sentenced to
9 pay a fine not exceeding three hundred dollars (\$300.00), and/or
10 shall be sentenced to imprisonment not exceeding three (3)
11 months.

12 (b) An individual holding a cosmetology license, electrology
13 license or limited license or individual registered as an
14 apprentice who shall practice while knowingly suffering from
15 contagious or infectious disease, or who shall knowingly serve
16 any person afflicted with such disease, shall be guilty of a
17 summary offense, and, upon conviction thereof, shall be
18 sentenced to pay a fine not exceeding three hundred dollars
19 (\$300.00), or undergo an imprisonment not exceeding thirty (30)
20 days, or both, at the discretion of the court.

21 (c) An individual holding a cosmetology license, electrology
22 license or limited license or individual registered as an
23 apprentice who shall infect any person, or who shall impart any
24 contagious or infectious disease, by reason of carelessness or
25 negligence in practice, shall be guilty of a summary offense,
26 and, upon conviction, shall be sentenced to pay a fine not
27 exceeding three hundred dollars (\$300.00), or to undergo an
28 imprisonment not exceeding three months, or both, at the
29 discretion of the court.

30 (c.2) In addition to any other civil remedy or criminal

1 penalty provided for in this act, the board, by a vote of the
2 majority of the maximum number of the authorized membership of
3 the board as provided by this act or by a vote of the majority
4 of the qualified and confirmed membership or a minimum of five
5 members, whichever is greater, may levy a civil penalty of up to
6 one thousand dollars (\$1,000.00) on any current licensee who
7 violates any provisions of this act or on any person who
8 practices cosmetology, electrology, natural hair braiding, nail
9 technology or esthetics without being properly licensed to do so
10 under this act. The board shall levy this penalty only after
11 affording the accused party the opportunity for a hearing, as
12 provided in Title 2 of the Pennsylvania Consolidated Statutes
13 (relating to administrative law and procedure).

14 (d) All fines and civil penalties imposed in accordance with
15 this section shall be paid into the Professional Licensure
16 Augmentation Account.

17 (e) The owner of any salon ~~or shop~~ employing an unlicensed <—
18 cosmetologist, unlicensed electrologist or an unlicensed natural
19 hair braider, nail technician or esthetician shall, upon
20 conviction, be sentenced to pay a fine not exceeding five
21 hundred dollars (\$500.00), or to undergo imprisonment not
22 exceeding six (6) months, or both, at the discretion of the
23 court.

24 Section ~~9~~ 7. The State Board of Cosmetology shall promulgate <—
25 regulations within one year of the effective date of this
26 section to carry out the provisions of this act.

27 Section ~~10~~ 8. This act shall take effect in 180 days. <—