

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4
5 By: Senator B. Sample
6

A Bill

SENATE BILL 525

For An Act To Be Entitled

8 AN ACT TO CREATE THE STATE BOARD OF COSMETOLOGY;
9 DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

12 TO CREATE THE STATE BOARD OF COSMETOLOGY
13 AND DECLARING AN EMERGENCY.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY.

20 (a) All authority, powers, duties, and functions relating to the
21 practice, licensure, and training of cosmetologists as established by law for
22 the State Board of Health and the Department of Health, including all
23 purchasing, budgeting, fiscal, accounting, human resources, payroll, legal,
24 information systems, maintenance, program support, administrative support,
25 and other management functions are transferred to the State Board of
26 Cosmetology, except as specified in this act.

27 (b) All records, personnel, property, unexpended balances of
28 appropriations, allocations, or other funds relating to the practice,
29 licensure, and training of cosmetologists are transferred to the State Board
30 of Cosmetology. All funds shall be deposited into the Cosmetology Operating
31 Fund.

32 (c) All powers, duties, and functions, including without limitation
33 rulemaking, regulation, and licensing, promulgation of rules, rates,
34 regulations, and standards, and the rendering of findings, orders, and
35 adjudications relating to the practice, licensure, and training of
36 cosmetologists as established by law for the State Board of Health and the



1 Department of Health are transferred to the State Board of Cosmetology,
2 except as specified in this act.

3 (d)(1) Licenses issued by the Department of Health regarding
4 cosmetology shall remain in effect until the expiration of the license as
5 provided by law.

6 (2) Rules regarding the practice, license, or training of
7 cosmetologists existing at the time of the transfer under this section shall
8 remain in full force and affect and may be amended or repealed, in whole or
9 in part, by the State Board of Cosmetology.

10 (3) Causes of action regarding the practice, license, or
11 training of cosmetologists pending at the time of the transfer under this
12 section shall be transferred to the State Board of Cosmetology.

13
14 SECTION 2. Arkansas Code § 17-26-201 is amended to read as follows:

15 17-26-201. Creation - Members.

16 ~~(a) There is created the Cosmetology Technical Advisory Committee.~~

17 ~~(b)(1) The committee shall consist of seven (7) members appointed by~~
18 ~~the State Board of Health to two year terms.~~

19 ~~(2) A member may be removed from the committee by the board for~~
20 ~~cause.~~

21 ~~(3) A member shall not serve more than ten (10) years on the~~
22 ~~committee.~~

23 ~~(c) The committee shall be composed of the following representatives~~
24 ~~from within the cosmetology industry who are of good moral character and who~~
25 ~~are at least twenty five (25) years of age:~~

26 ~~(1) One (1) member shall be a licensed cosmetologist actively~~
27 ~~engaged in practicing the art of cosmetology for at least five (5) years at~~
28 ~~the time of appointment;~~

29 ~~(2) One (1) member shall be a licensed nail technician;~~

30 ~~(3) One (1) member shall be an owner of a licensed school of~~
31 ~~cosmetology or shall be a director of cosmetology at a state-supported~~
32 ~~school;~~

33 ~~(4) One (1) member shall be a licensed aesthetician; and~~

34 ~~(5) Three (3) members shall represent the cosmetology industry~~
35 ~~at large or a related field.~~

36 ~~(d)(1) A member of the committee shall not be directly or indirectly~~

1 ~~connected with the wholesale business of the manufacture, rental, sale, or~~
2 ~~distribution of cosmetological appliances or supplies.~~

3 ~~(2) A member of the committee shall not have a contract or a~~
4 ~~pending bid for a contract with the Department of Health concerning~~
5 ~~cosmetology.~~

6 ~~(e) Only two (2) members of the committee may be appointed from any~~
7 ~~one (1) congressional district.~~

8 ~~(f) Vacancies occurring during a term shall be filled for the~~
9 ~~unexpired term.~~

10 ~~(g) Before entering upon the discharge of his or her duties, each~~
11 ~~member shall make and file with the Secretary of State the oath of office~~
12 ~~prescribed by Arkansas Constitution, Article 19, § 20.~~

13 ~~(h) Each member of the committee may receive expense reimbursement and~~
14 ~~stipends in accordance with § 25-16-901 et seq.~~

15 ~~(i) The board shall promulgate by rule the duties and powers of the~~
16 ~~committee.~~

17 (a) There is created the State Board of Cosmetology.

18 (b)(1) The board shall consist of ten (10) members appointed by the
19 Governor to five-year terms.

20 (2) Terms shall be staggered annually on January 15 and shall be
21 determined by lot.

22 (3) A member may serve two (2) terms.

23 (4) A member shall not serve more than ten (10) years on the
24 board.

25 (c) The board shall be composed of the following representatives from
26 within the cosmetology industry who are of good moral character and who are
27 at least twenty-five (25) years of age:

28 (1) Four (4) members shall be licensed cosmetologists actively
29 engaged in practicing the art of cosmetology for at least five (5) years at
30 the time of appointment;

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

32 (3) Three (3) members shall be owners of a licensed school of
33 cosmetology; and

34 (4) One (1) member shall be a licensed aesthetician.

35 (d) One (1) member of the board shall be a consumer representative who
36 is at least sixty (60) years of age and who is not actively engaged in or

1 retired from the cosmetology industry.

2 (e)(1) A member of the board shall not be directly or indirectly
 3 connected with the wholesale business of the manufacture, rental, sale, or
 4 distribution of cosmetological appliances or supplies.

5 (2) A member of the board shall not have a contract or a pending
 6 bid for a contract with the board.

7 (f) Not more than three (3) members of the board may be appointed from
 8 any one (1) congressional district. The consumer representative may be
 9 appointed from the state at large.

10 (g)(1)(A) The Governor shall remove a member of the board if the
 11 member of the board has unexcused absences from three (3) successive regular
 12 meetings without attending any intermediary called special meetings.

13 (B) The Governor may appoint a qualified individual to
 14 replace the member of the board removed to serve the remainder of his or her
 15 term.

16 (2) All orders of removal by the Governor shall:

17 (A) Be in writing;

18 (B) Be delivered to the member of the board removed or
 19 counsel for the member of the board; and

20 (C) Specifically set out the grounds relied upon for
 21 removal.

22 (3) Removal of a member of the board shall be in accordance with
 23 the following:

24 (A)(i) Within thirty (30) calendar days after each regular
 25 board meeting of the board, the secretary of the board shall notify the
 26 Governor in writing of any member who has been absent from three (3)
 27 successive regular meetings without attending any intermediary called special
 28 meetings.

29 (ii) The secretary's notice to the Governor shall
 30 include a copy of all meeting notices and attendance records for the past
 31 year.

32 (iii) The Governor may remove the secretary of the
 33 board if he or she fails to submit the notices and documentation required by
 34 this section;

35 (B) Within sixty (60) calendar days after receiving the
 36 notice and supporting documentation from the secretary of the board, the

1 Governor shall notify the member of the board in writing of his or her intent
2 to remove the member;

3 (C) Within twenty (20) calendar days after the date of the
4 Governor's notice, the member of the board may request an excused absence as
5 provided by this section or may file notice with the Governor's office that
6 the member disputes the attendance records and the reasons therefor;

7 (D) The Governor shall grant an excuse for illness of the
8 member of the board when the illness is verified by a written sworn statement
9 by an attending physician or another proper excuse as determined by the
10 Governor; and

11 (E) After twenty (20) calendar days after the date of the
12 Governor's notice, if no rebuttal is received or no other adequate
13 documentation is submitted, the member of the board shall be removed.

14 (5) A member of the board referred to the Governor because of
15 excessive absences under this subsection shall not be entitled to any per
16 diem, stipend, or expense reimbursement for travel to or attendance at
17 subsequent meetings until the board receives notification from the Governor
18 that the member has been excused for the absences.

19 (6)(A) A removed member of the board may institute proceedings
20 for review by filing a petition in Pulaski County Circuit Court within thirty
21 (30) days after delivery to him or her or his or her attorney of the
22 Governor's order of removal.

23 (B) This petition shall not supersede or stay the order of
24 removal, nor shall any court enter an order to this effect or one which would
25 impair the authority of the Governor to appoint a replacement whose service
26 begins immediately upon fulfillment of the normal requirements for assuming
27 office.

28 (7)(A) When the matter is heard by the Pulaski County Circuit
29 Court, it shall be tried de novo without a jury.

30 (B) The Governor shall have the burden of proof to show by
31 clear and convincing evidence that the member of the board had unexcused
32 absences from three (3) successive regular meetings without attending any
33 intermediary called special meetings.

34 (C)(i) If the court determines that it has been shown that
35 the member of the board had unexcused absences from three (3) successive
36 regular meetings without attending any intermediary called special meetings,

1 it shall enter an order removing the member of the board in question from
 2 office.

3 (ii) If the court determines that it has not been
 4 shown by clear and convincing evidence that the member of the board had
 5 unexcused absences from three (3) successive regular meetings without
 6 attending any intermediary called special meetings. the court shall order the
 7 removed member of the board reinstated to his or her position and upon
 8 request shall award a reasonable attorney's fee and court costs to the
 9 reinstated party.

10 (8)(A) Subject to the restrictions of subdivision (g)(6) of this
 11 section on supersedeas or stay orders, a removed member of the board may
 12 appeal the decision of the circuit court to the Arkansas Supreme Court.

13 (B) The Governor may appeal the decision of the circuit
 14 court to the Arkansas Supreme Court, but the appeal shall not preclude the
 15 circuit court, in its discretion, from entering an order reinstating the
 16 removed member of the board.

17 (9) No board action in which the appointed replacement
 18 participates shall be void, voidable, or in any way subject to invalidation
 19 on grounds of participation of the appointed replacement or lack of
 20 participation by the removed member of the board in the event that the
 21 circuit court or the Arkansas Supreme Court orders the removed member of the
 22 board reinstated. (i) Before entering upon the discharge of his or her
 23 duties, each member shall make and file with the Secretary of State the oath
 24 of office prescribed by Arkansas Constitution, Article 19, § 20.

25 (h) Each member of the board shall receive expense reimbursement and
 26 stipends in accordance with § 25-16-901 et seq. All compensation and
 27 necessary traveling expenses shall be paid by the board out of the
 28 Cosmetology Operating Fund only.

29
 30 SECTION 3. Arkansas Code Title 17, Chapter 26, Subchapter 2 is amended
 31 to add additional sections to read as follows:

32 17-26-202. Officers.

33 (a) The members of the State Board of Cosmetology shall elect annually
 34 from among their number, a president, first vice president, second vice
 35 president, secretary, and treasurer.

36 (b) The board shall prescribe the duties of these officers by rule.

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17-26-203. Director.

(a) The State Board of Cosmetology shall appoint a Director of Cosmetology with secretarial qualifications, who shall not be a member of the board and who shall have had at least five (5) years' experience in secretarial and administrative employment in this state immediately before appointment.

(b) Immediately upon assuming the duties of his or her office, the director shall give bond to the board in the amount of five thousand dollars (\$5,000), with good and sufficient sureties, approved by the board and conditioned upon the faithful performance of all duties required or which may be required of him or her by law or the regulations of the board.

SECTION 4. Arkansas Code § 17-26-204 is amended to read as follows:

17-26-204. Inspectors and professional employees.

~~The Department of Health may employ inspectors and professional employees and fix their compensation, which compensation and all reasonable expenses incurred shall be paid from the Public Health Fund from fees generated by the program.~~

(a) The State Board of Cosmetology, in accordance with this chapter, may employ inspectors and professional employees and fix their compensation, which compensation and all reasonable expenses incurred shall be paid from the Cosmetology Operating Fund only.

(b) Immediately upon assuming their duties, all inspectors shall give bond to the board in the amount of one thousand dollars (\$1,000) with good and sufficient sureties approved by the board and conditioned upon the faithful performance of all duties required or that may be required by law or the regulations of the board.

(c) All inspectors shall have had five (5) years' experience in the licensed practice of cosmetology.

SECTION 5. Arkansas Code § 17-26-205 is amended to read as follows:

17-26-205. Powers and duties.

~~(a) In addition to the other duties set forth in this chapter, the Department of Health shall:~~

~~(1) Prescribe the duties of the department's employees;~~

1 ~~(2) Hold examinations as to the qualifications of all applicants~~
2 ~~for registration whose applications have been submitted to it in proper form,~~
3 ~~unless otherwise provided;~~

4 ~~(3) Issue permits and licenses to the applicants who are~~
5 ~~entitled thereto;~~

6 ~~(4) Register cosmetological establishments and schools of~~
7 ~~cosmetology;~~

8 ~~(5) Implement the State Board of Health's rules:~~

9 ~~(A) For carrying out the provisions of this chapter;~~

10 ~~(B) For conducting examinations of applicants for~~
11 ~~licensing;~~

12 ~~(C) For governing the recognition and the credits to be~~
13 ~~given to the study of cosmetology or any of its branches, under a~~
14 ~~cosmetologist or in a school of cosmetology, licensed under the laws of~~
15 ~~another state; and~~

16 ~~(D) For governing health and safety, as it considers~~
17 ~~necessary, in regard to the precautions to be employed to prevent the~~
18 ~~creating or spreading of infections or contagious diseases in cosmetological~~
19 ~~establishments, in schools of cosmetology, and in the practice of a~~
20 ~~cosmetologist and in any branch of cosmetology, provided the rules meet the~~
21 ~~minimum requirements of the law. A copy of all rules governing health and~~
22 ~~safety shall be made available to each licensee. The rules adopted under this~~
23 ~~subsection shall have the force and effect of law.~~

24 ~~(b) In addition to the powers conveyed upon the department by this~~
25 ~~chapter, the department may enforce the provisions of this chapter or any~~
26 ~~reasonable rule adopted by the board through injunctive process.~~

27 ~~(c) The department may incur reasonable expenses and perform such~~
28 ~~other acts as may be necessary to carry out its duties and functions and to~~
29 ~~administer this chapter.~~

30 (a) In addition to the other duties set forth in this chapter, the
31 State Board of Cosmetology shall:

32 (1) Prescribe the duties of its employees with all day-to-day
33 and employment decisions to be made by the Director of Cosmetology;

34 (2) Establish a principal office in Little Rock where all
35 records of its proceedings and other records and files of the State Board of
36 Cosmetology the board shall be kept and which shall, at all reasonable hours,

1 be open to public inspection;

2 (3) Adopt a seal;

3 (4) Hold examinations as to the qualifications of all applicants
 4 for registration whose applications have been submitted to the board in
 5 proper form, unless otherwise provided;

6 (5) Issue permits and licenses to the applicants as to whom may
 7 be entitled;

8 (6) Register cosmetological establishments and schools of
 9 cosmetology;

10 (7) At each regular meeting, approve disbursement of all funds;

11 (8) Report to the proper officials all known violations of this
 12 chapter; and

13 (9) Adopt reasonable rules:

14 (A) For carrying out the provisions of this chapter;

15 (B) For conducting examinations of applicants for
 16 licensing;

17 (C) For governing the recognition and the credits to be
 18 awarded to the study of cosmetology or any of its branches in a school of
 19 cosmetology licensed under the laws of another state; and

20 (D) For governing health and safety, as it considers
 21 necessary, in regard to the precautions to be employed to prevent the
 22 creating or spreading of infections or contagious diseases in cosmetological
 23 establishments, in schools of cosmetology, and in the practice of a
 24 cosmetologist and in any branch of cosmetology, provided the rules meet the
 25 minimum requirements of the law and rules of the State Board of Health. A
 26 copy of all rules governing health and safety shall be made available to each
 27 licensee. The rules adopted under this subsection shall have the same force
 28 and effect of law.

29 (b) In addition to the powers conveyed upon the State Board of
 30 Cosmetology by this chapter, it may enforce the provisions of this chapter or
 31 any reasonable rule adopted by it through injunctive process.

32 (c) The State Board of Cosmetology may incur reasonable expenses and
 33 perform such other acts as may be necessary to carry out its duties and
 34 functions and to administer this chapter.

35
 36 SECTION 6. Arkansas Code § 17-26-206 is amended to read as follows:

1 17-26-206. Meetings – Examinations.

2 (a) The ~~Department of Health~~ State Board of Cosmetology or a private
 3 testing entity shall administer licensing examinations for eligible
 4 applicants.

5 (b) A member of the ~~Cosmetology Technical Advisory Committee~~ board
 6 ~~shall not be permitted to~~ may participate in or have the powers and duties
 7 that are related to the preparation of examinations or be permitted to give
 8 or grade the examinations of applicants for licensing.

9
 10 SECTION 7. Arkansas Code § 17-26-207 is amended to read as follows:

11 17-26-207. Registration record.

12 The ~~Department of Health~~ State Board of Cosmetology shall keep a
 13 registration record containing the names, known places of business, and the
 14 date and number of the license of every licensed cosmetologist and of those
 15 engaged in the practice of any branch of cosmetology, together with the names
 16 and addresses of all cosmetological establishments and schools of cosmetology
 17 registered under this chapter. This record shall also contain ~~such~~ facts as
 18 the applicants may have stated in their applications for examination for
 19 permitting and licensing.

20
 21 SECTION 8. Arkansas Code § 17-26-208 is amended to read as follows:

22 17-26-208. Investigations, hearings, or inspections.

23 (a) The ~~Department of Health~~ State Board of Cosmetology shall conduct
 24 investigations and inspections as promulgated by rule.

25 (b)(1) Hearings conducted by the ~~Cosmetology Technical Advisory~~
 26 ~~Committee~~ board may be held bimonthly for review of cases for which
 27 disciplinary action may be required.

28 (2)(A) Except as provided in subdivision (b)(2)(B) of this
 29 section, a hearing attended by two (2) or more members of the ~~committee~~ board
 30 is a meeting.

31 (B) A final order shall not be imposed by ~~fewer~~ less than
 32 ~~three (3)~~ five (5) members.

33 ~~(C) A final order imposed by the committee may be appealed~~
 34 ~~to the State Board of Health within thirty (30) days of its receipt.~~

35
 36 SECTION 9. Arkansas Code § 17-26-209 is amended to read as follows:

1 17-26-209. Fees – Method of payment.

2 (a) The State Board of ~~Health~~ Cosmetology shall promulgate a fee
3 schedule by rule and collect fees accordingly.

4 (b) In addition to any other method of payment acceptable to the
5 ~~Department of Health~~ board, the ~~department~~ board shall accept personal or
6 business checks drawn on deposit accounts in financial institutions as
7 payment for fees collected by the ~~department~~ board.

8
9 SECTION 10. Arkansas Code § 17-26-210 is amended to read as follows:

10 17-26-210. Disposition of funds.

11 ~~(a) All fees, fines, and penalties collected under this chapter and on~~
12 ~~behalf of the State Board of Health and all receipts of every kind and nature~~
13 ~~collected under this chapter shall be paid into the State Treasury and shall~~
14 ~~be credited to the Public Health Fund.~~

15 ~~(b)(1) The fees, fines, penalties, and receipts shall be for the~~
16 ~~general uses of the Department of Health.~~

17 ~~(2) Salaries and other expenses necessarily incurred in carrying~~
18 ~~into effect the provisions of this chapter and other programs administered by~~
19 ~~the department shall be paid from the fees, fines, penalties, and receipts.~~

20 ~~(c) Expenditures shall be substantiated by vouchers and itemized~~
21 ~~statements at the end of each fiscal year or at any other time when demand~~
22 ~~therefor is made by the Department of Finance and Administration.~~

23 (a) All fees, fines, and penalties collected under this chapter and on
24 behalf of the State Board of Cosmetology and all receipts of every kind and
25 nature collected under this chapter shall be paid into the State Treasury and
26 shall be credited to the Cosmetology Operating Fund.

27 (b)(1) The fund shall be for the general uses of the board and out of
28 it shall be paid all salaries and all other expenses necessarily incurred in
29 carrying into effect the provisions of this chapter.

30 (2) Salaries and other expenses necessarily incurred in carrying
31 into effect the provisions of this chapter and other programs administered by
32 the board shall be paid from the fees, fines, penalties, and receipts.

33 (c) Expenditures from the fund shall be substantiated by vouchers and
34 itemized statements at the end of each fiscal year or at any other time when
35 demand therefor is made by the Department of Finance and Administration.

36

1 SECTION 11. Arkansas Code § 17-26-302(a), concerning applications for
2 examination and license as a cosmetologist, is amended to read as follows:

3 (a) Each application for admission to examination and each application
4 for a license as a cosmetologist or any branch of cosmetology shall be in
5 writing on ~~blanks~~ forms and documents prepared and furnished by the
6 ~~Department of Health~~ State Board of Cosmetology.

7
8 SECTION 12. Arkansas Code § 17-26-304 is amended to read as follows:
9 17-26-304. Prerequisites to examination for a cosmetologist,
10 manicurist, or aesthetician.

11 The ~~Department of Health~~ State Board of Cosmetology shall admit to
12 examination for a license as a cosmetologist, manicurist, or aesthetician a
13 person who has made application to the ~~department~~ board in proper form, has
14 paid the fee required, and who:

- 15 (1) Is not less than sixteen (16) years of age;
- 16 (2) Has completed two (2) years of high school in the public
17 schools of this state or its equivalent; and
- 18 (3) Has completed one (1) of the following:
- 19 (A) For a cosmetologist, training of at least one thousand
20 five hundred (1,500) hours;
- 21 (B) For a manicurist, training of at least six hundred
22 (600) hours;
- 23 (C) For an aesthetician, training of at least six hundred
24 (600) hours; or
- 25 (D) The prescribed course of study in cosmetology under
26 the laws of another state whose licensing requirements are equal to or
27 stricter than those in Arkansas.

28
29 SECTION 13. Arkansas Code § 17-26-306 is amended to read as follows:
30 17-26-306. Electrologists – Prerequisites to examination.

31 The ~~Department of Health~~ State Board of Cosmetology shall admit to
32 examination for a license as an electrologist a person who has made
33 application to the ~~department~~ board in proper form, has paid the fee
34 required, and who:

- 35 (1) Is not less than eighteen (18) years of age;
- 36 (2) Has completed the twelfth grade or an accredited senior high

1 school in the public schools of this state or its equivalent; and

2 (3) Has completed one (1) of the following:

3 (A) A course of three hundred fifty (350) hours of
4 practical training as a student in conjunction with a course of fifteen
5 hundred ~~(1500)~~ (1,500) hours in cosmetology or for a licensed cosmetologist;

6 (B) A course of six hundred (600) hours of practical
7 training as a student, when not in conjunction with a regular course in
8 cosmetology or for a licensed cosmetologist, extending over a period of not
9 less than four (4) months under the immediate supervision of a licensed
10 electrologist instructor in a school of cosmetology;

11 (C) The prescribed course of study in electrology under
12 the laws of another state whose licensing requirements are equal to or
13 stricter than those in Arkansas; or

14 (D) Training and practice in electrology for a period as
15 shall be specified by rules of the ~~State Board of Health~~ board.

16
17 SECTION 14. Arkansas Code § 17-26-307 is amended to read as follows:

18 17-26-307. Electrology instructors – Prerequisites to examination.

19 The ~~Department of Health~~ State Board of Cosmetology shall admit to
20 examination for license as an electrology instructor any person who has made
21 application to the ~~department~~ board in proper form, has paid the fee
22 required, and who:

23 (1) Is not less than twenty-one (21) years of age;

24 (2) Holds a valid Arkansas license as an electrologist; and

25 (3) Has had three (3) years of practical experience as an
26 electrologist in the State of Arkansas within the past five (5) years.

27
28 SECTION 15. Arkansas Code § 17-26-315 is amended to read as follows:

29 17-26-315. Reciprocity.

30 Upon application to the ~~Department of Health~~ State Board of Cosmetology
31 in the form provided for the particular class of license applied for,
32 accompanied by the required fee, a person licensed as a cosmetologist,
33 electrologist, manicurist, aesthetician, or instructor under the laws of
34 another state shall be granted a license to practice the occupation or
35 occupations in this state not of greater scope than the occupation or
36 occupations for which the applicant was previously licensed in the other

1 state, upon the following conditions:

2 (1) That the applicant for a license as a cosmetologist,
 3 manicurist, or aesthetician is not less than eighteen (18) years of age, and
 4 the applicant for a license as an instructor or electrologist is not less
 5 than twenty-one (21) years of age;

6 (2) That the applicant holds a current valid license upon
 7 application for reciprocity, evidenced by a certified copy of the license and
 8 an affidavit from the other state or by such other evidence as the ~~department~~
 9 board may require;

10 (3) That the applicant has passed a ~~national~~ theory and
 11 practical examination comparable to the examination given in this state; and

12 (4) That the applicant passes an Arkansas law examination under
 13 this chapter.

14
 15 SECTION 16. Arkansas Code § 17-26-316 is amended to read as follows:
 16 17-26-316. ~~Display of license~~ Contents and display of license.

17 ~~(a) Every licensee shall:~~

18 ~~(1) Display the license in a conspicuous place in his or her~~
 19 ~~principal office, place of business, or place of employment; or~~

20 ~~(2) Wear the license on his or her person while practicing~~
 21 ~~cosmetology.~~

22 ~~(b) A license may contain a photograph of the licensee.~~

23 (a) Every license issued by the State Board of Cosmetology shall be
 24 signed by the president of the board and attested by the Director of
 25 Cosmetology and shall bear the impress of the board's seal.

26 (b) Every licensee shall display the license in a conspicuous place in
 27 his or her principal office, place of business, or place of employment.

28
 29 SECTION 17. Arkansas Code § 17-26-317 is amended to read as follows:
 30 17-26-317. Notice of address change.

31 Every registered cosmetologist manager-operator, cosmetologist,
 32 electrologist, manicurist, or aesthetician, within thirty (30) days after
 33 changing the address of his or her place of business as designated on the
 34 books of the ~~Department of Health~~ State Board of Cosmetology, shall notify
 35 the ~~department~~ administrative office of the State Board of Cosmetology of
 36 his or her new place of business. Upon receipt of the notification, the

1 ~~department~~ office shall make the necessary changes in the register.

2
 3 SECTION 18. Arkansas Code § 17-26-319 is amended to read as follows:
 4 17-26-319. Expiration, renewal, and reinstatement.

5 (a) Licenses of cosmetologists, instructors, electrologists,
 6 aestheticians, and manicurists shall expire on the licensee’s birthday on a
 7 ~~biennial~~ annual basis.

8 (b) Licenses of schools and establishments shall expire in one (1) of
 9 the following ways at the choice of the school or establishment owner:

- 10 (1) Annually on December 31;
- 11 (2) Biennially on December 31; or
- 12 (3) Biennially on the owner’s birthday in conjunction with the
 13 individual license.

14 (c) Application for license renewals shall be filed and the fee paid
 15 not later than thirty (30) days following the expiration date established in
 16 subsection (a) of this section.

17 (d) A licensee whose license has lapsed for failure to renew and who
 18 is or was under the direct supervision of a physician for an extended or
 19 long-term condition may request from the ~~Department of Health~~ State Board of
 20 Cosmetology a waiver of the reinstatement fee.

21 (e) After five (5) years from the date of its expiration, a license
 22 may be reinstated upon the filing of an application as the ~~department~~ board
 23 may prescribe, the payment of the examination fee, and the passing of the
 24 examination required by the ~~department~~ board.

25 (f) The ~~department~~ board is authorized and directed to renew, upon
 26 application and the payment of the necessary fees, the license of a
 27 cosmetologist, manicurist, aesthetician, instructor, or electrologist who is
 28 also a veteran of war who possessed the license but permitted it to lapse.
 29 The renewal license shall be issued without the applicant’s being required to
 30 submit to any examination or to meet any additional schooling requirements.

31 (g)(1) A licensee who is sixty-five (65) years of age or older and has
 32 been actively engaged in the practice or teaching of cosmetology for thirty
 33 (30) or more years may apply for a lifetime license.

34 (2) The fee for a lifetime license shall be established by rule
 35 of the board.

36 (3) The receipt of a lifetime license shall not exempt a

1 licensee from:

- 2 (A) Complying with any applicable law or rule; and
- 3 (B) Receiving a penalty for failing to comply with an
- 4 applicable law or rule.

5

6 SECTION 19. Arkansas Code § 17-26-321 is amended to read as follows:
 7 17-26-321. Reissuance and reinstatement.

8 For good cause shown and under such reasonable rules as may be imposed,
 9 the ~~Department of Health~~ State Board of Cosmetology may reissue or reinstate
 10 the license of any person whose license has been previously revoked.

11

12 SECTION 20. Arkansas Code § 17-26-402 is amended to read as follows:
 13 17-26-402. Cosmetological establishments – License.

14 (a) A person, firm, or corporation desiring to operate a
 15 cosmetological establishment shall make an application to the ~~Department of~~
 16 ~~Health~~ State Board of Cosmetology for a license.

17 (b) The application shall be accompanied by the required licensing
 18 fee.

19

20 SECTION 21. Arkansas Code § 17-26-403 is amended to read as follows:
 21 17-26-403. School of cosmetology – Application to operate – License.

22 ~~(a) Schools of cosmetology shall be conducted as provided in this~~
 23 ~~subchapter.~~

24 ~~(b)(1) A person, firm, or corporation desiring to conduct a school of~~
 25 ~~cosmetology shall apply to the Department of Health for approval.~~

26 ~~(2) The Department of Education shall not be required to apply~~
 27 ~~to the Department of Health for approval.~~

28 ~~(3)(A) When an application is made after January 1, the portion~~
 29 ~~of the registration fee that the unexpired number of months in the year bears~~
 30 ~~to the entire year, including the month the application is made, shall be~~
 31 ~~paid to the Department of Health.~~

32 ~~(B) In such a case the Department of Health shall issue a~~
 33 ~~license for the fractional part of the year.~~

34 ~~(c) The license authorizes the school of cosmetology holding it to~~
 35 ~~transact operations in this state during the year or fraction thereof for~~
 36 ~~which it is issued subject to the rules of the department.~~

1 ~~(d) Nothing in this section shall be construed as authorization or~~
 2 ~~permission to conduct a school of cosmetology without a valid, existing, and~~
 3 ~~unexpired license.~~

4 (a) Schools of cosmetology shall be conducted as provided in this
 5 subchapter.

6 (b)(1) A person, firm, or corporation desiring to conduct a school of
 7 cosmetology shall apply to the State Board of Cosmetology for approval.

8 (2) The Department of Education shall not be required to apply
 9 to the board for approval.

10 (3)(A) When an application is made after January 1, the portion
 11 of the registration fee that the unexpired number of months in the year bears
 12 to the entire year, including the month the application is made, shall be
 13 paid to the board.

14 (B) In such a case the board shall issue a license for the
 15 fractional part of the year.

16 (c) In the event that a member of the board shall wholly or partially
 17 own any interest in any school of cosmetology in this state, the board member
 18 shall disqualify himself or herself from the consideration of applications
 19 for new schools of cosmetology or license renewals.

20 (d) The license authorizes the school of cosmetology holding it to
 21 transact operations in this state during the year or fraction thereof for
 22 which it is issued subject to the rules of the board.

23 (e) This section shall not be construed as authorization or permission
 24 to conduct a school of cosmetology without a valid, existing, and unexpired
 25 license.

26
 27 SECTION 22. Arkansas Code § 17-26-404 is amended to read as follows:
 28 17-26-404. Licensing requirements – Expiration – Renewal.

29 (a) Licensing for cosmetological establishments and schools of
 30 cosmetology expires ~~pursuant to~~ under § 17-26-319(b).

31 (b)(1) An application for renewal of a license shall be filed with the
 32 ~~Department of Health~~ State Board of Cosmetology, accompanied by the required
 33 renewal fee.

34 ~~(e)(2)~~ (2) Thereupon, the ~~department~~ board shall renew the license
 35 for the appropriate time period.

36 ~~(d)(c)~~ (c) A license that has expired for failure of the registrant to

1 renew within the time fixed by this section may for a period of one (1) year
 2 thereafter be renewed upon the filing of an application in ~~such a~~ form as the
 3 ~~department~~ board may require and upon payment of the required renewal fee and
 4 the delinquency fee.

5 ~~(e)~~(d) After one (1) year from the date of its expiration, a
 6 certificate may not be renewed, and the establishment or school may again
 7 become entitled to a license only upon compliance with all of the provisions
 8 of this chapter relating to the original issuance of a license.

9
 10 SECTION 23. Arkansas Code § 17-26-406 is amended to read as follows:
 11 17-26-406. Refusal or cancellation of school license – Causes.

12 (a)(1) A school shall not be licensed until the ~~Department of Health~~
 13 State Board of Cosmetology has had ample opportunity to verify sworn
 14 statements as to the actual ownership. In this respect, if false statements
 15 are submitted to the ~~department~~ board in connection with a license
 16 application, this in itself shall constitute sufficient grounds for the
 17 refusal to grant any application under this subchapter.

18 (2) If an application is granted and thereafter the ~~department~~
 19 board discovers that false statements were made in connection therewith, this
 20 shall constitute sufficient grounds for the cancellation of the school
 21 license even though the false statements are detected after a license has
 22 been issued.

23 (b)(1) The ~~department~~ board may deny a school license to any applicant
 24 or licensee upon reasonable evidence that the school or its officials would
 25 jeopardize the health and safety of the public.

26 (2) A school license shall not be issued until the real owner
 27 files with the ~~department~~ board a statement definitely designating who is
 28 authorized to accept service of notice from the ~~department~~ board and to
 29 transact all business negotiations on behalf of the school, including answers
 30 to citations for hearing and compliance with rulings issued by the
 31 ~~Cosmetology Technical Advisory Committee~~ board.

32
 33 SECTION 24. Arkansas Code § 17-26-407(b), concerning inspections of
 34 cosmetology schools, is amended to read as follows:

35 (b) An applicant shall not be granted a license to operate a school
 36 unless the ~~Department of Health~~ State Board of Cosmetology finds that

1 sufficient equipment has been installed for the requirements of enrolling a
 2 minimum of not fewer than twenty-five (25) bona fide students and that not
 3 fewer than twenty-five (25) bona fide full-time student registration requests
 4 have been received in the case of any new school.

5
 6 SECTION 25. Arkansas Code § 17-26-408(5), concerning duties of
 7 cosmetology schools, is amended to read as follows:

8 (5) Fix its tuition at an amount that will enable it to furnish
 9 without further charge to the student all cosmetics, materials, and supplies
 10 used on the public and in classes. This does not include books and
 11 instruments as shall be determined from time to time by the ~~Department of~~
 12 Health State Board of Cosmetology.

13
 14 SECTION 26. Arkansas Code § 17-26-410(a)(2), concerning cosmetology
 15 instructor qualifications, is amended to read as follows:

16 (2) Has passed an instructor’s examination given by the
 17 ~~Department of Health~~ State Board of Cosmetology and has received an
 18 instructor’s license.

19
 20 SECTION 27. Arkansas Code § 17-26-411 is amended to read as follows:
 21 17-26-411. Instructors – Duties – Number.

22 (a) All instructors shall be continuously engaged in teaching students
 23 in theoretical or practical work. Except when instructing a student, an
 24 instructor may not practice upon a client, and any instructor who does so is
 25 subject to disciplinary action by the ~~Cosmetology Technical Advisory~~
 26 Committee State Board of Cosmetology.

27 (b) The ~~State Board of Health~~ board shall promulgate reasonable rules
 28 concerning the number of instructors necessary to properly conduct a school
 29 of cosmetology.

30
 31 SECTION 28. Arkansas Code § 17-26-412(b), concerning cosmetology
 32 curriculum, is amended to read as follows:

33 (b) It shall ~~se~~ arrange the courses devoted to each branch or practice
 34 of cosmetology as the ~~Department of Health~~ State Board of Cosmetology may
 35 from time to time adopt as the course to be followed by the schools.

1 SECTION 29. Arkansas Code § 17-26-413(b), concerning electrology
2 courses, is amended to read as follows:

3 (b) The course shall be in accordance with a curriculum
4 established by the ~~Department of Health~~ State Board of Cosmetology.

5
6 SECTION 30. Arkansas Code § 17-26-415 is amended to read as follows:

7 17-26-415. Student registration – Reregistration on transfer.

8 (a)(1) All students of cosmetology, manicuring, electrology,
9 aesthetics, and instructor training shall be registered with the ~~Department~~
10 ~~of Health~~ State Board of Cosmetology before accredited hours can be obtained.

11 (2) The enrollment application shall be accompanied by a copy of
12 a method of identification containing a photograph of the applicant.

13 (3) A student shall not earn hours ~~prior to~~ before the date in
14 which the ~~department~~ board has issued a student permit.

15 (b) A student who has completed the registration process and whose
16 information is on file with the ~~department~~ board shall complete a
17 reenrollment form without submitting additional documents other than the
18 student permit fee and a method of identification containing a photograph of
19 the student.

20
21 SECTION 31. Arkansas Code § 17-26-417(d) and (e), concerning
22 cosmetology student work, is amended to read as follows:

23 (d)(1) A school may allow a student to volunteer in charity or special
24 events held outside the school if the following conditions are met:

25 (A) The student agrees to participate;

26 (B) The student has completed three-quarters ($\frac{3}{4}$) of the
27 course of study;

28 (C) The student is accompanied by and acts under the
29 direct supervision of a licensed instructor; and

30 (D) The student ~~receives no~~ does not receive any credit
31 hours toward the course of study.

32 (2) Documentation shall be maintained in the student's school
33 file outlining the date, name, and location of the event and the number of
34 hours volunteered.

35 (3) A school shall provide a thirty-day notice to the ~~Department~~
36 ~~of Health~~ State Board of Cosmetology, unless the special event involves a

1 natural disaster as proclaimed by the Governor.

2 (4) A student shall not provide services to an elderly person
3 who is confined to a hospital or nursing home.

4 (e)(1) A student providing services under this section shall apply for
5 a student permit from the ~~department~~ board.

6 (2) The ~~State Board of Health~~ board shall promulgate rules
7 concerning the issuance of student permits.

8 (3) A student permit shall contain a photograph of the student.

9 (4) The student permit shall be:

10 (A) Maintained by the owner of the school attended by the
11 student during the student's enrollment; and

12 (B) Returned to the ~~department~~ board along with a copy of
13 the student's ~~Certificate of Training~~ certificate of training upon the
14 conclusion of the student's enrollment in the school.

15
16 SECTION 32. Arkansas Code § 17-26-418 is amended to read as follows:
17 17-26-418. Cosmetology courses in public schools.

18 (a)(1) All public educational institutions operating cosmetological
19 schools shall comply with the standards and rules promulgated by the State
20 Board of Health Cosmetology.

21 (2)(A) However, the responsibility for approval of
22 cosmetological schools in public educational institutions shall be the sole
23 responsibility of the State Board of Career Education.

24 (B) In approving a cosmetological school in a public
25 educational institution, the State Board of Career Education shall use the
26 same application process and requirements as the State Board of ~~Health~~
27 Cosmetology uses for approval of all other cosmetological schools.

28 (b) ~~Such schools~~ Cosmetological schools in a public educational
29 institution shall not be required to obtain a license as prescribed in this
30 chapter.

31 (c) ~~Each~~ A person who successfully completes the courses in
32 cosmetology given in a school under the public school system of this state is
33 eligible for a license under this chapter the same as though he or she had
34 graduated from a licensed private school of cosmetology approved by the State
35 Board of ~~Health~~ Cosmetology. For this purpose, successful completion of
36 courses in cosmetology given in public schools equal to and the equivalent of

1 the courses required to be given in licensed private schools of cosmetology
2 approved by the State Board of ~~Health~~ Cosmetology shall be deemed to be the
3 fulfillment of the requirements of this chapter in regard to completion of
4 courses in licensed schools of cosmetology approved by the State Board of
5 ~~Health~~ Cosmetology.

6
7 SECTION 33. Arkansas Code § 25-16-903(17), concerning stipends
8 available to state boards, is amended to read as follows:

9 (17) ~~Cosmetology Technical Advisory Committee~~ State Board of
10 Cosmetology;

11
12 SECTION 34. TEMPORARY LANGUAGE -- DO NOT CODIFY. The Governor shall
13 call the first meeting of the State Board of Cosmetology no later than July
14 31, 2011.

15
16 SECTION 35. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that this act transfer the
18 regulation of cosmetology from the Department of Health to a newly created
19 State Board of Cosmetology, and the ideal time to make such a transfer is at
20 the beginning of the state's fiscal year. Therefore, an emergency is
21 declared to exist and this act being necessary for the preservation of the
22 public peace, health, and safety shall become effective on July 1, 2011.