

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

*As Engrossed: S3/23/11*

# A Bill

SENATE BILL 525

5 By: Senator B. Sample  
6

## 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

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12 TO CREATE THE STATE BOARD OF COSMETOLOGY  
13 AND DECLARING AN EMERGENCY.  
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16

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8 remain in full force and affect and may be amended or repealed, in whole or  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 eleven (11) 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)(A) Four (4) members shall be licensed cosmetologists  
29 actively engaged in practicing the art of cosmetology for at least five (5)  
30 years at the time of appointment.

31 (B) Two (2) of the four (4) members appointed under  
32 subdivision (c)(1) of this section shall be graduates of a public institution  
33 that operates a licensed program of cosmetology.

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

35 (3) Two (2) members shall be owners of a licensed school of  
36 cosmetology;

1 (4) Two (2) members shall be directors or licensed cosmetology  
2 instructors of public institutions that operate licensed programs of  
3 cosmetology;

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

5 (6) One (1) member of the board shall be a consumer  
6 representative who is at least sixty (60) years of age and who is not  
7 actively engaged in or retired from the cosmetology industry.

8 (d)(1) A member of the board shall not be directly or indirectly  
9 connected with the wholesale business of the manufacture, rental, sale, or  
10 distribution of cosmetological appliances or supplies.

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

13 (e) Not more than three (3) members of the board may be appointed from  
14 any one (1) congressional district. The consumer representative may be  
15 appointed from the state at large.

16 (f)(1)(A)(i) The Governor shall remove a member of the board for good  
17 cause.

18 (ii)(a) As used in this section, "good cause" means:

19 (1) Conduct constituting a criminal  
20 offense involving moral turpitude;

21 (2) Gross dereliction of duty;

22 (3) Gross abuse of authority; or

23 (4) The unexcused absence of a member of  
24 the board from three (3) successive regular meetings without attending any  
25 intermediary called special meetings.

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

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

30 (A) Be in writing;

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

33 (C) Specifically set out the grounds relied upon for  
34 removal.

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

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

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

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

12                   (B) Within sixty (60) calendar days after receiving the  
13 notice and supporting documentation from the secretary of the board, the  
14 Governor shall notify the member of the board in writing of his or her intent  
15 to remove the *member for good cause*;

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

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

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

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

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

36                   (B) This petition shall not supersede or stay the order of

1 removal, nor shall any court enter an order to this effect or one which would  
2 impair the authority of the Governor to appoint a replacement whose service  
3 begins immediately upon fulfillment of the normal requirements for assuming  
4 office.

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

7 (B) The Governor shall have the burden of proof to show by  
8 clear and convincing evidence that good cause existed for removal of the  
9 member of the board.

10 (C)(i) If the court determines that good cause has been  
11 shown, it shall enter an order removing the member of the board in question  
12 from office.

13 (ii) If the court determines that good cause  
14 has not been shown by clear and convincing evidence, the court shall order  
15 the removed member of the board reinstated to his or her position and upon  
16 request shall award a reasonable attorney's fee and court costs to the  
17 reinstated party.

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

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

25 (9) No board action in which the appointed replacement  
26 participates shall be void, voidable, or in any way subject to invalidation  
27 on grounds of participation of the appointed replacement or lack of  
28 participation by the removed member of the board in the event that the  
29 circuit court or the Arkansas Supreme Court orders the removed member of the  
30 board reinstated.

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

34 (h) Each member of the board shall receive expense reimbursement and  
35 stipends in accordance with § 25-16-901 et seq. All compensation and  
36 necessary traveling expenses shall be paid by the board out of the

1 Cosmetology Operating Fund only.

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

5 17-26-202. Officers.

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

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

10  
11 17-26-203. Director.

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

17 (b) Immediately upon assuming the duties of his or her office, the  
18 director shall give bond to the board in the amount of five thousand dollars  
19 (\$5,000), with good and sufficient sureties, approved by the board and  
20 conditioned upon the faithful performance of all duties required or which may  
21 be required of him or her by law or the regulations of the board.

22  
23 SECTION 4. Arkansas Code § 17-26-204 is amended to read as follows:

24 17-26-204. Inspectors and professional employees.

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

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

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

1 the regulations of the board.

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

4  
5 SECTION 5. Arkansas Code § 17-26-205 is amended to read as follows:  
6 17-26-205. Powers and duties.

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

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

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

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

15 ~~(4) Register cosmetological establishments and schools of~~  
16 ~~cosmetology;~~

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

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

19 ~~(B) For conducting examinations of applicants for~~  
20 ~~licensing;~~

21 ~~(C) For governing the recognition and the credits to be~~  
22 ~~given to the study of cosmetology or any of its branches, under a~~  
23 ~~cosmetologist or in a school of cosmetology, licensed under the laws of~~  
24 ~~another state; and~~

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

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

36 ~~(c) The department may incur reasonable expenses and perform such~~

1 ~~other acts as may be necessary to carry out its duties and functions and to~~  
2 ~~administer this chapter.~~

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

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

7 (2) Establish a principal office in Little Rock where all  
8 records of its proceedings and other records and files of the State Board of  
9 Cosmetology the board shall be kept and which shall, at all reasonable hours,  
10 be open to public inspection;

11 (3) Adopt a seal;

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

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

17 (6) Register cosmetological establishments and schools of  
18 cosmetology;

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

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

22 (9) Adopt reasonable rules:

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

24 (B) For conducting examinations of applicants for  
25 licensing;

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

29 (D) For governing health and safety, as it considers  
30 necessary, in regard to the precautions to be employed to prevent the  
31 creating or spreading of infections or contagious diseases in cosmetological  
32 establishments, in schools of cosmetology, and in the practice of a  
33 cosmetologist and in any branch of cosmetology, provided the rules meet the  
34 minimum requirements of the law and rules of the State Board of Health. A  
35 copy of all rules governing health and safety shall be made available to each  
36 licensee. The rules adopted under this subsection shall have the same force

1 and effect of law.

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

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

8  
9 SECTION 6. Arkansas Code § 17-26-206 is amended to read as follows:

10 17-26-206. Meetings – Examinations.

11 ~~The Department of Health~~ State Board of Cosmetology or a private  
12 testing entity shall administer licensing examinations for eligible  
13 applicants.

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

18  
19 SECTION 7. Arkansas Code § 17-26-207 is amended to read as follows:

20 17-26-207. Registration record.

21 ~~The Department of Health~~ State Board of Cosmetology shall keep a  
22 registration record containing the names, known places of business, and the  
23 date and number of the license of every licensed cosmetologist and of those  
24 engaged in the practice of any branch of cosmetology, together with the names  
25 and addresses of all cosmetological establishments and schools of cosmetology  
26 registered under this chapter. This record shall also contain ~~such~~ facts as  
27 the applicants may have stated in their applications for examination for  
28 permitting and licensing.

29  
30 SECTION 8. Arkansas Code § 17-26-208 is amended to read as follows:

31 17-26-208. Investigations, hearings, or inspections.

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

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

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

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

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

8  
9 SECTION 9. Arkansas Code § 17-26-209 is amended to read as follows:

10 17-26-209. Fees – Method of payment.

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

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

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

19 17-26-210. Disposition of funds.

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

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

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

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

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

36 (b)(1) The fund shall be for the general uses of the board and out of

1 it shall be paid all salaries and all other expenses necessarily incurred in  
2 carrying into effect the provisions of this chapter.

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

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

9  
10 SECTION 11. Arkansas Code § 17-26-302(a), concerning applications for  
11 examination and license as a cosmetologist, is amended to read as follows:

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

16  
17 SECTION 12. Arkansas Code § 17-26-304 is amended to read as follows:  
18 17-26-304. Prerequisites to examination for a cosmetologist,  
19 manicurist, or aesthetician.

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

24 (1) Is not less than sixteen (16) years of age;

25 (2) Has completed two (2) years of high school in the public  
26 schools of this state or its equivalent; and

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

28 (A) For a cosmetologist, training of at least one thousand  
29 five hundred (1,500) hours;

30 (B) For a manicurist, training of at least six hundred  
31 (600) hours;

32 (C) For an aesthetician, training of at least six hundred  
33 (600) hours; or

34 (D) The prescribed course of study in cosmetology under  
35 the laws of another state whose licensing requirements are equal to or  
36 stricter than those in Arkansas.

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SECTION 13. Arkansas Code § 17-26-306 is amended to read as follows:

17-26-306. Electrologists – Prerequisites to examination.

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

(1) Is not less than eighteen (18) years of age;

(2) Has completed the twelfth grade or an accredited senior high school in the public schools of this state or its equivalent; and

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 15. Arkansas Code § 17-26-315 is amended to read as follows:  
2 17-26-315. Reciprocity.

3 Upon application to the ~~Department of Health~~ State Board of Cosmetology  
4 in the form provided for the particular class of license applied for,  
5 accompanied by the required fee, a person licensed as a cosmetologist,  
6 electrologist, manicurist, aesthetician, or instructor under the laws of  
7 another state shall be granted a license to practice the occupation or  
8 occupations in this state not of greater scope than the occupation or  
9 occupations for which the applicant was previously licensed in the other  
10 state, upon the following conditions:

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

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

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

21 (4) That the applicant passes an Arkansas law examination under  
22 this chapter.  
23

24 SECTION 16. Arkansas Code § 17-26-316 is amended to read as follows:  
25 17-26-316. ~~Display of license~~ Contents and display of license.

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

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

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

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

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

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

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

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

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

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

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

(1) Annually on December 31;

(2) Biennially on December 31; or

(3) Biennially on the owner's birthday in conjunction with the individual license.

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

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

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

(f) The ~~department~~ board is authorized and directed to renew, upon application and the payment of the necessary fees, the license of a cosmetologist, manicurist, aesthetician, instructor, or electrologist who is

1 also a veteran of war who possessed the license but permitted it to lapse.  
2 The renewal license shall be issued without the applicant's being required to  
3 submit to any examination or to meet any additional schooling requirements.

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

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

9 (3) The receipt of a lifetime license shall not exempt a  
10 licensee from:

11 (A) Complying with any applicable law or rule; and

12 (B) Receiving a penalty for failing to comply with an  
13 applicable law or rule.

14

15 SECTION 19. Arkansas Code § 17-26-321 is amended to read as follows:  
16 17-26-321. Reissuance and reinstatement.

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

20

21 SECTION 20. Arkansas Code § 17-26-402 is amended to read as follows:  
22 17-26-402. Cosmetological establishments – License.

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

26 (b) The application shall be accompanied by the required licensing  
27 fee.

28

29 SECTION 21. Arkansas Code § 17-26-403 is amended to read as follows:  
30 17-26-403. School of cosmetology – Application to operate – License.

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

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

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

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

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

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

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

13          (a) Schools of cosmetology shall be conducted as provided in this  
14 subchapter.

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

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

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

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

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

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

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

35  
36          SECTION 22. Arkansas Code § 17-26-404 is amended to read as follows:

1 17-26-404. Licensing requirements – Expiration – Renewal.

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

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

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

9 ~~(d)(c)~~ A license that has expired for failure of the registrant to  
10 renew within the time fixed by this section may for a period of one (1) year  
11 thereafter be renewed upon the filing of an application in ~~such a~~ a form as the  
12 ~~department~~ board may require and upon payment of the required renewal fee and  
13 the delinquency fee.

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

18  
19 SECTION 23. Arkansas Code § 17-26-406 is amended to read as follows:  
20 17-26-406. Refusal or cancellation of school license – Causes.

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

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

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

35 (2) A school license shall not be issued until the real owner  
36 files with the ~~department~~ board a statement definitely designating who is

1 authorized to accept service of notice from the ~~department~~ board and to  
2 transact all business negotiations on behalf of the school, including answers  
3 to citations for hearing and compliance with rulings issued by the  
4 ~~Cosmetology Technical Advisory Committee~~ board.

5  
6 SECTION 24. Arkansas Code § 17-26-407(b), concerning inspections of  
7 cosmetology schools, is amended to read as follows:

8 (b) An applicant shall not be granted a license to operate a school  
9 unless the ~~Department of Health~~ State Board of Cosmetology finds that  
10 sufficient equipment has been installed for the requirements of enrolling a  
11 minimum of not fewer than twenty-five (25) bona fide students and that not  
12 fewer than twenty-five (25) bona fide full-time student registration requests  
13 have been received in the case of any new school.

14  
15 SECTION 25. Arkansas Code § 17-26-408(5), concerning duties of  
16 cosmetology schools, is amended to read as follows:

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

22  
23 SECTION 26. Arkansas Code § 17-26-410(a)(2), concerning cosmetology  
24 instructor qualifications, is amended to read as follows:

25 (2) Has passed an instructor's examination given by the  
26 ~~Department of Health~~ State Board of Cosmetology and has received an  
27 instructor's license.

28  
29 SECTION 27. Arkansas Code § 17-26-411 is amended to read as follows:

30 17-26-411. Instructors – Duties – Number.

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

36 (b) The ~~State Board of Health~~ board shall promulgate reasonable rules

1 concerning the number of instructors necessary to properly conduct a school  
2 of cosmetology.

3  
4 SECTION 28. Arkansas Code § 17-26-412(b), concerning cosmetology  
5 curriculum, is amended to read as follows:

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

9  
10 SECTION 29. Arkansas Code § 17-26-413(b), concerning electrology  
11 courses, is amended to read as follows:

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

14  
15 SECTION 30. Arkansas Code § 17-26-415 is amended to read as follows:  
16 17-26-415. Student registration – Reregistration on transfer.

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

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

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

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

29  
30 SECTION 31. Arkansas Code § 17-26-417(d) and (e), concerning  
31 cosmetology student work, is amended to read as follows:

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

34 (A) The student agrees to participate;

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

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

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

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

8 (3) A school shall provide a thirty-day notice to the ~~Department~~  
9 ~~of Health~~ State Board of Cosmetology, unless the special event involves a  
10 natural disaster as proclaimed by the Governor.

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

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

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

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

18 (4) The student permit shall be:

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

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

24  
25 SECTION 32. Arkansas Code § 17-26-418 is amended to read as follows:

26 17-26-418. Cosmetology courses in public schools.

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

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

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

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

4 (c) ~~Each~~ A person who successfully completes the courses in  
5 cosmetology given in a school under the public school system of this state is  
6 eligible for a license under this chapter the same as though he or she had  
7 graduated from a licensed private school of cosmetology approved by the State  
8 Board of ~~Health~~ Cosmetology. For this purpose, successful completion of  
9 courses in cosmetology given in public schools equal to and the equivalent of  
10 the courses required to be given in licensed private schools of cosmetology  
11 approved by the State Board of ~~Health~~ Cosmetology shall be deemed to be the  
12 fulfillment of the requirements of this chapter in regard to completion of  
13 courses in licensed schools of cosmetology approved by the State Board of  
14 ~~Health~~ Cosmetology.

15  
16 SECTION 33. Arkansas Code § 25-16-903(17), concerning stipends  
17 available to state boards, is amended to read as follows:

18 (17) ~~Cosmetology Technical Advisory Committee~~ State Board of  
19 Cosmetology;

20  
21 SECTION 34. TEMPORARY LANGUAGE -- DO NOT CODIFY. The Governor shall  
22 call the first meeting of the State Board of Cosmetology no later than July  
23 31, 2011.

24  
25 SECTION 35. EMERGENCY CLAUSE. It is found and determined by the  
26 General Assembly of the State of Arkansas that this act transfer the  
27 regulation of cosmetology from the Department of Health to a newly created  
28 State Board of Cosmetology, and the ideal time to make such a transfer is at  
29 the beginning of the state's fiscal year. Therefore, an emergency is  
30 declared to exist and this act being necessary for the preservation of the  
31 public peace, health, and safety shall become effective on July 1, 2011.

32  
33 /s/B. Sample  
34  
35  
36