

PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS

ARTICLE I GENERAL PROVISIONS

Sec. 1-2. Public policy.

The practices of barbering, cosmetology, esthetics, hair braiding, and nail technology in the State of Illinois are hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the professions merit and receive the confidence of the public and that only qualified persons be permitted to practice said professions in the State of Illinois. This Act shall be liberally construed to carry out these objects and purposes.

Sec. 1-3. Exclusive State power.

It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.

Sec. 1-4. Definitions.

In this Act the following words shall have the following meanings:

"Board" means the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board.

"Department" means the Department of Financial and Professional Regulation.

"Licensed barber" means an individual licensed by the Department to practice barbering as defined in this Act and whose license is in good standing.



"Licensed cosmetologist" means an individual licensed by the Department to practice cosmetology, nail technology, hair braiding, and esthetics as defined in this Act and whose license is in good standing.

"Licensed esthetician" means an individual licensed by the Department to practice esthetics as defined in this Act and whose license is in good standing.

"Licensed nail technician" means any individual licensed by the Department to practice nail technology as defined in this Act and whose license is in good standing.

"Licensed barber teacher" means an individual licensed by the Department to practice barbering as defined in this Act and to provide instruction in the theory and practice of barbering to students in an approved barber school.

"Licensed cosmetology teacher" means an individual licensed by the Department to practice cosmetology, esthetics, hair braiding, and nail technology as defined in this Act and to provide instruction in the theory and practice of cosmetology, esthetics, and nail technology to students in an approved cosmetology, esthetics, or nail technology school.

"Licensed cosmetology clinic teacher" means an individual licensed by the Department to practice cosmetology, esthetics, and nail technology as defined in this Act and to provide clinical instruction in the practice of cosmetology, esthetics, hair braiding, and nail technology in an approved school of cosmetology, esthetics, or nail technology.

"Licensed esthetics teacher" means an individual licensed by the Department to practice esthetics as defined in this Act and to provide instruction in the theory and practice of esthetics to students in an approved cosmetology or esthetics school.

"Licensed hair braider" means any individual licensed by the Department to practice hair braiding as defined in Section 3E-1 and whose license is in good standing.

"Licensed hair braiding teacher" means an individual licensed by the Department to practice hair braiding and to provide instruction in the theory and

practice of hair braiding to students in an approved cosmetology or hair braiding school.

"Licensed nail technology teacher" means an individual licensed by the Department to practice nail technology and to provide instruction in the theory and practice of nail technology to students in an approved nail technology school or cosmetology school.

"Enrollment" is the date upon which the student signs an enrollment agreement or student contract.

"Enrollment agreement" or "student contract" is any agreement, instrument, or contract however named, which creates or evidences an obligation binding a student to purchase a course of instruction from a school.

"Enrollment time" means the maximum number of hours a student could have attended class, whether or not the student did in fact attend all those hours.

"Elapsed enrollment time" means the enrollment time elapsed between the actual starting date and the date of the student's last day of physical attendance in the school.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Threading" means any technique that results in the removal of superfluous hair from the body by twisting thread around unwanted hair and then pulling it from the skin; and may also include the incidental trimming of eyebrow hair.

Sec. 1-5. Severability.

If any provision of this Act or application thereof to any person or circumstances is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid application or provision, and to this end the provisions of this Act are declared to be severable.

Sec. 1-6. Administrative Procedure Act.

The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purpose of this Act the notice required under Section 10-25 of the Administrative Procedure Act is deemed sufficient when

Sec. 1-7. Licensure required; renewal.

(a) It is unlawful for any person to practice, or to hold himself or herself out to be a cosmetologist, esthetician, nail technician, hair braider, or barber without a license as a cosmetologist, esthetician, nail technician, hair braider or barber issued by the Department of Financial and Professional Regulation pursuant to the provisions of this Act and of the Civil Administrative Code of Illinois. It is also unlawful for any person, firm, partnership, or corporation to own, operate, or conduct a cosmetology, esthetics, nail technology, hair braiding salon, or barber school without a license issued by the Department or to own or operate a cosmetology, esthetics, nail technology, or hair braiding salon or barber shop without a certificate of registration issued by the Department. It is further unlawful for any person to teach in any cosmetology, esthetics, nail technology, hair braiding, or barber college or school approved by the Department or hold himself or herself out as a cosmetology, esthetics, hair braiding, nail technology, or barber teacher without a license as a teacher, issued by the Department or as a cosmetology clinic teacher without a license as a clinic teacher issued by the Department.



(b) Notwithstanding any other provision of this Act, a person licensed as a cosmetologist may hold himself or herself out as an esthetician and may engage in the practice of esthetics, as defined in this Act, without being licensed as an esthetician. A person licensed as a cosmetology teacher may teach esthetics or

hold himself or herself out as an esthetics teacher without being licensed as an esthetics teacher. A person licensed as a cosmetologist may hold himself or herself out as a nail technician and may engage in the practice of nail technology, as defined in this Act, without being licensed as a nail technician. A person licensed as a cosmetology teacher may teach nail technology and hold himself or herself out as a nail technology teacher without being licensed as a nail technology teacher. A person licensed as a cosmetologist may hold himself or herself out as a hair braider and may engage in the practice of hair braiding, as defined in this Act, without being licensed as a hair braider. A person licensed as a cosmetology teacher may teach hair braiding and hold himself or herself out as a hair braiding teacher without being licensed as a hair braiding teacher.

(c) A person licensed as a barber teacher may hold himself or herself out as a barber and may practice barbering without a license as a barber. A person licensed as a cosmetology teacher may hold himself or herself out as a cosmetologist, esthetician, hair braider, and nail technologist and may practice cosmetology, esthetics, hair braiding, and nail technology without a license as a cosmetologist, esthetician, hair braider, or nail technologist. A person licensed as an esthetics teacher may hold himself or herself out as an esthetician without being licensed as an esthetician and may practice esthetics. A person licensed as a nail technician teacher may practice nail technology and may hold himself or herself out as a nail technologist without being licensed as a nail technologist. A person licensed as a hair braiding teacher may practice hair braiding and may hold himself or herself out as a hair braider without being licensed as a hair braider.

(d) The holder of a license issued under this Act may renew that license during the month preceding the expiration date of the license by paying the required fee.



Sec. 1-7.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice barbering, cosmetology, esthetics, hair braiding, or nail technology without being licensed under this Act

shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$5,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding disciplining a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

Sec. 1-9. Rosters.

The Department shall maintain a roster of the names and addresses of all persons whose licenses or certificates of registration have been suspended or revoked within the previous year. This roster shall be available upon written request and payment of the required fee.



Sec. 1-10. Display.

Every holder of a license shall display it in a place in the holder's principal office, place of business or place of employment. Whenever a licensed cosmetologist, esthetician, nail technician, hair braider, or barber practices cosmetology, esthetics, nail technology, hair braiding, or barbering outside of or away from the cosmetologist's, esthetician's, nail technician's, hair braider's, or barber's principal office, place of business, or place of employment, the cosmetologist, esthetician, nail technician, hair braider, or barber shall deliver to each person served a certificate of identification in a form specified by the Department.

Every registered shop shall display its certificate of registration at the location of the shop. Each shop where barber, cosmetology, esthetics, hair braiding, or nail technology services are provided shall have a certificate of registration.

Sec. 1-11. Exceptions to Act.

(a) Nothing in this Act shall be construed to apply to the educational activities conducted in connection with any monthly, annual or other special educational program of any bona fide association of licensed cosmetologists, estheticians, nail technicians, hair braiders, or barbers, or licensed cosmetology, esthetics, nail technology, hair braiding, or barber schools from which the general public is excluded.

(b) Nothing in this Act shall be construed to apply to the activities and services of registered nurses or licensed practical nurses, as defined in the Nurse Practice Act, or to personal care or health care services provided by individuals in the performance of their duties as employed or authorized by facilities or programs licensed or certified by State agencies. As used in this subsection (b), "personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. The definition of "personal care" as used in this subsection (b) shall not otherwise be construed to negate the requirements of this Act or its rules.

(c) Nothing in this Act shall be deemed to require licensure of individuals employed by the motion picture, film, television, stage play or related industry for the purpose of providing cosmetology or esthetics services to actors of that industry while engaged in the practice of cosmetology or esthetics as a part of that person's employment.

ARTICLE II BARBERS

Sec. 2-1. Barbering defined.

Any one or any combination of the following practices constitutes the practice of barbering:

To shave or trim the beard or cut the hair; to style, arrange, dress, curl, wave, straighten, clean, singe, epilate, depilate, shampoo, marcel, chemically restructure, bleach, tint, color or similarly work upon the hair or cranial prosthesis of any person; to give relaxing facial or scalp massage or treatments with oils, creams or other preparations either by hand or by mechanical appliances. Nothing in this Act shall be construed to prohibit the shampooing of hair by persons employed for that purpose and who perform such task under the direct supervision of a licensed barber.

Sec. 2-2. Licensure as a barber; qualifications.

A person is qualified to receive a license as a barber if that person has applied in writing on forms prescribed by the Department, has paid the required fees, and:

- a. Is at least 16 years of age; and
- b. Has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance; and
- c. Has graduated from a school of barbering or school of cosmetology approved by the Department, having completed a total of 1500 hours in the study of barbering extending over a period of not less than 9 months nor more than 3 years. A school of barbering may, at its discretion, consistent with the rules of the Department, accept up to 500 hours of cosmetology school training at a recognized cosmetology school toward the 1500 hour course requirement of barbering. Time spent in such study under the laws of another state or territory of the United States or of a foreign country or province shall be credited toward the period of study required by the provisions of this paragraph; and



d. Has passed an examination caused to be conducted by the Department or its designated testing service to determine fitness to receive a license as a barber; and

e. Has met all other requirements of this Act.



Sec. 2-3. Licensure as a barber by a cosmetology school graduate.

A person is qualified to receive a license as a barber if that person has applied in writing on forms provided by the Department, paid the required fees, and:

a. Is at least 16 years of age; and

b. Has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance; and

c. Has graduated from a cosmetology school approved by the Department having completed a minimum of 1500 hours in the study of cosmetology; and

d. Has graduated from a school of barbering approved by the Department having completed a minimum of 1000 additional hours in the study of barbering extending over a period of no less than 6 months nor more than 2 years. Time spent in such study under the laws of another state or territory of the United States or of a foreign country or province shall be credited toward the period of study required by the provisions of this paragraph; and

e. Has passed an examination caused to be conducted by the Department, or its designated testing service, to determine fitness to receive a license as a barber; and

f. Has met any other requirements set forth in this Act.

Sec. 2-4. Licensure as a barber teacher; qualifications.

A person is qualified to receive a license as a barber teacher if that person files an application on forms provided by the Department, pays the required fee, and:

- a. Is at least 18 years of age;
- b. Has graduated from high school or its equivalent;
- c. Has a current license as a barber or cosmetologist;
- d. Has graduated from a barber school or school of cosmetology approved by the Department having:
 - (1) completed a total of 500 hours in barber teacher training extending over a period of not less than 3 months nor more than 2 years and has had 3 years of practical experience as a licensed barber;
 - (2) completed a total of 1,000 hours of barber teacher training extending over a period of not less than 6 months nor more than 2 years; or
 - (3) completed the cosmetology teacher training as specified in paragraph (4) of subsection (a) of Section 3-4 of this Act and completed a supplemental barbering course as established by rule; and
- e. Has passed an examination authorized by the Department to determine fitness to receive a license as a barber teacher or a cosmetology teacher; and
- f. Has met any other requirements set forth in this Act.

An applicant who is issued a license as a Barber Teacher is not required to maintain a barber license in order to practice barbering as defined in this Act.

Sec. 2-4a. Barbers licensed or registered elsewhere.

An applicant who is a barber registered or licensed under the laws of another state or territory of the United States or of a foreign country or province may, without examination, be granted a license as a barber by the Department in its discretion upon filing of an application on forms provided by the Department, paying the required fee, and meeting the following conditions:

- (a) the applicant is at least 16 years of age; and

(b) the requirements for the registration or licensure of barbers in the particular state, territory, country or province were at the date of the license, substantially equivalent to the requirements then in force in this State; or the applicant has established proof of legal practice in another jurisdiction for at least 3 years.

The Department shall prescribe reasonable rules and regulations governing the recognition of and the credit to be given to the study of barbering under the laws of another state or territory of the United States or a foreign country or province by an applicant for a license as a barber or barber teacher, and for the recognition of legal practice in another jurisdiction towards the education required under this Act.

Sec. 2-7. Examination of applicants.

The Department shall hold examinations of applicants for licensure as barbers and teachers of barbering at such times and places as it may determine. Upon request, the examinations shall be administered in Spanish.



Each applicant shall be given a written examination testing both theoretical and practical knowledge of the following subjects insofar as they are related and applicable to the practice of barber science and art: (1) anatomy, (2) physiology, (3) skin diseases, (4) hygiene and sanitation, (5) barber history, (6) barber law, (7) hair cutting and styling, (8) shaving, shampooing, and permanent waving, (9) massaging, (10) bleaching, tinting, and coloring, and (11) implements.

The examination of applicants for licensure as a barber teacher shall include: (a) practice of barbering and styling, (b) theory of barbering, (c) methods of teaching, and (d) school management.

This Act does not prohibit the practice as a barber or barber teacher by one who has applied in writing to the Department, in form and substance satisfactory

to the Department, for a license and has complied with all the provisions of this Act in order to qualify for a license except the passing of an examination, until: (a) the expiration of 6 months after the filing of such written application, or (b) the decision of the Department that the applicant has failed to pass an examination within 6 months or failed without an approved excuse to take an examination conducted within 6 months by the Department, or (c) the withdrawal of the application.

Sec. 2-9. Degree in barbering at a cosmetology school.

A school of cosmetology may offer a degree in barbering, as defined by this Act, provided that the school of cosmetology complies with subsections (c), (d), and (e) of Section 2-2 of this Act; utilizes barber teachers properly licensed under Section 2-4 of this Act; and complies with Sections 2A-7 and 3B-10 of this Act.

ARTICLE III COSMETOLOGISTS

Sec. 3-1. Cosmetology defined.

Any one or any combination of the following practices constitutes the practice of cosmetology when done for cosmetic or beautifying purposes and not for the treatment of disease or of muscular or nervous disorder:



arranging, braiding, dressing, cutting, trimming, curling, waving, chemical restructuring, shaping, singeing, bleaching, coloring or similar work, upon the hair of the head or any cranial prosthesis; cutting or trimming facial hair of any person; any practice of manicuring, pedicuring, decorating nails, applying sculptured nails or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances, or in any way caring for the nails or the skin of the hands or feet including massaging the hands, arms, elbows, feet, lower legs, and knees of

another person for other than the treatment of medical disorders; any practice of epilation or depilation of any person; any practice for the purpose of cleansing, massaging or toning the skin of the scalp; beautifying, massaging, cleansing, exfoliating, or stimulating the stratum corneum of the epidermis by the use of cosmetic preparations, body treatments, body wraps, the use of hydrotherapy, or any device, electrical, mechanical, or otherwise; applying make-up or eyelashes to any person or lightening or coloring hair on the body and removing superfluous hair from the body of any person by the use of depilatories, waxing, threading, or tweezers. The term "cosmetology" does not include the services provided by an electrologist. Nail technology is the practice and the study of cosmetology only to the extent of manicuring, pedicuring, decorating, and applying sculptured or otherwise artificial nails, or in any way caring for the nail or the skin of the hands or feet including massaging the hands, arms, elbows, feet, lower legs, and knees. Cosmetologists are prohibited from using any technique, product, or practice intended to affect the living layers of the skin. The term cosmetology includes rendering advice on what is cosmetically appealing, but no person licensed under this Act shall render advice on what is appropriate medical treatment for diseases of the skin. Purveyors of cosmetics may demonstrate such cosmetic products in conjunction with any sales promotion and shall not be required to hold a license under this Act. Nothing in this Act shall be construed to prohibit the shampooing of hair by persons employed for that purpose and who perform that task under the direct supervision of a licensed cosmetologist or licensed cosmetology teacher.

Sec. 3-2. Licensure; qualifications.

(1) A person is qualified to receive a license as a cosmetologist who has filed an application on forms provided by the Department, pays the required fees, and:

- a. Is at least 16 years of age; and
- b. Is beyond the age of compulsory school attendance or has received a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate; and

c. Has graduated from a school of cosmetology approved by the Department, having completed a program of 1500 hours in the study of cosmetology extending over a period of not less than 8 months nor more than 7 consecutive years. A school of cosmetology may, at its discretion, consistent with the rules of the Department, accept up to 500 hours of barber school training at a recognized barber school toward the 1500 hour program requirement of cosmetology. Time spent in such study under the laws of another state or territory of the United States or of a foreign country or province shall be credited toward the period of study required by the provisions of this paragraph; and

d. Has passed an examination authorized by the Department to determine eligibility to receive a license as a cosmetologist; and

e. Has met any other requirements of this Act.

Sec. 3-3. Licensure as a cosmetologist by a barber school graduate.

A person is qualified to receive a license as a cosmetologist if that person has filed an application on forms provided by the Department, has paid the required fees, and:

a. Is at least 16 years of age; and

b. Has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or is beyond the age of compulsory school attendance; and

c. Has graduated from a school of barbering approved by the Department having completed 1500 hours in the study of barbering, and a minimum of 1000 additional hours in the study of cosmetology extending over a period of no less than 6 months nor more than 2 years. Time spent in such study under the laws of another state or territory of the United States or of a foreign country or province shall be credited toward the period of study required by the provisions of this paragraph; and

d. Has passed an examination authorized by the Department to determine fitness to receive a license as a cosmetologist; and

e. Has met any other requirements of this Act.

Sec. 3-4. Licensure as cosmetology teacher or cosmetology clinic teacher; qualifications.

(a) A person is qualified to receive license as a cosmetology teacher if that person has applied in writing on forms provided by the Department, has paid the required fees, and:

- (1) is at least 18 years of age;
- (2) has graduated from high school or its equivalent;
- (3) has a current license as a cosmetologist;

(4) has either: (i) completed a program of 500 hours of teacher training in a licensed school of cosmetology and had 2 years of practical experience as a licensed cosmetologist within 5 years preceding the examination; or (ii) completed a program of 1,000 hours of teacher training in a licensed school of cosmetology;

(5) has passed an examination authorized by the Department to determine eligibility to receive a license as a cosmetology teacher; and

- (6) has met any other requirements of this Act.

An individual who receives a license as a cosmetology teacher shall not be required to maintain an active cosmetology license in order to practice cosmetology as defined in this Act.

(b) A person is qualified to receive a license as a cosmetology clinic teacher if he or she has applied in writing on forms provided by the Department, has paid the required fees, and:

- (1) is at least 18 years of age;
- (2) has graduated from high school or its equivalent;
- (3) has a current license as a cosmetologist;

(4) has (i) completed a program of 250 hours of clinic teacher training in a licensed school of cosmetology or (ii) within 5 years preceding the examination, has obtained a minimum of 2 years of practical experience working at least 30 full-time hours per week as a licensed cosmetologist and has completed an instructor's institute of 20 hours, as prescribed by the Department, prior to submitting an application for examination;

(5) has passed an examination authorized by the Department to determine eligibility to receive a license as a cosmetology teacher; and

(6) has met any other requirements of this Act.

The Department shall not issue any new cosmetology clinic teacher licenses after January 1, 2009. Any person issued a license as a cosmetology clinic teacher before January 1, 2009, may renew the license after that date under this Act and that person may continue to renew the license or have the license restored during his or her lifetime, subject only to the renewal or restoration requirements for the license under this Act; however, such licensee and license shall remain subject to the provisions of this Act, including, but not limited to, provisions concerning renewal, restoration, fees, continuing education, discipline, administration, and enforcement.

Sec. 3-6. Examination.

The Department shall authorize examinations of applicants for licensure as cosmetologists and teachers of cosmetology at the times and places it may determine. If an applicant for licensure as a cosmetologist fails to pass 3 examinations conducted by the Department, the applicant shall, before taking a subsequent examination, furnish evidence of not less than 250 hours of additional study of cosmetology in an approved school of cosmetology since the applicant last took the examination. If an applicant for licensure as a cosmetology teacher fails to pass 3 examinations conducted by the Department, the applicant shall, before taking a subsequent examination, furnish evidence of not less than 80 hours of additional study in teaching methodology and educational psychology in an approved school of cosmetology since the applicant last took the examination.

An applicant who fails to pass the fourth examination shall not again be admitted to an examination unless: (i) in the case of an applicant for licensure as a cosmetologist, the applicant again takes and completes a program of 1500 hours in the study of cosmetology in an approved school of cosmetology extending over a period that commences after the applicant fails to pass the fourth examination and that is not less than 8 months nor more than 7 consecutive years in duration; (ii) in the case of an applicant for licensure as a cosmetology teacher, the applicant again takes and completes a program of 1000 hours of teacher training in an approved school of cosmetology, except that if the applicant had 2 years of practical experience as a licensed cosmetologist within the 5 years preceding the initial examination taken by the applicant, the applicant must again take and complete a program of 500 hours of teacher training in an approved school of cosmetology, esthetics, or nail technology; or (iii) in the case of an applicant for licensure as a cosmetology clinic teacher, the applicant again takes and completes a program of 250 hours of clinic teacher training in a licensed school of cosmetology or an instructor's institute of 20 hours. The requirements for remedial training set forth in this Section may be waived in whole or in part by the Department upon proof to the Department that the applicant has demonstrated competence to again sit for the examination. The Department shall adopt rules establishing the standards by which this determination shall be made. Each cosmetology applicant shall be given a written examination testing both theoretical and practical knowledge, which shall include, but not be limited to, questions that determine the applicant's knowledge of product chemistry, sanitary rules, sanitary procedures, chemical service procedures, hazardous chemicals and exposure minimization, knowledge of the anatomy of the skin, scalp, hair, and nails as they relate to applicable services under this Act and labor and compensation laws.

The examination of applicants for licensure as a cosmetology, esthetics, or nail technology teacher may include all of the elements of the exam for licensure as a cosmetologist, esthetician, or nail technician and also include teaching methodology, classroom management, record keeping, and any other related subjects that the Department in its discretion may deem necessary to insure competent performance.

This Act does not prohibit the practice of cosmetology by one who has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a cosmetologist, or the teaching of cosmetology by one who has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a cosmetology teacher or cosmetology clinic teacher, if the person has complied with all the provisions of this Act in order to qualify for a license, except the passing of an examination to be eligible to receive a license, until: (a) the expiration of 6 months after the filing of the written application, (b) the decision of the Department that the applicant has failed to pass an examination within 6 months or failed without an approved excuse to take an examination conducted within 6 months by the Department, or (c) the withdrawal of the application.

Continuing Education

Sec. 3-7. Licensure; renewal; continuing education; military service.

The holder of a license issued under this Article III may renew that license during the month preceding the expiration date thereof by paying the required fee, giving such evidence as the Department may prescribe of completing not less than 14 hours of continuing education for a cosmetologist, and 24 hours of continuing education for a cosmetology teacher or cosmetology clinic teacher, within the 2 years prior to renewal. The training shall be in subjects approved by the Department as prescribed by rule upon recommendation of the Board.

A license that has been expired for more than 5 years may be restored by payment of the restoration fee and submitting evidence satisfactory to the Department of the current qualifications and fitness of the licensee, which shall include completion of continuing education hours for the period subsequent to expiration.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification

may be accomplished through audits of records maintained by registrants, by requiring the filing of continuing education certificates with the Department, or by other means established by the Department.

A license issued under the provisions of this Act that has expired while the holder of the license was engaged (1) in federal service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, or any Women's Auxiliary thereof, or the State Militia called into the service or training of the United States of America, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may be reinstated or restored without the payment of any lapsed renewal fees, reinstatement fee, or restoration fee if within 2 years after the termination of such service, training, or education other than by dishonorable discharge, the holder furnishes the Department with an affidavit to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

The Department, in its discretion, may waive enforcement of the continuing education requirement in this Section and shall adopt rules defining the standards and criteria for that waiver under the following circumstances:

- (a) the licensee resides in a locality where it is demonstrated that the absence of opportunities for such education would interfere with the ability of the licensee to provide service to the public;
- (b) that to comply with the continuing education requirements would cause a substantial financial hardship on the licensee;
- (c) that the licensee is serving in the United States Armed Forces; or
- (d) that the licensee is incapacitated due to illness.

The continuing education requirements of this Section do not apply to a licensee who (i) is at least 62 years of age or (ii) has been licensed as a cosmetologist, cosmetology teacher, or cosmetology clinic teacher for at least 25 years.

Sec. 3-7.1. Inactive Status.

Any cosmetologist, cosmetology teacher, or cosmetology clinic teacher who notifies the Department in writing on forms prescribed by the Department, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

INACTIVE

Any cosmetologist, cosmetology teacher, or cosmetology clinic teacher requesting restoration from inactive status shall be required to pay the current renewal fee and to qualify for the restoration of his or her license, subject to rules of the Department. A license shall not be restored from inactive status unless the cosmetologist, cosmetology teacher, or cosmetology clinic teacher requesting the restoration completes the number of hours of continuing education required for renewal of a license under Section 3-7.

Any cosmetologist, cosmetology teacher, or cosmetology clinic teacher whose license is in an inactive status shall not practice in the State of Illinois.

Sec. 3-8. Cosmetologists or cosmetology teachers registered or licensed elsewhere.

(a) Except as otherwise provided in this Act, upon payment of the required fee, an applicant who is a cosmetologist or cosmetology teacher registered or licensed under the laws of a foreign country or province may be granted a license as a licensed cosmetologist or cosmetology teacher by the Department in its discretion upon the following conditions:

(1) The cosmetologist applicant is at least 16 years of age and the cosmetology teacher applicant is at least 18 years of age; and

(2) The requirements for the registration or licensing of cosmetologists or cosmetology teachers in the particular country or province were, at the date of the license, substantially equivalent to the requirements then in force for

cosmetologists or cosmetology teachers in this State; or the applicant has established proof of legal practice as a cosmetologist or cosmetology teacher in another jurisdiction for at least 3 years; and

(3) If the Department, in its discretion and in accordance with the rules, deems it necessary, then the applicant has passed an examination as required by this Act; and

(4) The applicant has met any other requirements of this Act.

The Department shall prescribe reasonable rules governing the recognition of and the credit to be given to the study of cosmetology under a cosmetologist registered or licensed under the laws of a foreign country or province by an applicant for a license as a cosmetologist, and for the recognition of legal practice in another jurisdiction towards the education required under this Act.

(b) Except as otherwise provided in this Act, upon payment of the required fee, an applicant who is a cosmetologist or cosmetology teacher registered or licensed under the laws of another state or territory of the United States shall, without examination, be granted a license as a licensed cosmetologist or cosmetology teacher, whichever is applicable, by the Department upon the following conditions:

(1) The cosmetologist applicant is at least 16 years of age and the cosmetology teacher applicant is at least 18 years of age; and

(2) The applicant submits to the Department satisfactory evidence that the applicant is registered or licensed in another state or territory as a cosmetologist or cosmetology teacher; and

(3) The applicant has met any other requirements of this Act.

ARTICLE IIIA. ESTHETICIANS

Sec. 3A-1. Esthetics defined.

(A) Any one or combination of the following practices, when done for cosmetic or beautifying purposes and not for the treatment of disease or of a muscular or



nervous disorder, constitutes the practice of esthetics:

1. Beautifying, massaging, cleansing, exfoliating, or stimulating the stratum corneum of the epidermis by the use of cosmetic preparations, body treatments, body wraps, hydrotherapy, or any device, electrical, mechanical, or otherwise, for the care of the skin;
2. Applying make-up or eyelashes to any person or lightening or coloring hair on the body except the scalp; and
3. Removing superfluous hair from the body of any person.

However, esthetics does not include the services provided by a cosmetologist or electrologist. Estheticians are prohibited from using techniques, products, and practices intended to affect the living layers of the skin. The term esthetics includes rendering advice on what is cosmetically appealing, but no person licensed under this Act shall render advice on what is appropriate medical treatment for diseases of the skin.

(B) "Esthetician" means any person who, with hands or mechanical or electrical apparatus or appliances, engages only in the use of cosmetic preparations, body treatments, body wraps, hydrotherapy, makeups, antiseptics, tonics, lotions, creams or other preparations or in the practice of massaging, cleansing, exfoliating the stratum corneum of the epidermis, stimulating, manipulating, beautifying, grooming, threading, or similar work on the face, neck, arms and hands or body in a superficial mode, and not for the treatment of medical disorders.

Sec. 3A-2. Licensure as an esthetician; qualifications.

A person is qualified to receive a license as a licensed esthetician if that person has applied in writing on forms provided by the Department, paid any required fees, and:

- a. Is at least 16 years of age; and
- b. Has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance; and
- c. Has graduated from a school of cosmetology or esthetics approved by the Department, having completed a program of 750 hours in the study of esthetics extending over a period of not less than 18 weeks nor more than 4 consecutive years. Time spent in such study under the laws of another state or territory of the United States or of a foreign country or province shall be credited toward the period of study required by the provisions of this paragraph; and
- d. Has passed an examination authorized by the Department to determine fitness to receive a license as a licensed esthetician; and
- e. Has met any other requirements of this Act and rules.

Sec. 3A-3. Licensure as an esthetics teacher; qualifications.

(a) A person is qualified to receive a license as an esthetics teacher if that person has applied in writing on forms supplied by the Department, paid the required fees, and:

- (1) is at least 18 years of age;
- (2) has graduated from high school or its equivalent;
- (3) has a current license as a licensed cosmetologist or esthetician;
- (4) has either: (i) completed a program of 500 hours of teacher training in a licensed school of cosmetology or a licensed esthetics school and had 2 years of

practical experience as a licensed cosmetologist or esthetician within 5 years preceding the examination; or (ii) completed a program of 750 hours of teacher training in a licensed school of cosmetology approved by the Department to teach esthetics or a licensed esthetics school;

(5) has passed an examination authorized by the Department to determine eligibility to receive a license as a licensed cosmetology or esthetics teacher;

(6) (blank); and

(7) has met any other requirements as required by this Act.

(b) (Blank).

(c) An applicant who is issued a license as an esthetics teacher is not required to maintain an esthetics license in order to practice as an esthetician as defined in this Act.

Sec. 3A-5. Examination.

(a) The Department shall authorize examinations of applicants for a license as an esthetician or teacher of esthetics at such times and places as it may determine. The Department shall authorize no fewer than 4 examinations for a license as an esthetician or a teacher of esthetics in a calendar year.

If an applicant neglects, fails without an approved excuse, or refuses to take the next available examination offered for licensure under this Act, the fee paid by the applicant shall be forfeited to the Department and the application denied. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing his or her application, the application shall be denied. However, such applicant may thereafter make a new application for examination, accompanied by the required fee, if he or she meets the requirements in effect at the time of reapplication. If an applicant for licensure as an esthetician is unsuccessful at 3 examinations conducted by the Department, the applicant shall, before taking a subsequent examination, furnish evidence of not less than 125 hours of additional study of esthetics in an approved school of cosmetology or esthetics since the applicant last took the examination. If an applicant for licensure as an esthetics teacher is unsuccessful at 3 examinations conducted by

the Department, the applicant shall, before taking a subsequent examination, furnish evidence of not less than 80 hours of additional study in teaching methodology and educational psychology in a licensed school of cosmetology or esthetics since the applicant last took the examination. An applicant who fails to pass a fourth examination shall not again be admitted to an examination unless (i) in the case of an applicant for licensure as an esthetician, the applicant shall again take and complete a program of 750 hours in the study of esthetics in a licensed school of cosmetology approved to teach esthetics or a school of esthetics, extending over a period that commences after the applicant fails to pass the fourth examination and that is not less than 18 weeks nor more than 4 consecutive years in duration; or (ii) in the case of an applicant for a license as an esthetics teacher, the applicant shall again take and complete a program of 750 hours of teacher training in a school of cosmetology approved to teach esthetics or a school of esthetics, except that if the applicant had 2 years of practical experience as a licensed cosmetologist or esthetician within 5 years preceding the initial examination taken by the applicant, the applicant must again take and complete a program of 500 hours of teacher training in licensed cosmetology or a licensed esthetics school.

(b) Each applicant shall be given a written examination testing both theoretical and practical knowledge which shall include, but not be limited to, questions that determine the applicant's knowledge, as provided by rule.

(c) The examination of applicants for licensure as an esthetics teacher may include:

- (1) teaching methodology;
- (2) classroom management; and
- (3) record keeping and any other subjects that the

Department may deem necessary to insure competent performance.

(d) This Act does not prohibit the practice of esthetics by one who has applied in writing to the Department, in form and substance satisfactory to the

Department, for a license as an esthetician or an esthetics teacher and has complied with all the provisions of this Act in order to qualify for a license, except the passing of an examination to be eligible to receive such license certificate, until: (i) the expiration of 6 months after the filing of such written application, or (ii) the decision of the Department that the applicant has failed to pass an examination within 6 months or failed without an approved excuse to take an examination conducted within 6 months by the Department, or (iii) the withdrawal of the application.

Sec. 3A-6. Licensure; renewal; continuing education; examination; military service.

The holder of a license issued under this Article may renew such license during the month preceding the expiration date thereof by paying the required fee, giving evidence the Department may prescribe of completing not less than 10 hours for estheticians, and not less than 20 hours of continuing education for esthetics teachers, within the 2 years prior to renewal. The training shall be in subjects, approved by the Department as prescribed by rule upon recommendation of the Board.

A license that has expired or been placed on inactive status may be restored only by payment of the restoration fee and submitting evidence satisfactory to the Department of the current qualifications and fitness of the licensee including the completion of continuing education hours for the period following expiration.

A license issued under the provisions of this Act that has expired while the holder of the license was engaged (1) in federal service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, or any Women's Auxiliary thereof, or the State Militia called into the service or training of the United States of America, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may be reinstated or restored without the payment of any lapsed renewal fees, reinstatement fee, or restoration fee if within 2 years after the termination of such service, training, or education other than by dishonorable discharge, the holder furnishes the Department with an affidavit to

the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

The Department, in its discretion, may waive enforcement of the continuing education requirement in this Section, and shall adopt rules defining the standards and criteria for such waiver, under the following circumstances:

(1) the licensee resides in a locality where it is demonstrated that the absence of opportunities for such education would interfere with the ability of the licensee to provide service to the public;

(2) the licensee's compliance with the continuing education requirements would cause a substantial financial hardship on the licensee;



(3) the licensee is serving in the United States Armed Forces; or

(4) the licensee is incapacitated due to illness.

Sec. 3A-7. Estheticians licensed elsewhere.

Upon payment of the required fee, an applicant who is an esthetician registered or licensed under the laws of another state or territory of the United States or of a foreign country or province may, without examination, be granted a license as a licensed esthetician by the Department in its discretion upon the following conditions:

(a) In the case of an esthetician registered or licensed elsewhere,

(1) The applicant is at least 16 years of age; and

(2) The requirements for the registration or licensing of estheticians in the particular state, territory, country, or province were at the date of the license substantially equivalent to the requirements then in force in this State.

(b) In the case of an esthetics teacher registered or licensed elsewhere,

(1) The applicant is at least 18 years of age; and

(2) The requirements for the registration or licensing of esthetics teachers in the particular state, territory, country, or province were at the date of the license substantially equivalent to the requirements then in force in this State; or the applicant has established proof of legal practice as an esthetics teacher in another jurisdiction for at least 3 years.

If the Department, in its discretion and in accordance with the rules, deems it necessary, an applicant registered or licensed under the laws of a foreign country or province may be required to pass an examination as required by this Act.

An applicant who has been licensed to practice esthetics in another state may receive credit of at least 300 hours for each year of experience toward the education required under this Act.

ARTICLE IIIB. BARBER, COSMETOLOGY, ESTHETICS, HAIR BRAIDING, AND NAIL TECHNOLOGY SCHOOLS

Sec. 3B-1. Application.

The provisions of this Article are applicable only to barber, cosmetology, esthetics, hair braiding, and nail technology schools regulated under this Act.



Sec. 3B-2. Investigations by Department upon its own motion or upon verified complaint; opportunity for corrections.

The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which if proved would constitute grounds for refusal or revocation under this Act, investigate the actions of any applicant or any person or persons holding or claiming to hold a license.

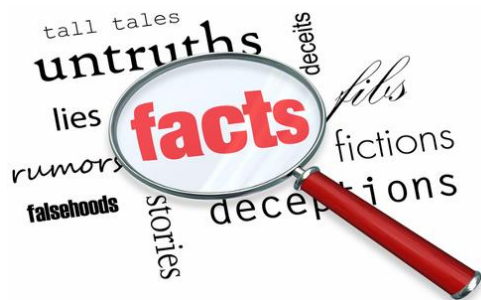
Any student or employee of a school approved by this Act who believes he has been aggrieved by a violation of this Act shall have the right to file a written complaint within one year of the alleged violation. The Department shall

acknowledge receipt of such written complaint, commence an investigation of the alleged violation, and forward to the Attorney General and any appropriate State's Attorney's office copies of complaints as required by Section 3B-3. The Department shall forward a copy of the formal complaint and order to the person who filed the complaint and to the chief operating officer of the school cited in the complaint.

However, before proceeding to a hearing on the question of whether a license shall be refused or revoked, the Department may issue a letter granting the school in question 30 days to correct the deficiency or deficiencies. The letter shall enumerate the deficiencies and state the action on the part of the school that will remediate the deficiency or deficiencies. During the time designated to remedy deficiencies the Department may order the school to cease and desist from all marketing and student enrollment activities.

Sec. 3B-3. (a) The following acts or omissions by an owner, operator or authorized agent of a school shall constitute violations of this Act and unlawful practices pursuant to the "Consumer Fraud and Deceptive Business Practices Act", as now or hereafter amended:

1. False or misleading statements, misrepresentations or false promises which have the tendency or capacity to influence or induce persons to enroll in the course of instruction offered by such school.



2. Failure or refusal of the school to make the disclosures in the enrollment agreement required by this Act; or the making of false or inaccurate statements in such disclosures.

3. Failure or refusal of the school to refund fees and unearned tuition, in accordance with the refund policy prescribed by this Act, to any student who cancels his enrollment agreement.

4. Failure or refusal of the school to employ course instructors certified by the Department and to provide the equipment, facilities or services necessary to implement the course of instruction.

(b) Whenever the Attorney General or a state's attorney receives a complaint against a school which alleges one or more of the violations enumerated in subsection (a), he may conduct an investigation to determine the validity of such complaint and, if a violation or violations are found, may use any or all of the remedies, penalties or authority granted to him by the "Consumer Fraud and Deceptive Business Practices Act" to correct such violations and enforce the provisions of this Act. Within 10 business days of receipt, the Department shall transmit to the Attorney General and the appropriate state's attorney copies of complaints filed in its office which allege one or more of the violations enumerated in subsection (a).

Sec. 3B-4. Except for the violations enumerated below, any owner, operator or authorized agent of a school who knowingly violates any provision of this Act shall be guilty of a business offense.

Any owner, operator or authorized agent of a school who commits any of the following offenses shall be guilty of a Class A misdemeanor for the first offense and a Class 4 felony for the second or subsequent offense:

1. Knowingly, and for the purpose of influencing or inducing a person to enroll in the course of instruction offered by the school, makes any false or misleading statements, misrepresentations or false promises to such person regarding opportunities upon graduation from the school for (a) employment in a business, industry or trade, (b) admission to an institution of higher learning, or (c) admission to an occupational licensing examination.

2. Knowingly, and with intent to defraud, retains in excess of the school's refund policy prescribed in this Act any unearned tuition or fees paid by a student who has cancelled his enrollment agreement and is entitled to a refund.

3. Knowingly, and with intent to defraud, misrepresents that any student who has cancelled his enrollment agreement is presently enrolled in the school, has completed the course of instruction or has graduated from the school.

4. Knowingly uses or attempts to use students in any commercial or manufacturing activity related to the operation of the school and to the school's advantage and profit; except to the extent that the school provides the student with practical experience supplemental to the course of instruction or except in the case of students who are employed by the school and compensated for such employment.

Sec. 3B-5. Injunction.

Upon application of the Department, the Attorney General or any State's Attorney, the Circuit Court of each county in _____ which a violation of this Act or the Rules and Regulations has occurred, shall have jurisdiction to enjoin any violation thereto.



Sec. 3B-6. Private right of action.

Any person who suffers damages as a result of a violation described or enumerated in this Article committed by any school or its representative may bring an action against such school. The court in its discretion may award actual damages, treble actual damages if fraud is proved, injunctive relief, and any other relief which the court deems proper.

Such action may be commenced in the county in which the school is located, has its principal place of business, or in the county where the transaction or any substantial portion thereof occurred.

In any action brought by a person under this Section, the court may award, in addition to the relief provided in this Section, reasonable attorney's fees and costs to the prevailing party.

Either party to an action under this Section may request a trial by jury.

Sec. 3B-10. Requisites for ownership or operation of school.

No person, firm, or corporation may own, operate, or conduct a school of barbering, cosmetology, esthetics, hair braiding, or nail technology for the purpose of teaching barbering, cosmetology, esthetics, hair braiding, or nail technology for compensation unless licensed by the Department. A licensed school is a postsecondary educational institution authorized by the Department to provide a postsecondary education program in compliance with the requirements of this Act. An applicant shall apply to the Department on forms provided by the Department, pay the required fees, and comply with the following requirements:

1. The applicant must submit to the Department for approval:

a. A floor plan, drawn to a scale specified on the floor plan, showing every detail of the proposed school; and

b. A lease commitment or proof of ownership for the location of the proposed school; a lease commitment must provide for execution of the lease upon the Department's approval of the school's application and the lease must be for a period of at least one year.

c. (Blank).

2. An application to own or operate a school shall include the following:

a. If the owner is a corporation, a copy of the Articles of Incorporation;

b. If the owner is a partnership, a listing of all partners and their current addresses;

c. If the applicant is an owner, a completed financial statement showing the owner's ability to operate the school for at least 3 months;

d. A copy of the official enrollment agreement or student contract to be used by the school, which shall be consistent with the requirements of this Act and rules;

e. A listing of all teachers who will be in the school's employ, including their teacher license numbers;

f. A copy of the curricula that will be followed;

g. The names, addresses, and current status of all schools in which the applicant has previously owned any interest, and a declaration as to whether any of these schools were ever denied accreditation or licensing or lost accreditation or licensing from any governmental body or accrediting agency;

h. Each application for a certificate of approval shall be signed and certified under oath by the school's chief managing employee and also by its individual owner or owners; if the applicant is a partnership or a corporation, then the application shall be signed and certified under oath by the school's chief managing employee and also by each member of the partnership or each officer of the corporation, as the case may be;

i. A copy of the school's official transcript; and

j. The required fee.

3. Each application for a license to operate a school shall also contain the following commitments:

a. To conduct the school in accordance with this Act and the standards, and rules from time to time adopted under this Act and to meet standards and requirements at least as stringent as those required by Part H of the Federal Higher Education Act of 1965.

b. To permit the Department to inspect the school or classes thereof from time to time with or without notice; and to make available to the Department, at any time when required to do so, information including financial information pertaining to the activities of the school required for the administration of this Act and the standards and rules adopted under this Act;

c. To utilize only advertising and solicitation which is free from misrepresentation, deception, fraud, or other misleading or unfair trade practices;

d. To screen applicants to the school prior to enrollment pursuant to the requirements of the school's regional or national accrediting agency, if any, and to maintain any and all records of such screening. If the course of instruction is offered in a language other than English, the screening shall also be performed in that language;

e. To post in a conspicuous place a statement, developed by the Department, of student's rights provided under this Act.

4. The applicant shall establish to the satisfaction of the Department that the owner possesses sufficient liquid assets to meet the prospective expenses of the school for a period of 3 months. In the discretion of the Department, additional proof of financial ability may be required.

5. The applicant shall comply with all rules of the Department determining the necessary curriculum and equipment required for the conduct of the school.

6. The applicant must demonstrate employment of a sufficient number of qualified teachers who are holders of a current license issued by the Department.

7. A final inspection of the barber, cosmetology, esthetics, hair braiding, or nail technology school shall be made by the Department before the school may commence classes.

8. A written inspection report must be made by the State Fire Marshal or a local fire authority approving the use of the proposed premises as a barber, cosmetology, esthetics, hair braiding, or nail technology school.

Sec. 3B-11. Periodic review of barber, cosmetology, esthetics, hair braiding, and nail technology schools.



The Department shall review at least biennially all approved schools and courses of instruction. The biennial review shall include consideration of a comparison between the graduation or completion rate for the school and the graduation or completion rate for the schools within that classification of schools. Consideration shall be given to complaints and information forwarded to the Department by the Federal Trade Commission, Better Business Bureaus, the Illinois Attorney General's Office, a State's Attorney's Office, other State or official approval agencies, local school officials, and interested persons. The Department shall investigate all complaints filed with the Department about a school or its sales representatives.

A school shall retain the records, as defined by rule, of a student who withdraws from or drops out of the school, by written notice of cancellation or otherwise, for any period longer than 7 years from the student's first day of attendance. However, a school shall retain indefinitely the transcript of each student who completes the program and graduates from the school.

Sec. 3B-12. Enrollment agreements.

(a) Enrollment agreements shall be used by barber, cosmetology, esthetics, hair braiding, and nail technology schools licensed to operate by the Department and shall include the following written disclosures:

(1) The name and address of the school and the addresses where instruction will be given;

(2) The name and description of the course of instruction, including the number of clock hours in each course and an approximate number of weeks or months required for completion;

(3) The scheduled starting date and calculated completion date;

(4) The total cost of the course of instruction including any charges made by the school for tuition, books, materials, supplies, and other expenses;



(5) A clear and conspicuous statement that the contract is a legally binding instrument when signed by the student and accepted by the school;

(6) A clear and conspicuous caption, "BUYER'S RIGHT TO CANCEL" under which it is explained that the student has the right to cancel the initial enrollment agreement until midnight of the fifth business day after the student has been enrolled; and if notice of the right to cancel is not given to any prospective student at the time the enrollment agreement is signed, then the student has the right to cancel the agreement at any time and receive a refund of all monies paid to date within 10 days of cancellation;

(7) A notice to the students that the cancellation must be in writing and given to the registered agent, if any, or managing employee of the school;

(8) The school's refund policy for unearned tuition, fees, and other charges;

(9) The date of the student's signature and the date of the student's admission;

(10) The name of the school employee or agent responsible for procuring, soliciting, or enrolling the student;

(11) A clear statement that the institution does not guarantee employment and a statement describing the school's placement assistance procedures;

(12) The graduation requirements of the school;

(13) The contents of the following notice, in at least 10 point bold type:

"NOTICE TO THE STUDENT"

"Do not sign this contract before you read it or if it contains any blank space. You are entitled to an exact copy of the contract you sign."

(14) A statement either in the enrollment agreement or separately provided and acknowledged by the student indicating the number of students who did not complete the course of instruction for which they enrolled for the past calendar year as compared to the number of students who enrolled in school during the school's past calendar year;

(15) The following clear and conspicuous caption:

"COMPLAINTS AGAINST THIS SCHOOL MAY BE REGISTERED WITH THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION", set forth with the address and telephone number of the Department's Chicago and Springfield offices.

(b) If the enrollment is negotiated orally in a language other than English, then copies of the above disclosures shall be tendered in the language in which the contract was negotiated prior to executing the enrollment agreement.

(c) The school shall comply with all applicable requirements of the Retail Installment Sales Act in its enrollment agreement or student contracts.

(d) No enrollment agreement or student contract shall contain a wage assignment provision or a confession of judgment clause.

(e) Any provision in an enrollment agreement or student contract that purports to waive the student's right to assert against the school, or any assignee, any claim or defense he or she may have against the school arising under the contract shall be void.

(f) Two copies of the enrollment agreement shall be signed by the student. One copy shall be given to the student and the school shall retain the other copy as part of the student's permanent record.

Sec. 3B-13. Rules; refunds. Schools regulated under this Section shall issue refunds based on the following schedule. The refund policy shall provide that:

(1) Schools shall, when a student gives written notice of cancellation, provide a refund in the amount of at least the following:

(a) When notice of cancellation is given within 5 days after the date of enrollment, all application and registration fees, tuition, and any other charges shall be refunded to the student.

(b) When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain no more than the application and registration

fee, plus the cost of any books or materials which have been provided by the school and retained by the student.

(c) When notice of cancellation is given after the student's completion of the first day of class attendance but prior to the student's completion of 5% of the course of instruction, the school may retain the application and registration fee and an amount not to exceed 10% of the tuition and other instructional charges or \$300, whichever is less, plus the cost of any books or materials which have been provided by the school.

(d) When a student has completed 5% or more of the course of instruction, the school may retain the application and registration fee and the cost of any books or materials which have been provided by the school but shall refund a part of the tuition and other instructional charges in accordance with the requirements of the school's regional or national accrediting agency, if any, or rules that the Department shall promulgate for purposes of this Section.

(2) Applicants not accepted by the school shall receive a refund of all tuition and fees paid.

(3) Application and registration fees shall be chargeable at initial enrollment and shall not exceed \$100.

(4) Deposits or down payments shall become part of the tuition.

(5) The school shall mail a written acknowledgement of a student's cancellation or written withdrawal to the student within 15 calendar days of the date of notification. Written acknowledgement is not necessary if a refund has been mailed to the student within the 15 calendar days.

(6) If the school cancels or discontinues a course, the student shall be entitled to receive from the school such refund or partial refund of the tuition, fees, and other charges paid by the student or on behalf of the student as is provided under rules promulgated by the Department.



(7) Except as otherwise provided by this Act, all student refunds shall be made by the school within 45 calendar days after the date of notice of the student's cancellation or the date that the school determines that the student has officially or unofficially withdrawn.

(8) A student shall give notice of cancellation to the school in writing. The unexplained absence of a student from a school for more than 30 consecutive calendar days shall constitute constructive notice of cancellation to the school. For purposes of cancellation, the cancellation date shall be the last day of attendance.

(9) A school may make refunds which exceed those required by this Section.

(10) Each student and former student shall be entitled to receive from the school that the student attends or attended an official transcript of all hours completed by the student at that school for which the applicable tuition, fees, and other charges have been paid, together with the grades earned by the student for those hours, provided that a student who withdraws from or drops out of a school, by written notice of cancellation or otherwise, shall not be entitled to any transcript of completed hours following the expiration of the 7-year period that began on the student's first day of attendance at the school. A reasonable fee, not exceeding \$2, may be charged by the school for each transcript after the first free transcript that the school is required to provide to a student or former student under this

Sec. 3B-14. Notice of accreditation problems.

A school shall provide the Department with a copy of any notice of warning or suspension or revocation received from any accrediting agency within 15 days of receipt of the notice. The school shall also notify the Department of any loss or withdrawal of accreditation. The school shall at the same time inform the Department in writing on actions being taken to correct deficiencies cited.

Sec. 3B-15. Grounds for disciplinary action.

In addition to any other cause herein set forth the Department may refuse to issue or renew and may suspend, place on probation, or revoke any license to operate a school, or take any other disciplinary or non-disciplinary action that the Department may deem proper, including the imposition of fines not to exceed \$5,000 for each violation, for any one or any combination of the following causes:

- (1) Repeated violation of any provision of this Act or any standard or rule established under this Act.
- (2) Knowingly furnishing false, misleading, or incomplete information to the Department or failure to furnish information requested by the Department.
- (3) Violation of any commitment made in an application for a license, including failure to maintain standards that are the same as, or substantially equivalent to, those represented in the school's applications and advertising.
- (4) Presenting to prospective students information relating to the school, or to employment opportunities or opportunities for enrollment in institutions of higher learning after entering into or completing courses offered by the school, that is false, misleading, or fraudulent.
- (5) Failure to provide premises or equipment or to maintain them in a safe and sanitary condition as required by law.
- (6) Failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered or to retain a sufficient and qualified instructional and administrative staff.
- (7) Refusal to admit applicants on account of race, color, creed, sex, physical or mental handicap unrelated to ability, religion, or national origin.
- (8) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Act.

(9) Attempting to confer a fraudulent degree, diploma, or certificate upon a student.

(10) Failure to correct any deficiency or act of noncompliance under this Act or the standards and rules established under this Act within reasonable time limits set by the Department.

(11) Conduct of business or instructional services other than at locations approved by the Department.

(12) Failure to make all of the disclosures or making inaccurate disclosures to the Department or in the enrollment agreement as required under this Act.

(13) Failure to make appropriate refunds as required by this Act.

(14) Denial, loss, or withdrawal of accreditation by any accrediting agency.

(15) During any calendar year, having a failure rate of 25% or greater for those of its students who for the first time take the examination authorized by the Department to determine fitness to receive a license as a barber, barber teacher, cosmetologist, cosmetology teacher, esthetician, esthetician teacher, hair braider, hair braiding teacher, nail technician, or nail technology teacher, provided that a student who transfers into the school having completed 50% or more of the required program and who takes the examination during that calendar year shall not be counted for purposes of determining the school's failure rate on an examination, without regard to whether that transfer student passes or fails the examination.

(16) Failure to maintain a written record indicating the funds received per student and funds paid out per student. Such records shall be maintained for a minimum of 7 years and shall be made available to the Department upon request. Such records shall identify the funding source and amount for any student who has enrolled as well as any other item set forth by rule.

(17) Failure to maintain a copy of the student record as defined by rule.

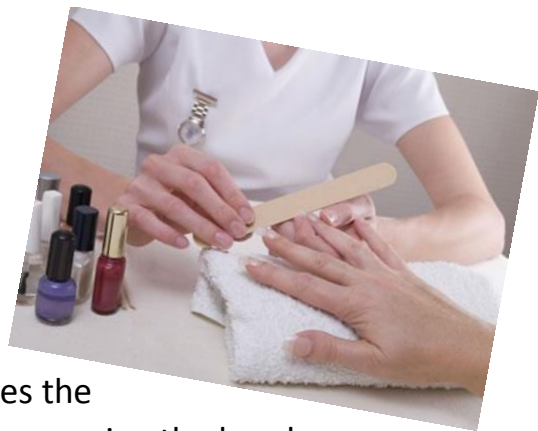
Sec. 3B-16. Department of Corrections.

The Secretary may waive any requirement of this Act or of the rules enacted by the Department pursuant to this Act pertaining to the operation of a barber, cosmetology, esthetics, hair braiding, or nail technology school owned or operated by the Department of Corrections and located in a correctional facility to educate inmates that is inconsistent with the mission or operations of the Department of Corrections or is detrimental to the safety and security of any correctional facility. Nothing in this Section 3B-16 exempts the Department of Corrections from the necessity of licensure.

ARTICLE IIIC. NAIL TECHNICIANS

Sec. 3C-1. Definitions.

"Nail technician" means any person who for compensation manicures, pedicures, or decorates nails, applies artificial applications by hand or with mechanical or electrical apparatus or appliances, or in any way beautifies the nails or the skin of the hands or feet including massaging the hands, arms, elbows, feet, lower legs, and knees of another person for other than the treatment of medical disorders.



However, nail technicians are prohibited from using techniques, products, and practices intended to affect the living layers of the skin. The term nail technician includes rendering advice on what is cosmetically appealing, but no person licensed under this Act shall render advice on what is appropriate medical treatment for diseases of the nails or skin.

"Nail technician teacher" means an individual licensed by the Department to provide instruction in the theory and practice of nail technology to students in an approved nail technology school.

Sec. 3C-2. License; qualifications.

A person is qualified to receive a license as a nail technician if that person applies in writing on forms provided by the Department, pays the required fee, and:

(a) Is at least 16 years of age;

(b) Is beyond the age of compulsory school attendance or has a certificate of graduation from a school providing secondary education or the recognized equivalent of that certificate;

(c) Has graduated from a school of cosmetology or school of nail technology approved by the Department, having completed a program of 350 hours in the study of nail technology extending over a period of not less than 8 weeks nor more than 2 consecutive years;

(d) Has passed an examination authorized by the Department to determine eligibility to receive a license as a nail technician; and

(e) Has met any other requirements of this Act.

Time spent in the study of nail technology under the laws of another state or territory of the United States, or of a foreign country or province, shall be credited toward the period of study required by the provisions of subsection (c).

Sec. 3C-3. Licensure as a nail technology teacher; qualifications.

(a) A person is qualified to receive a license as a nail technology teacher if that person has filed an application on forms provided by the Department, paid the required fee, and:

(1) is at least 18 years of age;

(2) has graduated from high school or its equivalent;

(3) has a current license as a cosmetologist or nail technician;

(4) has either: (1) completed a program of 500 hours of teacher training in a licensed school of nail technology or cosmetology, and had 2 years of practical experience as a nail technician; or (2) has completed a program of 625 hours of teacher training in a licensed school of cosmetology approved to teach nail technology or school of nail technology; and

(5) who has passed an examination authorized by the Department to determine eligibility to receive a license as a cosmetology or nail technology teacher.

(b) An applicant who receives a license as a nail technology teacher shall not be required to maintain a license as a nail technician.

Sec. 3C-7. Examinations; failure or refusal to take examination.

The Department shall authorize examinations of applicants for licenses as nail technicians and teachers of nail technology at the times and places as it may determine.

The Department shall authorize not less than 4 examinations for licenses as nail technicians, and nail technology teachers in a calendar year.

If an applicant neglects, fails without an approved excuse, or refuses to take the next available examination offered for licensure under this Act, the fee paid by the applicant shall be forfeited to the Department and the application denied. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing an application, the application shall be denied. Nevertheless, the applicant may thereafter make a new application for examination, accompanied by the required fee, if he or she meets the requirements in effect at the time of reapplication. If an applicant for licensure as a nail technician or nail technology teacher is unsuccessful at 3 examinations conducted by the Department, the applicant shall, before taking a subsequent examination, furnish evidence of successfully completing (i) for a nail technician, not less than 60 hours of additional study of nail technology in a licensed school of cosmetology approved to teach nail technology or nail technology and (ii) for a nail technology teacher, not less than 80 hours of additional study in teaching methodology and educational psychology in an approved school of cosmetology or nail technology since the applicant last took the examination.



An applicant who fails the fourth examination shall not again be admitted to an examination unless: (i) in the case of an applicant for a license as a nail technician, the applicant again takes and completes a total of 350 hours in the study of nail technology in an approved school of cosmetology or nail technology extending over a period that commences after the applicant fails to pass the fourth examination and that is not less than 8 weeks nor more than 2 consecutive years in duration; or (ii) in the case of an applicant for licensure as a nail technology teacher, the applicant again takes and completes a program of 625 hours of teacher training in a licensed school of cosmetology, or nail technology, except that if the applicant had 2 years of practical experience as a licensed nail technician within 5 years preceding the initial examination taken by the applicant, the applicant must again take and complete a program of 500 hours of teacher training in a licensed school of cosmetology approved to teach nail technology, or a licensed school of nail technology.

Each applicant for licensure as a nail technician shall be given a written



examination testing both theoretical and practical knowledge, which shall include, but not be limited to, questions that determine the applicant's knowledge of product chemistry, sanitary rules, sanitary procedures, hazardous chemicals and exposure minimization, this Act, and labor and compensation laws.

The examination for licensure as a nail technology teacher may include knowledge of the subject matter, teaching methodology, classroom management, record keeping, and any other subjects that the Department in its discretion may deem necessary to insure competent performance.

This Act does not prohibit the practice of nail technology by a person who has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a nail technician, or the teaching of nail technology by one who has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a nail technology teacher, if the person has complied with all the provisions of this Act in order to qualify for a

license, except the passing of an examination to be eligible to receive a license, until: (a) the expiration of 6 months after the filing of the written application, or (b) the decision of the Department that the applicant has failed to pass an examination within 6 months or failed without an approved excuse to take an examination conducted within 6 months by the Department, or (c) the withdrawal of the application.

Sec. 3C-8. License renewal; expiration; continuing education; persons in military service.

The holder of a license issued under this Article may renew that license during the month preceding the expiration date of the license by paying the required fee and giving evidence, as the Department may prescribe, of completing not less than 10 hours of continuing education for a nail technician and 20 hours of continuing education for a nail technology teacher, within the 2 years prior to renewal. The continuing education shall be in subjects approved by the Department upon recommendation of the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board relating to the practice of nail technology, including, but not limited to, review of sanitary procedures, review of chemical service procedures, review of this Act, and review of the Workers' Compensation Act. However, at least 10 of the hours of continuing education required for a nail technology teacher shall be in subjects relating to teaching methodology, educational psychology, and classroom management or in other subjects related to teaching.

A license that has been expired or placed on inactive status may be restored only by payment of the restoration fee and submitting evidence satisfactory to the Department of the meeting of current qualifications and fitness of the licensee, including the completion of continuing education hours for the period subsequent to expiration.

A license issued under this Article that has expired while the holder of the license was engaged (1) in federal service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, or any Women's Auxiliary thereof, or the State Militia called into the service or training of the United States of America, or (2) in training or education

under the supervision of the United States preliminary to induction into the military service, may be reinstated or restored without the payment of any lapsed renewal fees, reinstatement fee or restoration fee if, within 2 years after the termination of the service, training, or education other than by dishonorable discharge, the holder furnishes the Department with an affidavit to the effect that the certificate holder has been so engaged and that the service, training, or education has been so terminated.



The Department, in its discretion, may waive enforcement of the continuing education requirement in this Section, and shall adopt rules defining the standards and criteria for such waiver, under the following circumstances:

- (a) the licensee resides in a locality where it is demonstrated that the absence of opportunities for such education would interfere with the ability of the licensee to provide service to the public;
- (b) the licensee's compliance with the continuing education requirements would cause a substantial financial hardship on the licensee;
- (c) the licensee is serving in the United States Armed Forces; or
- (d) the licensee is incapacitated due to illness.

Sec. 3C-9. Nail technicians or nail technology teachers licensed elsewhere.

Upon payment of the required fee, an applicant who is a nail technician or nail technology teacher registered or licensed under the laws of another state or territory of the United States or of a foreign country or province may be granted a license as a nail technician or nail technician teacher by the Department in its discretion upon the following conditions:

- (a) For a nail technologist registered or licensed elsewhere:
 - (1) the applicant is at least 16 years of age;

(1.5) the applicant has passed an examination authorized by the Department to determine eligibility to receive a license as a nail technician; and

(2) the requirements for the registration or licensing of nail technicians in the particular state, territory, country or province were, at the date of licensure, substantially equivalent to the requirements then in force in this State. The Department shall prescribe reasonable rules and regulations governing the recognition of and the credit to be given to the study of nail technology under a cosmetologist or nail technician registered or licensed under the laws of another state or territory of the United States or a foreign country or province by an applicant for a license as a nail technician.

(b) For a nail technology teacher licensed or registered elsewhere:

(1) the applicant is at least 18 years of age;

(1.5) the applicant has passed an examination authorized by the Department to determine eligibility to receive a license as a nail technology teacher; and

(2) the requirements for the licensing of nail technology teachers in the other jurisdiction were, at the date of licensure, substantially equivalent to the requirements then in force in this State; or the applicant has established proof of legal practice as a nail technology teacher in another jurisdiction for at least 3 years.

The Department shall allow applicants who have been licensed to practice nail technology in other states a credit of at least 75 hours for each year of experience toward the education required under this Act.

ARTICLE IIID. COSMETOLOGY, ESTHETICS, HAIR BRAIDING, AND NAIL TECHNOLOGY SALONS AND BARBER SHOPS

Sec. 3D-5. Requisites for ownership or operation of cosmetology, esthetics, hair braiding, and nail technology salons and barber shops.

(a) No person, firm, partnership, limited liability company, or corporation shall own or operate a cosmetology, esthetics, hair braiding, or nail technology salon or

barber shop or employ, rent space to, or independently contract with any licensee under this Act without applying on forms provided by the Department for a certificate of registration.

(b) The application for a certificate of registration under this Section shall set forth the name, address, and telephone number of the proposed cosmetology, esthetics, hair braiding, or nail technology salon or barber shop; the name, address, and telephone number of the person, firm, partnership, or corporation that is to own or operate the salon or shop; and, if the salon or shop is to be owned or operated by an entity other than an individual, the name, address, and telephone number of the managing partner or the chief executive officer of the corporation or other entity that owns or operates the salon or shop.



(c) The Department shall be notified by the owner or operator of a salon or shop that is moved to a new location. If there is a change in the ownership or operation of a salon or shop, the new owner or operator shall report that change to the Department along with completion of any additional requirements set forth by rule.

(d) If a person, firm, partnership, limited liability company, or corporation owns or operates more than one shop or salon, a separate certificate of registration must be obtained for each salon or shop.

(e) A certificate of registration granted under this Section may be revoked in accordance with the provisions of Article IV and the holder of the certificate may be otherwise disciplined by the Department in accordance with rules adopted under this Act.

(f) The Department may promulgate rules to establish additional requirements for owning or operating a salon or shop.

ARTICLE III.E. HAIR BRAIDING AND HAIR BRAIDING TEACHERS

Sec. 3E-1. Hair braiding defined.

"Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair extensions. Such practice can be performed by hand or by using simple braiding devices including clips, combs, hairpins, scissors, needles and thread. Hair braiding includes what is commonly known as "African-style hair braiding" or "natural hair care", but is not limited to any particular cultural, ethnic, racial, or religious form of hair style. Hair braiding includes the making of customized wigs from natural hair, natural fibers, synthetic fibers, and hair extensions. Hair braiding does not involve the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents applied to growing human hair. Hair braiding does not include the cutting or growing of human hair, but may include the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process.

Sec. 3E-2. Hair braider licensure; qualifications.

(a) A person is qualified to receive a license as a hair braider if he or she has filed an application on forms provided by the Department, paid the required fees, and meets the following qualifications:

(1) Is at least 16 years of age;

(2) Is beyond the age of compulsory school attendance or has received a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate; and

(3) Has completed a program consisting of a minimum of 300 clock hours or a 10 credit hour equivalency of instruction, as defined by rule, in a licensed cosmetology school teaching a hair braiding curriculum or in a licensed hair braiding school as follows:

(A) Basic training consisting of 35 hours of classroom instruction in general theory, practical application, and technical application in the following subject areas: history of hair braiding, personal hygiene and public health, professional ethics, disinfection and sanitation, bacteriology, disorders and diseases of the hair and scalp, OSHA standards relating to material safety data sheets (MSDS) on chemicals, hair analysis and scalp care, and technical procedures;

(B) Related concepts consisting of 35 hours of classroom instruction in the following subject areas: Braid removal and scalp care; basic styling knowledge; tools and equipment; growth patterns, styles and sectioning; client consultation and face shapes; and client education, pre-care, post-care, home care and follow-up services;

(C) Practices and procedures consisting of 200 hours of instruction, which shall be a combination of classroom instruction and clinical practical application, in the following subject areas: single braids with and without extensions; cornrows with and without extensions; twists and knots; multiple strands; hair locking; weaving/sewn-in; other procedures as they relate to hair-braiding; and product knowledge as it relates to hair braiding; and

(D) Business practices consisting of 30 hours of classroom instruction in the following subject areas: Illinois Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 and Rules; salon management; human relations and salesmanship; and Workers' Compensation Act.

(b) The expiration date and renewal period for each license issued under this Act shall be set by rule.

(c) Within 2 years after the effective date of this amendatory Act of the 96th General Assembly, the Department may issue a hair braider license to any applicant who does not meet the requirements of items (2) and (3) of subsection (a) of this Section if the applicant: (1) files an application in accordance with

subsection (a), (2) pays the required fee, (3) has not committed an offense that would be grounds for discipline under this Act, and (4) is able to demonstrate to the Department through tax records or affidavits that he or she has practiced hair braiding for at least 2 consecutive years immediately prior to the date of his or her application.

A hair braider who obtains his or her license under this subsection (c) may renew his or her license if he or she applies to the Department for renewal and has completed at least 65 hours of relevant training in health, safety, hygiene, and business management in accordance with the requirements of this Section or any rule adopted pursuant to this Section. A hair braider who renews his or her license under this subsection (c) may thereafter only renew his or her license if he or she meets the requirements of Section 3E-5 of this Act.

Sec. 3E-3. Hair braiding teacher licensure.

A hair braiding teacher license shall be made available by the Department. The qualifications for a hair braiding teacher license shall be provided by rule, and shall include at least 600 clock hours or a 20 credit hour equivalency in relevant teaching methods and curriculum content, or at least 500 clock hours of hair braiding teacher training for an individual who is able to establish that he or she has had at least 2 years of practical experience.

Sec. 3E-4. Internship program.

(a) An internship program may be part of the curriculum for hair braiding and shall be an organized, pre-planned training program designed to allow a student to learn hair braiding under the direct supervision of a licensed cosmetologist or licensed hair braider in a registered salon. A licensed cosmetology or hair braiding school may establish an internship program as part of its curriculum subject to the following conditions:

(1) Students may only participate in the internship program after completing 150 hours of training and must maintain a minimum average grade of 80 out of



100. A school may set the minimum grade average higher and establish additional standards for participation in an internship program.

(2) Students may not spend more than 30 hours in the internship program.

(3) Students may not be paid for participating in the internship program that is part of the hair braiding curriculum of the school.

(4) Students may not work more than 8 hours per day in the internship program and must spend at least one day per week at the school.

(5) Students shall be under the direct supervision of an on-site licensed cosmetologist or licensed hair braider, and the supervising cosmetologist or hair braider may only supervise one hair braiding student at a time.

(6) The hair braiding school shall state clearly in its student contract that the school offers an internship program as part of its hair braiding curriculum.

(7) The hair braiding school shall enter into a written internship contract with the student, the registered salon, and the licensed cosmetologist or licensed hair braider that contains all of the provisions set forth in this Section and Section 3E-2. The contract shall be signed by the student, an authorized representative of the school, and the licensed cosmetologist or licensed hair braider who will supervise the student. The internship contract may be terminated by any of the parties at any time.

(b) If an internship program meets the requirements of subsection (a) of this Section, a maximum of 30 hours spent under the internship program may be credited toward meeting the 300 hours of instruction required by Section 3E-2.

(c) A hair braiding student shall not be permitted to practice on the public until he or she has successfully completed the 35 hours of general theory, practical application, and technical application instruction as specified in Section 3E-2.

Sec. 3E-5. License renewal.

To renew a license issued under this Article, an individual must produce proof of successful completion of 10 hours of continuing education for a hair braider license and 20 hours of continuing education for a hair braiding teacher license.

A license that has been expired for more than 5 years may be restored by payment of the restoration fee and submitting evidence satisfactory to the Department of the current qualifications and fitness of the licensee, which shall include completion of continuing education hours for the period subsequent to expiration. The Department may establish additional rules for the administration of this Section and other requirements for the renewal of a hair braider or hair braiding teacher license issued under this Act.

Sec. 3E-6. Immunity from prosecution.

The Department shall take no action against any person for unlicensed practice as a hair braider that occurred prior to the effective date of this amendatory Act of the 96th General Assembly. The Department shall not use any information provided in an application for a license pursuant to subsection (c) of Section 3E-2 as evidence of unlicensed practice under Article III prior to the date of application.

ARTICLE IV ADMINISTRATION & ENFORCEMENT

Sec. 4-1. Powers and duties of Department.

The Department shall exercise, subject to the provisions of this Act, the following functions, powers and duties:

(1) To cause to be conducted examinations to ascertain the qualifications and fitness of applicants for licensure as cosmetologists, estheticians, nail technicians, hair braiders, or barbers and as cosmetology, esthetics, nail technology, hair braiding, or barber teachers.

(2) To determine the qualifications for licensure as

- (i) a cosmetologist, esthetician, nail technician, hair braider, or barber, or (ii) a cosmetology, esthetics, nail technology, hair braiding, or barber teacher, or (iii) a cosmetology clinic teacher for persons currently holding similar licenses outside the State of Illinois or the continental



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(3) To prescribe rules for:

(i) The method of examination of candidates for licensure as a cosmetologist, esthetician, nail technician, hair braider, or barber or cosmetology, esthetics, nail technology, hair braiding, or barber teacher.

(ii) Minimum standards as to what constitutes an approved cosmetology, esthetics, nail technology, hair braiding, or barber school.

(4) To conduct investigations or hearings on proceedings to determine disciplinary action.

(5) To prescribe reasonable rules governing the sanitary regulation and inspection of cosmetology, esthetics, nail technology, hair braiding, or barber schools, salons, or shops.

(6) To prescribe reasonable rules for the method of renewal for each license as a cosmetologist, esthetician, nail technician, hair braider, or barber or cosmetology, esthetics, nail technology, hair braiding, or barber teacher or cosmetology clinic teacher.

(7) To prescribe reasonable rules for the method of registration, the issuance, fees, renewal and discipline of a certificate of registration for the ownership or operation of cosmetology, esthetics, hair braiding, and nail technology salons and barber shops.

(8) To adopt rules concerning sanitation requirements, requirements for education on sanitation, and any other health concerns associated with threading.

Sec. 4-2. The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board.

There is established within the Department the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board, composed of 11 persons, which shall serve in an advisory capacity to the Secretary in all matters related to the practice of barbering, cosmetology, esthetics, hair braiding, and nail technology.

The 11 members of the Board shall be appointed as follows: 6 licensed cosmetologists, all of whom hold a current license as a cosmetologist or cosmetology teacher and, for appointments made after the effective date of this amendatory Act of 1996, at least 2 of whom shall be an owner of or a major stockholder in a school of cosmetology, 2 of whom shall be representatives of either a franchiser or an owner operating salons in 2 or more locations within the State, one of whom shall be an independent salon owner, and no one of the cosmetologist members shall be a manufacturer, jobber, or stockholder in a factory of cosmetology articles or an immediate family member of any of the above; one of whom shall be a barber holding a current license; one member who shall be a licensed esthetician or esthetics teacher; one member who shall be a licensed nail technician or nail technology teacher; one member who shall be a licensed hair braider or hair braiding teacher; and one public member who holds no licenses issued by the Department. The Secretary shall give due consideration for membership to recommendations by members of the professions and by their



professional organizations. Members shall serve 4 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for more than 2 terms. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term.

Members of the Board in office on the effective date of this amendatory Act of 1996 shall continue to serve for the duration of the terms to which they have been appointed, but beginning on that effective date all appointments of licensed

cosmetologists and barbers to serve as members of the Board shall be made in a manner that will effect at the earliest possible date the changes made by this amendatory Act of 1996 in the representative composition of the Board.

For the initial appointment of a member who shall be a hair braider or hair braiding teacher to the Board, such individual shall not be required to possess a license at the time of appointment, but shall have at least 5 years active practice in the field of hair braiding and shall obtain a license as a hair braider or a hair braiding teacher within 18 months after appointment to the Board.

Six members of the Board shall constitute a quorum. A majority is required for Board decisions.

Whenever the Secretary is satisfied that substantial justice has not been done in an examination, the Secretary may order a reexamination by the same or other examiners.

Sec. 4-3. Applications.

Every person who desires to obtain a license shall apply therefor to the Department in writing, on forms prepared and furnished by the Department. Each application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

Sec. 4-4. Issuance of license.

Whenever the provisions of this Act have been complied with, the Department shall issue a license as a cosmetologist, esthetician, nail technician, hair braider, or barber, a license as a cosmetology, esthetics, nail technology, hair braiding, or barber teacher, or a license as a cosmetology clinic teacher as the case may be.

Sec. 4-4a. Renewal of license.

The expiration date and renewal period for each license issued under this Act shall be set by rule.

Sec. 4-5. Fees.

(a) Except as provided in paragraph (b) below, the fees for the administration and enforcement of this Act, including but not limited to fees for original licensure, renewal, and restoration shall be set by the Department by rule. The fees shall not be refundable.



(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of initial screening to determine eligibility and providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

(c) If an applicant fails to pass an examination for licensure under this Act within 3 years after filing his application, the application shall be denied. However, such applicant may thereafter make a new application for examination accompanied by the required fee.

(d) An individual applying on the basis of endorsement or restoration of licensure has 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee forfeited. The applicant may reapply, but shall meet the requirements in effect at the time of reapplication.

(e) An applicant has one year from the date of notification of successful completion of the examination to apply to the Department for a license. If an applicant fails to apply within one year the applicant shall be required to take and pass the examination again.

Sec. 4-5.1. Deposit of fees and fines.

Beginning July 1, 1995, all of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

The funds deposited under this Act into the General Professions Dedicated Fund, may be used by the Department to publish and distribute a newsletter to all persons licensed under this Act; such a newsletter should contain information about any changes in the Act or administrative rules concerning licensees. If appropriate funding is available, the Department may also distribute to all persons licensed under this Act copies of this Act and the appropriate administrative rules that apply, during the renewal process.

Sec. 4-6. Payments; penalty for insufficient funds.

Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application. The Secretary may waive the



finer due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Sec. 4-7. Refusal, suspension and revocation of licenses; causes; disciplinary action.

(1) The Department may refuse to issue or renew, and may suspend, revoke, place on probation, reprimand or take any other disciplinary or non-disciplinary action as the Department may deem proper, including civil penalties not to exceed \$500 for each violation, with regard to any license for any one, or any combination, of the following causes:

a. Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime which is related to the practice of the profession.

b. Conviction of any of the violations listed in Section 4-20.

c. Material misstatement in furnishing information to the Department.

d. Making any misrepresentation for the purpose of obtaining a license or violating any provision of this Act or its rules.

e. Aiding or assisting another person in violating any provision of this Act or its rules.

f. Failing, within 60 days, to provide information in response to a written request made by the Department.

g. Discipline by another state, territory, or country if at least one of the grounds for the discipline is the same as or substantially equivalent to those set forth in this Act.

h. Practice in the barber, nail technology, esthetics, hair braiding, or cosmetology profession, or an attempt to practice in those professions, by fraudulent misrepresentation.

- i. Gross malpractice or gross incompetency.
- j. Continued practice by a person knowingly having an infectious or contagious disease.
- k. Solicitation of professional services by using false or misleading advertising.
- l. A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.
- m. Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate, or other form of compensation for any professional services not actually or personally rendered.
- n. Violating any of the provisions of this Act or rules adopted pursuant to this Act.
- o. Willfully making or filing false records or reports relating to a licensee's practice, including but not limited to, false records filed with State agencies or departments.
- p. Habitual or excessive use addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill or safety.
- q. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public as may be defined by rules of the Department, or violating the rules of professional conduct which may be adopted by the Department.
- r. Permitting any person to use for any unlawful or fraudulent purpose one's diploma or license or certificate of registration as a cosmetologist, nail technician, esthetician, hair braider, or barber or cosmetology, nail technology, esthetics, hair braiding, or barber teacher or salon or shop or cosmetology clinic teacher.
- s. Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a

child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(2) In rendering an order, the Secretary shall take into consideration the facts and circumstances involving the type of acts or omissions in paragraph (1) of this Section including, but not limited to:

(a) the extent to which public confidence in the cosmetology, nail technology, esthetics, hair braiding, or barbering profession was, might have been, or may be, injured;

(b) the degree of trust and dependence among the involved parties;

(c) the character and degree of harm which did result or might have resulted;

(d) the intent or mental state of the licensee at the time of the acts or omissions.

(3) The Department shall reissue the license or registration upon certification by the Board that the disciplined licensee or registrant has complied with all of the terms and conditions set forth in the final order or has been sufficiently rehabilitated to warrant the public trust.

(4) The Department shall refuse to issue or renew or suspend without hearing the license or certificate of registration of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Department of Revenue.

(5) The Department shall deny without hearing any application for a license or renewal of a license under this Act by a person who has defaulted on an educational loan guaranteed by the Illinois Student Assistance Commission; however, the Department may issue or renew a license if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission.

(6) All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or in accordance with the terms set forth in the order imposing the fine.

Sec. 4-8. Persons in need of mental treatment.

The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. Such suspension shall end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his practice.

Sec. 4-9. Practice without a license or after suspension or revocation thereof.

(a) If any person violates the provisions of this Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in such court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as a barber, cosmetologist, nail technician, hair braider, or esthetician, or teacher thereof or cosmetology clinic teacher or hold himself or herself out as such without being licensed under the provisions of this Act, any licensee, any interested party, or any person injured thereby may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

Sec. 4-10. Refusal, suspension and revocation of licenses; investigations and hearing.

The Department may upon its own motion and shall, upon the verified complaint in writing of any person setting forth the facts which if proven would constitute grounds for disciplinary action as set forth in Section 4-7, investigate the actions of any person holding or claiming to hold a license. The Department shall, at least 30 days prior to the date set for the hearing, notify in writing the applicant or the holder of that license of any charges made and shall afford the accused person an opportunity to be heard in person or by counsel in reference thereto. The Department shall direct the applicant or licensee to file a written answer to the Board under oath within 20 days after the service of the notice and inform the applicant or licensee that failure to file an answer will result in default being taken against the applicant or licensee and that the license may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Secretary may deem proper. The written notice may be served by the delivery of the notice personally to the accused person, or by mailing the notice by registered or certified mail to the place of business last specified by the accused person in his last notification to the Department. In case the person fails to file an answer after receiving notice,



his or her license or certificate may, in the discretion of the Department be suspended, revoked, or placed on probationary status, or the Department, may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Board shall proceed to hearing of the charges and the accused person shall be accorded ample opportunity to present in person or by counsel, any statements, testimony, evidence and arguments as may be pertinent to the charges or their defense. The Board may continue a hearing from time to time.

Sec. 4-11. Record of proceedings.

The Department, at its expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case wherein a license is revoked or suspended. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and the orders of the Department shall be the record of such proceedings.

Sec. 4-12. Department may take testimony - oaths.



The Department shall have power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in civil cases in courts of this State.

The Secretary, any hearing officer appointed by the Secretary, and any member of the Board shall each have power to administer oaths to witnesses at any hearing which the Department is authorized by law to conduct, and any other oaths required or authorized in any Act administered by the Department.

Sec. 4-13. Attendance of witnesses and production of documents.

Any circuit court or any judge thereof, upon the application of the accused person or complainant or of the Department, may by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Department in any hearing relative to the application for or refusal, recall, suspension or revocation of license, and the court or judge may compel obedience to its or his order by proceedings for contempt.

Sec. 4-14. Report of Board; rehearing.

The Board shall present to the Secretary its written report of its findings and recommendations. A copy of such report shall be served upon the accused person, either personally or by registered mail as provided in this Section for the service of the citation. Within 20 days after such service, said accused person may present to the Department his or her motion in writing for rehearing, which written motion shall specify the particular grounds therefor. If said accused person shall order and pay for a transcript of the record as provided in this Section, the time elapsing thereafter and before such transcript is ready for delivery to him or her shall not be counted as part of such 20 days. Whenever the Secretary is satisfied that substantial justice has not been done, he or she may order a re-hearing by the same or a special committee. At the expiration of the time specified for filing a motion or a rehearing the Secretary shall have the right to take the action recommended by the Board. Upon the suspension or revocation of his or her license a licensee shall be required to surrender his or her license to the Department, and upon his or her failure or refusal so to do, the Department shall have the right to seize the same.

Sec. 4-15. Hearing officer.

Notwithstanding the provisions of Section 4-10, the Secretary shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew, or discipline of a license. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Secretary. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present their findings of fact, conclusions of law, and recommendations to the Secretary. If the Board fails to present its report within the 60 day period, then the Secretary shall issue an order based on the report of the hearing officer. If the Secretary determines that the Board's report is contrary to the manifest weight of the evidence, then he or she may issue an order in contravention of the Board's report.

Sec. 4-16. Order or certified copy; prima facie proof.

An order of revocation or suspension or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, shall be prima facie proof that:

1. the signature is the genuine signature of the Secretary;
 2. the Secretary is duly appointed and qualified;
- and
3. the Board and the members thereof are qualified to act.



Such proof may be rebutted.

Sec. 4-17. Restoration of license.

At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee, upon the written recommendation of the Board.

Sec. 4-18. Revocation or suspension; right to seize.

Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license to the Department and if the licensee fails to do so, the Department shall have the right to seize the license.

Sec. 4-19. Emergency suspension.

The Secretary may temporarily suspend the license of a barber, cosmetologist, nail technician, hair braider, esthetician or teacher thereof or of a cosmetology clinic teacher without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 4-10 of this Act, if the Secretary finds that evidence in his possession indicates that the licensee's continuation in practice would constitute an imminent danger to the public. In the event that the Secretary suspends, temporarily, this license without a hearing, a hearing must be commenced within 30 days after such suspension has occurred.

Sec. 4-20. Violations; penalties.

Whoever violates any of the following shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, shall be guilty of a Class A misdemeanor; and for all subsequent offenses, shall be guilty of a Class 4 felony and be fined not less than \$1,000 or more than \$5,000.

(1) The practice of cosmetology, nail technology, esthetics, hair braiding, or barbering or an attempt to practice cosmetology, nail technology, esthetics, hair braiding, or barbering without a license as a cosmetologist, nail technician, esthetician, hair braider, or barber; or the practice or attempt to practice as a cosmetology, nail technology, esthetics, hair braiding, or barber teacher without a

license as a cosmetology, nail technology, esthetics, hair braiding, or barber teacher; or the practice or attempt to practice as a cosmetology clinic teacher without a proper license.

(2) The obtaining of or an attempt to obtain a license or money or any other thing of value by fraudulent misrepresentation.

(3) Practice in the barber, nail technology, cosmetology, hair braiding, or esthetic profession, or an attempt to practice in those professions, by fraudulent misrepresentation.

(4) Wilfully making any false oath or affirmation whenever an oath or affirmation is required by this Act.

(5) The violation of any of the provisions of this Act.

Sec. 4-21. Review under Administrative Review Law - venue.

All final administrative decisions of the Department are subject to judicial review pursuant to the provisions of the Administrative Review Law, and all rules adopted pursuant thereto. The term "administrative decision" is defined in Section 3-101 of the Code of Civil Procedure.

Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; except, that if the party is not a resident of this State, the venue shall be Sangamon County.

Sec. 4-22. Certifications of record; costs.

The Department shall not be required to certify any record to the Court or file any answer in court or otherwise appear in any Court in a judicial review proceeding, unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Exhibits shall be certified without cost. Failure on the part of the plaintiff to file a receipt in Court shall be grounds for dismissal of the action.

Sec. 4-23. Penalties for failure to receive required continuing education credits.

(a) In the first 2-year cycle in which a licensee does not obtain his or her continuing education hours, the Department shall place him or her on probation. If the licensee does obtain his or her continuing education hours prior to his or her next renewal, the Department shall restore his or her license to good standing.

(b) In the second consecutive 2-year cycle in which a licensee does not obtain his or her continuing education hours, he or she shall be placed or continued on probation, be fined, and be issued notice by the Department that license revocation will occur if he or she does not receive the continuing education hours required prior to his or her next renewal. If the licensee does obtain his or her continuing education hours prior to his or her next renewal, he or she shall remain on probation but shall not be fined pursuant to subsection (a).

(c) In the third consecutive 2-year cycle in which a licensee does not obtain his or her continuing education hours, his or her license shall be revoked. The Department shall promulgate rules and regulations governing the reissuance of a license that has been revoked. These rules and regulations shall take into account that the licensee already has been licensed and received the training necessary for such a license.

(d) This Section shall not apply to any person who has applied for a waiver of the continuing education requirements under Section 3-7, 3A-6, or 3C-8 of this Act.



Sec. 4-24. Confidentiality.

All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be



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disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.