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Summary: Estheticians

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5309_20240321.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 12 TO TITLE 40 SO AS TO PROVIDE FOR THE REGULATION OF ESTHETICIANS BY A BOARD OF ESTHETICS SERVICES, TO PROVIDE FOR THE COMPOSITION AND FUNCTIONS OF THE BOARD, TO PROVIDE NECESSARY DEFINITIONS, TO PROHIBIT THE PROVISION OF ESTHETICS SERVICES OR EDUCATION WITHOUT LICENSURE BY THE BOARD, TO PROVIDE RELATED REQUIREMENTS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AND TO PROVIDE MISCELLANEOUS POWERS AND DUTIES OF THE BOARD, AMONG OTHER THINGS; AND BY AMENDING SECTIONs 40‑13‑5, 40‑13‑10, 40‑13‑20, 40‑13‑110, 40‑13‑230, 40‑13‑240, AND 40‑13‑270, ALL RELATING TO THE REGULATION OF CERTAIN PROFESSIONS BY THE BOARD OF COSMETOLOGY, SO AS TO MAKE CONFORMING CHANGES BY REMOVING PROVISIONS CONCERNING ESTHETICIANS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the S.C. Code is amended by adding:

CHAPTER 12

Estheticians

 Section 40‑12‑110. Unless otherwise provided for in this chapter, Article 1, Chapter 1 applies to estheticians regulated or administered, or both, by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, the provisions of this chapter control.

 Section 40‑12‑120. (A) A State Board of Esthetics Services is created composed of five members appointed by the Governor with the advice and consent of the Senate for terms of four years and until their successors are appointed and qualify. Vacancies are filled in the manner of original appointment for the unexpired portion of the term. Recommendations for appointment may be made by the board and other interested groups or persons. The recommendations must be submitted to the Governor not later than the thirty first day of December of the year preceding the year in which appointments expire. The membership must be composed as follows:

 (1) three members of the board must be experienced estheticians and must have been in the practice of esthetics in this State for at least five years before appointment;

 (2) one member must be from an approved esthetician school; and

 (3) one member must be from the public at large and not connected with the practice of esthetics.

 (B) It is unlawful for a member of the board or an inspector or employee of the board, or a spouse of a board member, inspector, or employee to own an interest in a school that trains estheticians.

 (C) The member of the board who is not connected with the practice of esthetics has all rights and privileges of other members of the board except the member may not participate in the examination of an applicant for a license.

 (D) Board members shall receive the same mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions. The board shall meet with the committee quarterly to discuss problems, make recommendations, and hear reports of board policy affecting the industry. Special meetings may be called by the board upon sufficient notice. Accurate minutes of all meetings must be kept by the board as part of its public record.

 Section 40‑12‑130. As used in this chapter:

 (1) “Esthetician” means a person including, but not limited to, an independent contractor, who is licensed to practice skin care, make up, or similar work. Skin care is for the sole purpose of beautifying the skin.

 (2) “Esthetician school” or “school” means a place or part of a place in which esthetics or any of its practices are taught.

 (3) “Esthetics” means the theory, practice, and clinical study of skin care and services to enhance the appearance of the face, neck, arms, legs, and shoulders of a human being by the use of compounds or procedures including makeup, eyelashes, depilatories, tonics, lotions, waxes, sanding, and tweezing, whether performed by manual, mechanical, chemical, or electrical means and instruments, but does not include electrolysis.

 (5) “Instructor” means a person who is licensed to teach esthetics and the practice of providing esthetics services pursuant to this chapter.

 (6) “Student” means a person who is engaged in learning or acquiring the practices of esthetics and, while learning, performs or assists in any of the practices of esthetics in a school licensed pursuant to this chapter and under the instruction or immediate supervision of an instructor licensed pursuant to this chapter.

 (10) “Approved school” means an esthetician school licensed by the Board of Estheticians or its equivalent in the jurisdiction where the school physically is located. In states where licensure of a school is not required, a license may be issued, upon application and approval by the board.

 Section 40‑12‑140. (A) The board shall by regulation establish requirements for:

 (1) the education, licensure, reciprocity, practice, conduct of business, and discipline of estheticians and the facilities in which they provide esthetics services; and

 (2) esthetician schools.

 (B) The board may charge fees for applications for licensure and renewal as established in regulation by the board.

 Section 40‑12‑150. (A) After December 31, 2025, it is unlawful to provide esthetics services or to hold oneself out as an esthetician in this State without being licensed by the board in good standing.

 (B) After December 31, 2025, it is unlawful to operate an esthetician school without a license or to violate any of the provisions of this chapter relating to schools, except that an esthetician school may be operated in and as part of an accredited high school, trade school, or industrial school if the school is licensed by the board. The school is exempt from executing a bond and entering into contracts with its students.

 (C)(1) A person licensed as an esthetician by the Board of Cosmetology on December 31, 2025, may continue to practice as an esthetician, and the board shall enroll them as one of its licensees pending demonstrated compliance with continuing education and other requirements as the board my provide in regulation.

 (2) A person licensed as a cosmetologist by the Board of Cosmetology on December 31, 2025, may continue to provide esthetician services, and the board shall enroll them as one of its licensees pending demonstrated compliance with continuing education and other requirements as the board may provide in regulation.

 Section 40‑12‑160. The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

 Section 40‑12‑170. (A) The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter.

 (B) The board shall adopt and use a common seal for the authentication of its orders and records. In addition to the powers and duties provided for in this chapter, the board has those powers and duties set forth in Section 40‑1‑70.

 Section 40‑12‑180. (A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Section 40‑1‑80. The results of an investigation must be presented to the board and any subsequent hearing must be conducted in accordance with Section 40‑1‑90.

 (B) In addition to other remedies provided for in this chapter or Chapter 1, the board in accordance with Section 40‑1‑100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

 (C)(1) In addition to the grounds for disciplinary action provided for in Section 40‑1‑110, the board may revoke, suspend, or restrict a license upon a satisfactory showing to the board that the holder of the license has:

 (a) violated or failed to comply with any provision of this chapter, a regulation promulgated under this chapter, or an order of the board;

 (b) permitted a person in one’s employ or under one’s supervision or control to practice as an esthetician without that person being licensed as an esthetician;

 (c) obtained or attempted to obtain a license for money other than the required fee or any other thing of value or by fraudulent misrepresentation;

 (d) provided or offered to provide esthetics services by fraudulent misrepresentation;

 (e) wilfully failed to display a license as provided by the board in regulation;

 (f) practiced or attempted to practice esthetics in any place other than a licensed facility, except in case of an emergency including, but not limited to, illness, invalidism, or death when a licensed operator may perform services for a person in another place by appointment only; or

 (g) used a substance or device that is not intended for esthetics use.

 (2) The holder of a license issued by the board found to have engaged in misconduct pursuant to item (1) is in violation of this chapter, regulations promulgated pursuant to this chapter, or an order of the board and is subject to a civil penalty in lieu of suspension or revocation of the license. The penalty may not exceed five hundred dollars.

 (3) A school owner who fails to notify the board of his school’s closing or fails to provide student records as specified in applicable regulations is guilty of a misdemeanor and, upon conviction, may be fined not more than two hundred dollars or imprisoned not more than thirty days, or both.

 (4) The board shall permanently revoke the license of a person convicted of, or a person who pleads guilty or nolo contendere to, a violation under item (3).

 Section 40‑12‑190. The board has jurisdiction over the actions of licensees and former licensees as provided for in Section 40‑1‑115.

 Section 40‑12‑200. The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

 Section 40‑12‑210. A license may be denied based on a person’s prior criminal record only as provided for in Section 40‑1‑140.

 Section 40‑12‑220. A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

 Section 40‑12‑230. A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

 Section 40‑12‑240. A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

 Section 40‑12‑250. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

 Section 40‑12‑260. Investigations and proceedings conducted under this chapter are confidential and all communications are privileged as provided for in Section 40‑1‑190.

 Section 40‑12‑270. (A) A person who practices or offers to practice esthetics in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, may be fined not more than two hundred dollars or imprisoned not more than thirty days, or both, for a first offense and for a second or subsequent offense may be fined not more than five hundred dollars or imprisoned not more than six months, or both.

 (B) The board permanently shall revoke the license of a person convicted of or who pleads guilty or nolo contendere to a violation under subsection (A).

 Section 40‑12‑280. The department, on behalf of the board and in accordance with Section 40‑1‑210, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

 Section 40‑12‑290. (A) A license as an esthetician must be issued by the board to a person who:

 (1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

 (2) has completed the requisite hours, as prescribed by the board in regulation, in skin care classes taught by a reliable school approved by the board or comparable training approved by the board; and

 (3) has passed the examination prescribed by the board and pays the required fee.

 (B) A temporary permit to practice as an esthetician may be issued in accordance with regulations promulgated by the board.

 Section 40‑12‑300. No member of the board may conduct or be a provider of continuing education courses.

 Section 40‑12‑310. The following are exempt from this chapter while engaged in the proper discharge of their professional duties:

 (1) a manufacturer’s representative or salesperson who demonstrates a product or technique for a promotional purpose;

 (2) an educational activity conducted in connection with a monthly, annual, or other special program from which the general public is excluded, provided this exemption applies only to the specific days of the special program; and

 (3) a demonstration conducted by a manufacturer or a wholesaler for the purpose of exhibiting the technical application and use of a product.

SECTION 2. Section 40‑13‑5 of the S.C. Code is amended to read:

 Section 40‑13‑5. Unless otherwise provided for in this chapter, Article 1, Chapter 1 applies to cosmetologists, and nail technicians, and estheticians regulated or administered, or both, by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, the provisions of this chapter control.

SECTION 3. Section 40‑13‑10(A) of the S.C. Code is amended to read:

 (A)(1) A State Board of Cosmetology is created composed of seven members appointed by the Governor with the advice and consent of the Senate for terms of four years and until their successors are appointed and qualify. Vacancies are filled in the manner of original appointment for the unexpired portion of the term. Recommendations for appointment may be made by the board and other interested groups or persons. The recommendations must be submitted to the Governor not later than the thirty‑first day of December of the year preceding the year in which appointments expire. Four members of the board must be experienced cosmetologists and must have been in the practice of cosmetology in this State for at least five years before appointment. One memberTwo members must be from the public at large and not connected with the practice of cosmetology. One member must be an esthetician and one must be a nail technician.

 (2) It is unlawful for a member of the board or an inspector or employee of the board, or a spouse of a board member, inspector, or employee to own an interest in a cosmetology school or substantial interest in a company which deals in wholesale sales or services to beauty salons or schools.

 (3) The member of the board who is not connected with the practice of cosmetology has all rights and privileges of other members of the board except the member may not participate in the examination of an applicant for a license.

SECTION 4. Section 40‑13‑20(5) and (10) of the S.C. Code is amended to read:

 (5) “Esthetician” means a person including, but not limited to, an independent contractor, who is licensed to practice skin care, make‑up, or similar work. Skin care is for the sole purpose of beautifying the skin.Reserved.

 (10) “Approved school” means a cosmetology, esthetician, or nail technician school licensed by the Board of Cosmetology or the board’s equivalent in the jurisdiction in which it is physically located. In states where licensure of a school is not required, a license may be issued, upon application and approval by the board.

SECTION 5. Section 40‑13‑110(A)(2) of the S.C. Code is amended to read:

 (2) permitted a person in one’s employ or under one’s supervision or control to practice as a cosmetologist, esthetician, or nail technician without that person being licensed as a cosmetologist, esthetician, or nail technician;

SECTION 6. Section 40‑13‑230 of the S.C. Code is amended to read:

 Section 40‑13‑230. (A) A license as a cosmetologist must be issued by the board to a person who:

 (1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

 (2) has completed at least one thousand five hundred hours in classes in cosmetology in a reliable school approved by the board or is a registered master hair care specialist pursuant to Chapter 7 who has satisfied educational requirements established by the board in regulation; and

 (3) has passed the examination prescribed by the board and pays the required fee.

 (B) A license as an esthetician must be issued by the board to a person who:

 (1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

 (2) has completed at least four hundred fifty hours in classes in skin care in a reliable school approved by the board or comparable training approved by the board; and

 (3) has passed the examination prescribed by the board and pays the required fee.

 (C)(B) A license as a nail technician must be issued by the board to a person who:

 (1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

 (2) has completed at least three hundred hours in classes in a reliable nail technician school approved by the board or comparable training approved by the board; and

 (3) has passed the examination prescribed by the board and pays the required fee.

 (D)(C) Temporary permits to practice as a cosmetologist, esthetician, or nail technician may be issued in accordance with regulations promulgated by the board.

SECTION 7. Section 40‑13‑240(B) of the S.C. Code is amended to read:

(B) The board shall conduct examinations of applicants for licenses to practice as cosmetologists, estheticians, or nail technicians not less than three times each year, at times and places as the board may determine. The examination of applicants for any license under this chapter must be conducted pursuant to regulations promulgated by the board and shall include both practical demonstrations and written tests on subjects the board determines to be necessary. Examinations must be consistent with the prescribed curriculum and the practical and theoretical requirements of the profession of cosmetology as prescribed in this chapter.

SECTION 8. Section 40‑13‑270 of the S.C. Code is amended to read:

 Section 40‑13‑270. The board may grant to a resident of another state, the District of Columbia, or any other U.S. territory or commonwealth state full reciprocity with respect to practicing cosmetology, esthetics, or manicuring in this State when the person is properly licensed and registered under the laws of the other state, the District of Columbia, or the U.S. territory or commonwealth state and is otherwise qualified.

SECTION 9. (A) Upon approval of this act by the Governor and appointment of the members of the State Board of Esthetics Services, the board shall begin promulgating regulations and undertaking and executing other responsibilities incidental to the implementation of this act so that the provisions of SECTION 1 of this act may be fully implemented on January 1, 2026.

 (B) SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect January 1, 2026.

SECTION 10. Except as provided in SECTION 9, this act takes effect upon approval by the Governor.

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