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CHAPTER 13.

 COSMETOLOGY AND COSMETOLOGISTS

**SECTION 40‑13‑5.** Application of chapter; conflict of laws.

 Unless otherwise provided for in this chapter, Article 1, Chapter 1 applies to cosmetologists, 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.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 1.

**SECTION 40‑13‑10.** State Board of Cosmetology; membership; terms and vacancies; restrictions regarding member duties; advisory committee; members; compensation.

 (A) 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 member 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.

 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.

 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.

 (B) There is created an Advisory Committee to the State Board of Cosmetology composed of six 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. Terms commence on April first. Vacancies on the committee must be filled in the manner of original appointment for the unexpired term.

 The following associations or groups shall recommend one person to the Governor for appointment to the committee: the National Cosmetology Association of South Carolina, the South Carolina State Cosmetologist Association, the South Carolina Vocational Directors Association, the South Carolina Association of Cosmetology Schools, the South Carolina Beauty Supply Dealers, and the teachers of cosmetology in vocational or private schools. 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 Governor may reject any person recommended for appointment upon a satisfactory showing that the person is unfit to serve. If a person is rejected, the group or association who recommended the person shall submit additional names to the Governor for consideration.

 Committee 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.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 2.

**SECTION 40‑13‑20.** Definitions.

 As used in this chapter:

 (1) "Beauty salon" or "salon" means a building or any place, or part of a place or building including, but not limited to, a rental booth, in which cosmetology is performed on the general public for compensation.

 (2) "Cosmetology" means engaging in any of these practices or a combination of these practices when done for compensation either directly or indirectly:

 (a) arranging, styling, thermal curling, chemical waving, pressing, shampooing, cutting, shaping, chemical bleaching, chemical coloring, chemical relaxing, or similar work, upon the hair, wig, or hairpiece of any person, by any means, with hands or mechanical or electrical apparatus or appliances;

 (b) using cosmetic preparations, make‑up, antiseptics, lotions, creams, chemical preparations on, or otherwise, or waxing, tweezing, cleansing, stimulating, manipulating, beautifying, or similar work on the scalp, legs, feet, face, neck, arms, hands; or

 (c) manicuring or pedicuring the nails of a person or similar work.

 (3) "Cosmetologist" means a person including, but not limited to, an independent contractor, not a student, who is licensed to practice cosmetology.

 (4) "Cosmetology school", "beauty school", or "school" means a place or part of a place in which cosmetology or any of its practices are taught.

 (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.

 (6) "Independent contractor" means a licensed practitioner who rents or leases a place or part of a place in a beauty salon.

 (7) "Instructor" means a person who is licensed to teach cosmetology or any practices of cosmetology in accordance with this chapter.

 (8) "Nail technician" means a person including, but not limited to, an independent contractor, who is licensed to practice manicuring or pedicuring the nails or similar work.

 (9) "Student" means a person who is engaged in learning or acquiring the practices of cosmetology and, while learning, performs or assists in any of the practices of cosmetology in a school licensed under this chapter and under the instruction or immediate supervision of an instructor licensed under this chapter.

 (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.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Sections 3 to 6.

**SECTION 40‑13‑30.** License required to operate school.

 It is unlawful to operate a cosmetology school without a license or to violate any of the provisions of this chapter relating to schools; however, a school may be operated in and as part of an accredited high school, trade school, or industrial school, and a school so operated must be licensed by the board; however, it is exempt from executing a bond and entering into contracts with its students.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 7.

**SECTION 40‑13‑50.** Administrative and fiscal activities to be provided by Department of Labor, Licensing and Regulation.

 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.

HISTORY: 1962 Code Section 56‑455; 1952 Code Section 56‑455; 1942 Code Section 5250‑16; 1934 (38) 1349; 1948 (45) 2079; 1982 Act No. 388; 1998 Act No. 427, Section 1.

**SECTION 40‑13‑60.** Adoption of rules and regulations by board.

 The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter. Regulations relating to the sanitary management of salons and schools must not be promulgated until approved by the Department of Health and Environmental Control.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑70.** Seal; additional powers and duties.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑80.** Authority to investigate complaints and violations.

 The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Section 40‑1‑80.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑90.** Investigation results; presentation to board; hearing procedures.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑100.** Injunctive orders and other equitable relief.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑110.** Grounds for revocation, suspension, or restriction of license; penalties.

 (A) 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:

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

 (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;

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

 (4) practiced or attempted to practice cosmetology by fraudulent misrepresentation;

 (5) wilfully failed to display a salon license as required by Section 40‑13‑300, a school license as required by Section 40‑13‑320, or a license as required by Section 40‑13‑280 or the sanitary regulations as required by Section 40‑13‑350;

 (6) practiced or attempted to practice cosmetology in any place other than a licensed salon, 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;

 (7) wilfully and continuously violated the reasonable regulations adopted by the board and approved by the Department of Health and Environmental Control for the sanitary management and operation of salons and schools;

 (8) used a substance or device which is not labeled for cosmetic use.

 (B) The holder of a license issued by the board found to have engaged in misconduct pursuant to subsection (A) 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.

 (C) 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.

 (D) 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 subsection (C) above.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Sections 8, 9.

**SECTION 40‑13‑115.** Jurisdiction of board.

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

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑120.** Disciplinary action authorized; procedures.

 In addition to the sanctions authorized for misconduct pursuant to Section 40‑13‑110, the board may take disciplinary action against a person as provided for in Section 40‑1‑120.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑130.** Denial of licensure on same grounds as for disciplinary actions.

 As provided for in Section 40‑1‑130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑140.** Denial of license based on prior criminal record.

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

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑150.** Voluntary surrender of license by licensee under investigation.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑160.** Right of aggrieved party to seek review of board decision.

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

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑170.** Payment of costs by violator.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑180.** Collection of costs and fines.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑190.** Confidentiality of investigations and other proceedings.

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

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑200.** Violations of chapter or submission of false information for licensing; revocation of license; penalty

 (A) A person who practices or offers to practice cosmetology 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).

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑210.** Petition for injunctive relief by department.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑230.** Qualifications for licensure; cosmetologist; esthetician; nail technician.

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

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 10.

**SECTION 40‑13‑240.** Examinations; applications; fees; frequency of exams; subject matter.

 (A) Each applicant for an examination shall make application on board‑approved forms. The application must be accompanied by the required examination fee.

 (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.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 11.

**SECTION 40‑13‑250.** Biennial renewal of licenses; expiration; reinstatement; reexamination; inactive licenses.

 (A) The holder of an individual license issued by the board biennially, on such date as may be designated by the board, shall renew his license and pay the renewal fee and furnish proof to the board that he has completed continuing education approved by the board. A person who has held a license for at least fifteen consecutive years and is sixty years of age or older or who has held continuous licensure for at least thirty years, is fifty years of age, and who has not been disciplined by the board is exempt from taking continuing education courses. Upon approval by the board and submission of an attendance form prescribed by the board, a person may obtain continuing education credit by attendance at trade show cosmetology‑related instructional programs.

 (B) A license to practice or teach cosmetology which has not been renewed before the date designated by the board expires on that date. The holder of an expired license may have the license restored within three years of the date of the expiration upon payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practicing. The reinstatement fee must be established by the board in regulation.

 (C) If a license has been expired for more than three years, the board shall conduct reexamination of the applicant before issuing a new license. The examination may include practical demonstrations and written tests that the board determines to be necessary.

 (D) A licensee may place a license on inactive status by completing and submitting a board‑approved form to the board office. In order to maintain inactive status, a licensee must renew the license biennially by payment of the renewal fee as provided by regulation. The licensee may not receive any license or other authorization to practice during the inactive period. An individual seeking to reactivate a license shall complete an application, submit the required fee, and comply with continuing education requirements as provided by regulation.

 (E) The holder of a license for a salon or a school shall renew the license biennially on a date set by the board by the payment of a renewal fee established by the board in regulation.

 (F) Application for renewal of a school license must be accompanied by proof of continued validation of the applicant's surety bond.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 12; 2006 Act No. 349, Section 1.

**SECTION 40‑13‑260.** Schools and salons to display appropriate signs; operation of school in conjunction with other businesses; effect of chapter on salons licensed on May 11, 1966.

 Schools and salons shall display appropriate signs over the entrance to their establishments designating the nature of the establishment. No school may operate in conjunction with a salon or any other business or have doors which interconnect with salons or other businesses.

 This chapter may not be construed to affect the operation of any beauty salon, licensed on May 11, 1966, located in a private residence insofar as provisions for separate toilet facilities and separate entrances are concerned.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑270.** Reciprocity to nonresidents.

 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.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑280.** Display of license near licensee's work chair.

 A holder of a license under this chapter shall display the license in a conspicuous place adjacent to or near the licensees' work chair.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑290.** Requirements and restrictions applicable to schools and salons; inspections.

 (A) No school may be affiliated with or located at the same address as a salon operated for profit. All salons and schools shall have running hot and cold water and drainage in rooms used for salons or schools. The owner or manager of any salon or school shall not permit a person to sleep in, or use for residential purposes, a room used wholly or partly as a salon or school.

 (B) The members of the board, or their authorized agents, may enter a salon or school at any reasonable time for purposes of inspection.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑300.** Licensing of salons; issuance and display of license; license not transferrable.

 A person, firm, corporation, or association may apply to the board for licensing of a salon by submitting an application on a form prescribed by the board and paying the initial license fee. Upon approval of a salon, a salon license must be issued and the license must be displayed in a conspicuous place. The license is valid only for the location named on it and it is not transferable. A salon shall comply with all provisions of this chapter applicable to salons and with regulations promulgated pursuant to this chapter.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑310.** Minimum curriculum for schools and qualifications for instructors; instructor's license; fee; renewal.

 A minimum curriculum for schools and minimum qualifications for instructors must be prescribed by the board in regulation. The board shall issue an instructor's license to a person who meets the prescribed qualifications upon payment of the fee for an instructor's examination and the license fee. The instructor's license must be renewed biennially upon the payment of a renewal fee by the instructor and upon proof to the board of the instructor having had advanced training approved by the board during the year.

HISTORY: 1998 Act No. 427, Section 1; 2000 Act No. 222, Section 13.

**SECTION 40‑13‑320.** Issuance and display of school license; license not transferrable.

 Upon approval of a school by the board, a license must be issued and be displayed in a conspicuous place at the school. The license is valid only for the location named on it, and it is not transferable.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑330.** Contracts between schools and students.

 The owner, or an owner's designee, of a school shall enter into a board‑approved written contract with each student before permitting the student to attend classes. The original contract must be retained by the school and a copy given to the student. The contract shall contain certification that the student is at least sixteen years of age or will have attained that age before completing the course of instruction and that the student possesses at least a tenth grade education, as certified by the school last attended, or the equivalent as established by tests used in public schools or approved by the board.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑340.** Licensing of schools; submission of floor plan and student contract form; bond required; actions for breach of contract.

 (A) A person, firm, corporation, or association may apply to the board for licensing of a school by submitting an application on a form prescribed by the board and paying the initial license fee. An applicant at the time of application shall submit a detailed floor plan and a true copy of the applicant's board‑approved form for student contracts and enrollment. An applicant also shall furnish a bond to the board issued by a licensed bonding company doing business in this State. The bond must be in the sum of ten thousand dollars and must be conditioned upon the faithful performance of the terms and conditions of all contracts entered into between the owner or manager of the school and all persons enrolling in the school. Suit on the bond may be brought by any student injured by the breach of any of the conditions of the contract between the student and the owner or manager of the school.

 (B) A licensed school shall comply with the provisions of this chapter applicable to the school and with regulations promulgated pursuant to this chapter.

 (C) No license for a school may be issued unless the owner presents evidence satisfactory to the board that the owner has adequate school facilities and equipment and that each instructor holds a valid instructor's license.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑350.** Sanitary regulations; copies to school owners and managers; posting in salons and schools.

 A copy of sanitary regulations adopted by the board must be furnished by the board to the owner or manager of each salon or school in the State, and the copy must be posted in a conspicuous place in each salon and school.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑355.** Board members prohibited from conducting or providing continuing education courses.

 No member of the board may conduct or be a provider of continuing education courses.

HISTORY: 1998 Act No. 427, Section 1.

**SECTION 40‑13‑360.** Exemptions from chapter.

 The following are exempt from this chapter while engaged in the proper discharge of their professional duties:

 (1) a manufacturer's representative or sales person 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;

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

 (4) an unlicensed person employed in a cosmetology salon whose duties are expressly confined to shampooing hair under the direct supervision of a cosmetologist.

HISTORY: 1998 Act No. 427, Section 1; 2008 Act No. 224, Section 1.

**SECTION 40‑13‑370.** Severability.

 If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect with the invalid provision or application, and to this end the provisions of this chapter are severable.

HISTORY: 1998 Act No. 427, Section 1.