Chapter No. 525
11/SS26/R3SG
JW /CC/TB

SENATE BILL NO. 2766

Originated in Senate _____ Secretary

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AN ACT TO REENACT SECTIONS 73-7-1 THROUGH 73-7-37 AND SECTIONS 73-7-51 THROUGH 73-7-61, MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF COSMETOLOGY AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND SECTION 73-7-12, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF COSMETOLOGY TO CONTRACT WITH A RECOGNIZED TESTING SERVICE; TO AMEND SECTION 73-7-16, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOLS OF COSMETOLOGY TO ONLY ADMIT STUDENTS WHO HAVE PASSED THE GENERAL APTITUDE TEST BATTERY (GATB) OR THE TEST OF ADULT BASIC EDUCATION (TABE); TO AMEND SECTION 73-7-29, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR FEES; TO AMEND SECTION 73-7-63, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THOSE SECTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-7-1, Mississippi Code of 1972, is reenacted as follows:

73-7-1. There is hereby continued and reconstituted a State Board of Cosmetology, composed of five (5) members to be appointed by the Governor, with the advice and consent of the Senate, and whose term of office shall be four (4) years from the date of appointment except as otherwise provided herein. However, no more than two (2) members shall be appointed from each Supreme Court district.

There shall be a president of the board and such other officers as deemed necessary by the board elected by and from its membership, provided that the member elected as president shall have at least one (1) year of experience on the board. Any member appointed by the Governor and confirmed by the Senate for a term to begin on or after July 1, 1997, who was designated by the Governor to serve as president of the board, shall be fully qualified to serve on the board for a full term of office, but

shall not serve as president of the board unless elected by the membership of the board as provided under this paragraph.

To be eligible for appointment as a member of the State Board of Cosmetology, the person applying shall have been a citizen of this state for a minimum of five (5) years immediately prior to appointment. Such person shall be at least thirty (30) years of age, possess a high school education or its equivalent, and shall have been a licensed cosmetologist with not less than ten (10) years' active practice in cosmetology. No member of the board shall be connected in any way with any school wherein cosmetology is taught, nor shall any two (2) members of the board be graduates of the same school of cosmetology.

However, in the event of vacancy by death or resignation of any member of the board, the Governor shall, within thirty (30) days, appoint a person possessing all qualifications required to serve the remainder of the term. Any member who shall not attend two (2) consecutive meetings of the board for reasons other than illness of such member shall be subject to removal by the Governor. The president of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings.

The salaries of all paid employees of the board shall be paid out of funds in the board's special fund in the State Treasury. Each member of the board, excepting the inspectors provided for herein, shall receive per diem as authorized by Section 25-3-69, and shall be reimbursed for such other expenses at the same rate and under the same conditions as other state employees as provided for in Section 25-3-41.

The board shall give reasonable public notice of all board meetings not less than ten (10) days prior to such meetings.

SECTION 2. Section 73-7-2, Mississippi Code of 1972, is reenacted as follows:

73-7-2. As used in this chapter, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Board" means the State Board of Cosmetology.

(b) "Cosmetology" means any one (1) or a combination of the following practices if they are performed on a person's head, face, neck, shoulder, arms, hands, legs or feet for cosmetic purposes:

(i) Cutting, clipping or trimming hair.

(ii) Styling, arranging, dressing, curling, waving, permanent waving, straightening, cleansing, bleaching, tinting, coloring or similarly treating hair.

(iii) Cleansing, stimulating, manipulating, beautifying or applying oils, antiseptics, clays, lotions or other preparations, either by hand or by mechanical or electrical apparatus.

(iv) Arching eyebrows or tinting eyebrows and eyelashes.

(v) Removing superfluous hair by the use of depilatories.

(vi) Manicuring and pedicuring.

(c) "Cosmetologist" means a person who for compensation, whether direct or indirect, engages in the practice of cosmetology.

(d) "Esthetics" means any one (1) or a combination of the following practices:

(i) Massaging the face or neck of a person.

(ii) Trimming eyebrows.

(iii) Tinting eyelashes or eyebrows.

(iv) Waxing, stimulating, cleaning or beautifying the face, neck, arms or legs of a person by any method with the aid of the hands or any mechanical or electrical apparatus, or by the use of a cosmetic preparation.

The term "esthetics" shall not include the diagnosis, treatment or therapy of any dermatological condition.

(e) "Esthetician" means any person who, for compensation, either direct or indirect, engages in the practice of esthetics.

(f) "Instructor" means a person licensed to teach cosmetology, or manicuring and pedicuring, or esthetics, or wigology, or all of those, pursuant to this chapter, and shall include those persons engaged in the instruction of student instructors.

(g) "Manicuring and pedicuring" means any one (1) or a combination of the following practices:

(i) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating a person's nails.

(ii) Applying artificial nails.

(iii) Massaging or cleaning a person's hands, arms, legs or feet.

(h) "Manicurist" means a person who for compensation, either direct or indirect, engages in the practice of manicuring and pedicuring.

(i) "Master cosmetologist" means a person holding a cosmetology license who has completed the minimum course of continuing education prescribed by Section 73-7-14.

(j) "Salon" means an establishment operated for the purpose of engaging in the practice of cosmetology, or manicuring and pedicuring, or esthetics, or wigology, or all of those.

(k) "School" means an establishment, public or private, operated for the purpose of teaching cosmetology, or manicuring and pedicuring, or esthetics, or wigology, or all of those.

(l) "Wigology" means a service to a wig or hairpiece in any one (1) or combination of the following:

(i) Arranging, dressing, waving or curling.

(ii) Cleaning.

(iii) Bleaching or coloring.

(iv) Cutting and shaping.

(m) "Wig specialist" means a person who, for compensation, either direct or indirect, engages in the practice of wigology.

SECTION 3. Section 73-7-3, Mississippi Code of 1972, is reenacted as follows:

73-7-3. The board shall be authorized to employ such clerical and stenographic assistance, bookkeepers, investigators and other agents as they may deem necessary to carry out the provisions of this chapter, and to fix their tenure of employment and compensation therefor. The members of the board shall file a bond with the Secretary of State in the sum of not less than Five Thousand Dollars ($5,000.00) payable to the State of Mississippi for the faithful performance of their duties. The bond shall be made by a surety company authorized to do business in this state, the premium of the bond to be paid out of any money in the board's special fund in the State Treasury.

The office of the board shall be located in the greater metropolitan area of the City of Jackson, Mississippi, and in the event office space cannot be obtained in any state-owned building, the board is authorized to rent suitable office space and to pay therefor out of funds in the board's special fund. The board shall employ inspectors as needed, not to exceed seven (7), who shall be full-time employees and whose salaries and duties shall be fixed by the board.

The salaries of all paid employees of the board shall be paid out of the funds in the board's special fund. The inspectors shall, in addition to their salaries, be reimbursed for such expenses as are allowed other state employees under the provisions of Section 25-3-41. In addition to the paying of office rent, the board is authorized to purchase necessary office furniture and

equipment, stationery, books, certificates and any other equipment necessary for the proper administration of this chapter.

SECTION 4. Section 73-7-5, Mississippi Code of 1972, is reenacted as follows:

73-7-5. (1) All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and shall be disbursed by the State Treasurer only upon warrants issued by the State Fiscal Officer upon requisitions signed by the president of the board or another board member designated by the president, and countersigned by the secretary of the board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) The State Auditor shall audit the financial affairs of the board and the transactions involving the special fund at least once a year in the same manner as for other special fund agencies. In addition, the Governor, in his discretion, shall have the power from time to time to require an audit of the financial affairs of the board, the same to be made by the State Auditor upon request of the Governor. The Governor shall have the power to suspend any member of the board who shall be found in default in any account until such time as it shall be determined whether such default was a result of an act of dishonesty on the part of the member, and in the event it is found that such default is an act of dishonesty, misfeasance or nonfeasance on the part of the member, such member shall be immediately removed by the Governor from office.

SECTION 5. Section 73-7-7, Mississippi Code of 1972, is reenacted as follows:

73-7-7. The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this chapter. The board shall set up a curriculum for operation of schools of cosmetology and the other professions it is charged to regulate in this state. The board shall receive and consider for adoption recommendations for rules and regulations, school curriculum, and related matters from the Mississippi Cosmetology Council, whose membership shall consist of, in addition to the board members, five (5) elected delegates from the Mississippi Hairdressers and Cosmetologists Association, five (5) elected delegates from the Mississippi Cosmetology School Association, five (5) elected delegates from the Mississippi Independent Beauticians Association, and five (5) elected delegates from the School Owners and Teachers Association. The board may revoke the license of any cosmetologist, esthetician, manicurist, wig specialist, instructor, school of cosmetology, or salon, or may refuse to issue a license to any cosmetologist, esthetician, manicurist, wig specialist, instructor, school of cosmetology, or salon that fails or refuses to comply with the provisions of this chapter and the rules and regulations of the board in carrying out the provisions of this chapter.

The board shall have authority to prescribe reasonable rules and regulations governing sanitation of schools of cosmetology and beauty salons for the guidance of persons licensed under this chapter in the operation of schools of cosmetology, or a beauty salon, and in the practice of cosmetology, esthetics, manicuring and pedicuring, and wigology. However, any and all rules and regulations relating to sanitation shall, before adoption by the board, have the written approval of the State Board of Health. When the board has reason to believe that any of the provisions of this chapter or of the rules and regulations of the board have

been violated, either upon receipt of a written complaint alleging such violations or upon the board's own initiative, the board, or any of its authorized agents, shall investigate same and shall have authority to enter upon the premises of a school of cosmetology or salon at any time during the regular business hours of that school or salon to conduct the investigation. Such investigation may include, but not be limited to, conducting oral interviews with the complaining party, school or salon owner(s) and/or students of the school, and reviewing records of the school or salon pertinent to the complaint and related to an area subject to the authority of the board. Such investigation shall not include written interviews or surveys of school employees or students, and the privacy of patrons shall be respected by any person making such investigation.

On or before July 1, 2001, the board shall adopt regulations to ensure that all fingernail service products used by licensed cosmetologists, manicurists and other licensees do not contain methyl methacrylate (MMA) as a monomer agent for cosmetic nail applications.

If the board finds that a violation of the provisions of this chapter or the rules and regulations of the board has occurred, it may cause a hearing to be held as set forth in Section 73-7-27.

SECTION 6. Section 73-7-9, Mississippi Code of 1972, is reenacted as follows:

73-7-9. No person required by this chapter to have a license shall conduct a beauty salon or school of cosmetology, or practice cosmetology, esthetics, manicuring and pedicuring, or wigology, or practice as an instructor, unless such person has received a license or temporary permit therefor from the board. Students determined to have violated any of these rules or regulations prior to being licensed by the board shall be subject to the same discipline by the board as licensees. They may be disciplined and fined accordingly.

SECTION 7. Section 73-7-11, Mississippi Code of 1972, is reenacted as follows:

73-7-11. Each owner of a certificate of registration issued by the state board, pursuant to the provisions of this chapter, shall display said certificate of registration in a conspicuous place in his or her principal office, place of business or employment, at all times.

SECTION 8. Section 73-7-12, Mississippi Code of 1972, is amended as follows:

73-7-12. The State Board of Cosmetology shall contract with a recognized testing service to conduct examinations for cosmetologists, estheticians, manicurists, wig specialists and instructors * * * at such * * * times and locations as determined by the contracted testing service. No member of the board shall be authorized to personally administer the examinations.

SECTION 9. Section 73-7-13, Mississippi Code of 1972, is reenacted as follows:

73-7-13. (1) The board shall admit to examination for a cosmetology license any person who has made application to the board in proper form, has paid the required fee, and who (a) is at least seventeen (17) years of age, (b) can read, write and speak English, (c) has successfully completed no less than fifteen hundred (1500) hours over a period of no less than nine (9) months in an accredited school of cosmetology, and (d) has a high school education or its equivalent.

The board may, in its discretion, issue to any student who has completed the prescribed hours in an accredited school in Mississippi a temporary permit until such time as the next examination may be held, but such student shall be issued only one (1) temporary permit. Application for an examination and license shall be accompanied by two (2) recent head photographs of the applicant. No temporary permit will be issued an applicant from

any other state to operate a beauty salon or school of cosmetology in this state unless in case of emergency.

Applicants for the cosmetologist examination, after having satisfactorily passed the prescribed examination, shall be issued a cosmetology license which until June 30, 2001, shall be valid for one (1) year, and after July 1, 2001, shall be valid for two (2) years, and all those licenses shall be subject to renewal.

Any barber who can read, write and speak English and has successfully completed no less than fifteen hundred (1500) hours in an accredited barber school, and who holds a current valid certificate of registration to practice barbering and who holds a current valid license, is eligible to take the cosmetology examination to secure a cosmetology license upon successfully completing five hundred (500) hours in an accredited school of cosmetology. All fees for application, examination, registration and renewal thereof shall be the same as provided for cosmetologists.

(2) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(3) Any licensed cosmetologist, esthetician, manicurist or wigologist who is registered but not actively practicing in the State of Mississippi at the time of making application for renewal, may apply for registration on the "inactive" list. Such "inactive" list shall be maintained by the board and shall set out the names and post office addresses of all persons registered but not actively practicing in this state, arranged alphabetically by name and also by the municipalities and states of their last-known professional or residential address. Only the cosmetologists, estheticians, manicurists and wigologists registered on the appropriate list as actively practicing in the State of Mississippi shall be authorized to practice those professions. For the purpose of this section, any licensed cosmetologist,

esthetician, manicurist or wigologist who has actively practiced his or her profession for at least three (3) months of the immediately preceding license renewal period shall be considered in active practice. No cosmetologist, esthetician, manicurist or wigologist shall be registered on the "inactive" list until the person has furnished a statement of intent to take such action to the board. Any licensed cosmetologist, esthetician, manicurist or wigologist registered on the "inactive" list shall not be eligible for registration on the active list until either of the following conditions have been satisfied:

(a) Written application shall be submitted to the State Board of Cosmetology stating the reasons for such inactivity and setting forth such other information as the board may require on an individual basis and completion of the number of clock hours of continuing education as approved by the board; or

(b) Evidence to the satisfaction of the board shall be submitted that they have actively practiced their profession in good standing in another state and have not been guilty of conduct that would warrant suspension or revocation as provided by applicable law; and

(c) Payment of the fee for processing such inactive license.

SECTION 10. Section 73-7-14, Mississippi Code of 1972, is reenacted as follows:

73-7-14. Any person who holds a current, valid cosmetology license may be licensed as a master cosmetologist if he or she has been a licensed cosmetologist in this state for a period of not less than twelve (12) months, and has completed a minimum course of sixteen (16) hours' study in continuing education approved by the board within the licensing period preceding initial application for the license, and has paid the original license fee. Master cosmetologist licenses shall be renewable upon completion of a minimum course of eight (8) hours' study in

continuing education approved by the board within a licensing period and payment of the required renewal fee. This is an optional license and persons who do not wish to complete the continuing education requirement may obtain a cosmetology license when renewing their license.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 11. Section 73-7-15, Mississippi Code of 1972, is reenacted as follows:

73-7-15. (1) The board shall admit to examination for a cosmetology instructor's license any person who has made application to the board in proper form, has paid the required fee, and who:

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

(b) Can read, write and speak English;

(c) Is a graduate of an accredited cosmetology school;

(d) Has a high school education or its equivalent;

(e) Has successfully completed seven hundred fifty (750) hours of instructor training in an accredited school of cosmetology;

(f) Has successfully completed twelve (12) semester hours in college courses approved by the board;

(g) Holds a current, valid Mississippi cosmetology license; and

(h) Has at least two (2) years' active practical experience as a licensed cosmetologist or, as an alternative to such experience, has successfully completed two thousand (2,000) hours of instructor training in an accredited school of cosmetology.

(2) The board shall admit to examination for an esthetics instructor's license any person who has made application to the board in proper form, has paid the required fee, and who:

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

(b) Can read, write and speak English;

(c) Has a high school education or its equivalent;

(d) Has successfully completed six hundred (600) hours of instructor training in an accredited school in which the practice of esthetics is taught;

(e) Has successfully completed twelve (12) semester hours in college courses approved by the board;

(f) Holds a current, valid Mississippi esthetician's license; and

(g) Has had two (2) years of active practical experience as an esthetician or, as an alternative to such experience, has successfully completed one thousand (1,000) hours of instructor training in an accredited school in which the practice of esthetics is taught.

(3) The board shall admit to examination for a manicurist instructor's license any person who has made application to the board in proper form, has paid the required fee, and who:

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

(b) Can read, write and speak English;

(c) Has a high school education or its equivalent;

(d) Has successfully completed six hundred (600) hours of instructor training in an accredited school in which the practice of manicuring is taught;

(e) Has successfully completed twelve (12) semester hours in college courses approved by the board;

(f) Holds a current, valid Mississippi manicurist's license; and

(g) Has had two (2) years of active practical experience as a manicurist or, as an alternative to such experience, has successfully completed one thousand (1,000) hours of instructor training in an accredited school in which the practice of manicuring is taught.

(4) Applicants shall satisfactorily pass the examination prescribed by the board for licensing instructors prior to the issuance of the licenses provided for in this section. However, the board may, in its discretion, issue a temporary instructor's permit until such time as the next examination may be held, but such applicant shall be issued only one (1) temporary permit. All applications for an instructor's examination shall be accompanied by two (2) recent head photographs of the applicant.

(5) All instructors licensed pursuant to this section shall biennially obtain twenty-four (24) clock hours of continuing education in teacher training instruction in cosmetology or esthetics or manicuring, as the case may be, as approved by the board. Any instructor who fails to obtain the continuing education required by this subsection shall not be allowed to instruct nor enroll students under his or her license until such education requirement has been met. The board may issue an inactive instructor's license to such instructors, and an inactive license may be converted into an active license after proof satisfactory to the board of completion of at least twenty-four (24) clock hours of approved continuing education required for teacher training instruction.

(6) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 12. Section 73-7-16, Mississippi Code of 1972, as amended by House Bill No. 838, 2011 Regular Session, is reenacted and amended as follows:

73-7-16. All schools of cosmetology or school owners shall have a school license and shall pay to the board the required license fee annually therefor. A grace period of sixty (60) days will be given in which to renew the license, and upon the expiration of the grace period of sixty (60) days, any applicant for the renewal of a school license will be required to pay a

delinquent fee in addition to the renewal fee. The board is hereby authorized and empowered to promulgate necessary and reasonable rules and regulations for the issuance and renewal of school licenses. However, the board shall not refuse to issue or renew a school's license because of the number of schools already in that area of the state, and any rule promulgated by the board for that purpose shall be null and void.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

Nationally accredited schools shall follow accreditation standards for hiring and training faculty and any state statute that contradicts those federal standards is not applicable to nationally accredited schools. All other schools must comply fully with the applicable state statutes.

The board shall require all schools of cosmetology to only admit students who have successfully passed the General Aptitude Test Battery (GATB) or the Test of Adult Basic Education (TABE).

Private business and vocational schools that have obtained national accreditation from an accrediting agency designated by the United States Department of Education may submit evidence of current accreditation in lieu of other application requests. Applications submitted on evidence of national accreditation must be approved or denied within thirty (30) days after receipt. If no action is taken within thirty (30) days, the application shall be deemed approved and a school license must be issued.

SECTION 13. Section 73-7-17, Mississippi Code of 1972, is reenacted as follows:

73-7-17. All salon owners shall have a salon license and shall pay to the board the required license fee therefor and pay the required renewal fee for renewal thereof. A grace period of sixty (60) days will be given in which to renew the license, and upon the expiration of the grace period of sixty (60) days any

applicant for the renewal of a salon license will be required to pay a delinquent fee in addition to the renewal fee. Prior to the initial issuance of such license, the board shall inspect the premises to determine if same qualifies with the law, upon payment by the applicant of the required inspection fee.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 14. Section 73-7-18, Mississippi Code of 1972, is reenacted as follows:

73-7-18. (1) The board shall admit to examination for an esthetician's license any person who has made application to the board in proper form, has paid the required fee, and who:

(a) Is not less than seventeen (17) years of age;

(b) Can read, write and speak English;

(c) Has a high school education or its equivalent; and

(d) Has successfully completed a course of training in esthetics of not less than six hundred (600) hours in an accredited school in which the practice of esthetics is taught, including not less than one hundred (100) hours of theory and five hundred (500) hours of skill practice.

Any licensed esthetician wishing to acquire a cosmetology license may apply the six hundred (600) hours of esthetics training toward the requirements for a cosmetology license.

(2) Every person who has completed not less than three hundred fifty (350) hours of training in esthetics approved by the board in this or any other state prior to July 1, 1987, shall be registered with the board within a period not exceeding six (6) months after July 1, 1987, and shall be granted an esthetician's license by the board if such person presents satisfactory evidence to the board that he or she has fulfilled all the requirements to be admitted to examination except the training hours requirement.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 15. Section 73-7-19, Mississippi Code of 1972, is reenacted as follows:

73-7-19. Except as provided in Section 33-1-39, all licenses shall be renewed biennially under the fee schedule in Section 73-7-29. Applications for renewal of licenses for cosmetologists, estheticians, manicurists, wig specialists and instructors must be accompanied by the required renewal fee. A grace period of sixty (60) days will be given in which to renew the license; and upon the expiration of the grace period of sixty (60) days, any applicant for the renewal of a license will be required to pay the required renewal fee and a delinquent fee in addition to the renewal fee. The fees may be paid by either personal or certified check, cash or money order, under such safeguards, rules and regulations as the board may prescribe. Checks returned to the board because of insufficient funds shall result in nonrenewal of the license, which will require the penalty fee for insufficient fund checks plus all other amounts due for renewal of the license before the license may be renewed. After one (1) year has passed from the expiration date of the license, a delinquent fee must be paid for each year up to three (3) years, after which the required examination must be taken. All applications for examination required by this chapter shall expire ninety (90) days from the date thereof.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 16. Section 73-7-21, Mississippi Code of 1972, is reenacted as follows:

73-7-21. The board shall admit to examination for a manicurist's license any person who has made application to the board in proper form, has paid the required fee, and who:

(a) Is at least seventeen (17) years of age;

(b) Can read, write and speak English;

(c) Has successfully completed no less than three hundred fifty (350) hours of practice and related theory in manicuring and pedicuring over a period of no less than nine (9) weeks in an accredited school of cosmetology in this or any other state; and

(d) Has a high school education or its equivalent.

Licensed manicurists desiring to pursue additional hours to be eligible for a license as a cosmetologist may be credited with the three hundred fifty (350) hours acquired in studying and training to be a manicurist which may be applied to the number of hours required for a cosmetology license examination.

The board shall adopt regulations governing the use of power drills for the purpose of filing false or natural fingernails.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 17. Section 73-7-23, Mississippi Code of 1972, is reenacted as follows:

73-7-23. The board may, upon application, issue a license by reciprocity to any cosmetologist, esthetician, manicurist or wig specialist over the age of seventeen (17) years from any other state who has satisfactorily completed the required number of accredited hours in that state, provided the state board from which the applicant comes issues to cosmetologists, estheticians, manicurists or wig specialists, as the case may be, from the State of Mississippi a license under the same conditions. Applications must be accompanied by (a) proof satisfactory to the board that

the required hours have been completed, and (b) the required reciprocity fee, which shall be paid to the board.

An instructor from any other state may be qualified for instructor's examination upon presenting a valid instructor's license and proof of a high school education or its equivalent, provided that the instructor (a) has had three (3) years or more of experience as a licensed instructor prior to application, (b) can read, write and speak English, and (c) has completed twelve (12) semester hours in college courses approved by the board. Such application must be accompanied by two (2) recent head photographs of the applicant. Applicants shall pay the required examination fee and license fee.

SECTION 18. Section 73-7-25, Mississippi Code of 1972, is reenacted as follows:

73-7-25. Every demonstrator in the field of cosmetology shall, before making demonstrations in a salon or school, apply for and obtain a permit from the board. For such permit, which shall be for one (1) year, the required fee shall be paid to the board. This section shall be construed to apply to demonstrators in salons and schools.

SECTION 19. Section 73-7-27, Mississippi Code of 1972, is reenacted as follows:

73-7-27. (1) Any complaint may be filed with the board by a member or agent of the board or by any person charging any licensee of the board with the commission of any of the offenses enumerated in subsection (2) of this section. Such complaint shall be in writing, signed by the accuser or accusers, and verified under oath, and such complaints shall be investigated as set forth in Section 73-7-7. If, after the investigation, the board through its administrative review agents determines that there is not substantial justification to believe that the accused licensee has committed any of the offenses enumerated, it may dismiss the complaint or may prepare a formal complaint proceeding

against the licensee as hereinafter provided. When used with reference to any complaint filed against a licensee herein, the term "not substantial justification" means a complaint that is frivolous, groundless in fact or law, or vexatious, as determined by unanimous vote of the board. In the event of a dismissal, the person filing the accusation and the accused licensee shall be given written notice of the board's determination. If the board determines there is reasonable cause to believe the accused has committed any of those offenses, the secretary of the board shall give written notice of such determination to the accused licensee and set a day for a hearing as provided in subsection (3) of this section.

(2) The board shall have the power to revoke, suspend or refuse to issue or renew any license or certificate provided for in this chapter, and to fine, place on probation and/or otherwise discipline a student or licensee or holder of a certificate, upon proof that such person: (a) has not complied with or has violated any of the rules and regulations promulgated by the board; (b) has not complied with or has violated any of the sections of this chapter; (c) has committed fraud or dishonest conduct in the taking of the examination herein provided for; (d) has been convicted of a felony; (e) has committed grossly unprofessional or dishonest conduct; (f) is addicted to the excessive use of intoxicating liquors or to the use of drugs to such an extent as to render him or her unfit to practice in any of the practices or occupations set forth in this chapter; (g) has advertised by means of knowingly false or deceptive statements; or (h) has failed to display the license or certificate issued to him or her as provided for in this chapter; or (i) has been convicted of violating any of the provisions of this chapter. A conviction of violating any of the provisions of this chapter shall be grounds for automatic suspension of the license or certificate of such person.

(3) The board shall not revoke, suspend or refuse to issue or renew any license or certificate, or fine, place on probation or otherwise discipline any person in a disciplinary matter except after a hearing of which the applicant or licensee or holder of the certificate affected shall be given at least twenty (20) days' notice in writing, specifying the reason or reasons for denying the applicant a license or certificate of registration, or in the case of any other disciplinary action, the offense or offenses of which the licensee or holder of a certificate of registration is charged. Such notice may be served by mailing a copy thereof by United States first-class certified mail, postage prepaid, to the last-known residence or business address of such applicant, licensee or holder of a certificate. The hearing on such charges shall be at such time and place as the board may prescribe.

(4) At such hearings, all witnesses shall be sworn by a member of the board, and stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring it shall be furnished with a copy of such stenographic notes upon payment to the board of such fees as it shall prescribe, not exceeding, however, the actual costs of transcription.

(5) The board is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers. The process issued by the board shall extend to all parts of the state and such process shall be served by any person designated by the board for such service. The person serving such process shall receive such compensation as may be allowed by the board, not to exceed the fee prescribed by law for similar services. All witnesses who shall be subpoenaed, and who shall appear in any proceedings before the board, shall receive the same fees and mileage as allowed by law.

(6) Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify, or shall refuse to produce any books and

papers, the production of which is called for by the subpoena, the attendance of such witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state, in the same manner as are enforced for the attendance and testimony of witnesses in civil cases in the courts of this state.

(7) The board shall conduct the hearing in an orderly and continuous manner, granting continuances only when the ends of justice may be served. The board shall, within sixty (60) days after conclusion of the hearing, reduce its decision to writing and forward an attested true copy thereof to the last-known residence or business address of such applicant, licensee or holder of a certificate, by way of United States first-class certified mail, postage prepaid. Such applicant, licensee, holder of a certificate, or person aggrieved shall have the right of appeal from an adverse ruling, or order, or decision of the board to the chancery court upon forwarding notice of appeal to the board within thirty (30) days after the decision of the board is mailed in the manner here contemplated. An appeal will not be allowed in the event notice of appeal, together with the appeal bond hereinafter required, shall not have been forwarded to the board within the thirty-day period. Appeal shall be to the chancery court of the county and judicial district of the residence of the appellant, or to the Chancery Court of the First Judicial District of Hinds County, Mississippi, at the election of the appellant. The notice of appeal shall elect venue, unless the appellant be a nonresident of the State of Mississippi, in which event the board shall certify all documents and evidence directly to the Chancery Court of the First Judicial District of Hinds County for further proceedings. The appeal shall thereupon be heard in due course by the court which shall review the record and make its determination thereon.

(8) The appellant shall, together with the notice of appeal, forward to and post with the board a satisfactory bond in the amount of Five Hundred Dollars ($500.00) for the payment of any costs which may be adjudged against him.

(9) In the event of an appeal, the court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the chancellor, be tried in vacation. If there is an appeal, such appeal may, in the discretion of and on motion to the chancery court, act as a supersedeas. However, any fine imposed by the board under the provisions of this chapter shall not take effect until after the time for appeal has expired, and an appeal of the imposition of such a fine shall act as a supersedeas.

(10) Any fine imposed by the board upon a licensee or holder of a certificate shall be in accordance with the following schedule:

(a) For the first violation, a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00) for each violation.

(b) For the second and each subsequent violation, a fine of not less than One Hundred Dollars ($100.00) nor more than Four Hundred Dollars ($400.00) for each violation.

The power and authority of the board to impose such fines under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations.

(11) In addition to the reasons specified in subsection (2) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any

fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 20. Section 73-7-29, Mississippi Code of 1972, is reenacted and amended as follows:

73-7-29. The State Board of Cosmetology shall assess fees in the following amounts and for the following purposes:

(a) * * * Initial license/renewal for * * * cosmetologist, manicurist, esthetician, or wig specialist . $ 50.00

(b) * * * Instructor initial license/renewal ... 80.00

* * *

(c) * * * Master cosmetologist license/renewal 70.00

* * *

(d) Delinquent renewal penalty - cosmetologist, manicurist, esthetician, wig specialist and instructor 50.00

* * *

There shall be no renewal fee for any licensee seventy (70) years of age or older.

(e) Salon application and initial inspection ... 85.00

(f) Salon reinspection 35.00

(g) Salon change of ownership or location, or both 85.00

(h) * * * Salon * * * renewal 60.00

* * *

(i) Salon delinquent renewal penalty * * * 50.00

* * *

(j) Application and initial inspection for a new school 300.00

(k) New school reinspection 100.00

(l) School change of ownership 300.00

(m) School relocation 150.00

(n) * * * School * * * renewal 75.00

* * *

(o) School delinquent renewal penalty * * * ... 100.00

* * *

(p) Duplicate license * * * 10.00

(q) Penalty for insufficient fund checks 20.00

(r) Affidavit processing 15.00

* * *

The State Board of Cosmetology may charge additional fees for services which the board deems appropriate to carry out its intent and purpose. These additional fees shall not exceed the cost of rendering the service.

* * *

The board is fully authorized to make refunds of any deposits received by the board for services which are not rendered * * *. Refunds will automatically be made on overpayment of fees. Refunds will be made on under payments by written requests from applicants. If no request for refund is made within sixty (60) days, the fees will be forfeited.

SECTION 21. Section 73-7-31, Mississippi Code of 1972, is reenacted as follows:

73-7-31. Nothing in this chapter shall apply to:

(a) Hairdressing, manicuring or facial treatments given in the home to members of family or friends for which no charge is made.

(b) Persons whose practice is limited to the application of cosmetic products to another person in connection with the sale, or attempted sale, of such products at retail, without compensation from such other person other than the regular retail price of such merchandise.

(c) Barbers, and nothing in this chapter shall affect the jurisdiction of the State Board of Barber Examiners.

(d) Persons engaged in the practice of hair braiding as defined in Section 73-7-71 who have completed the self-test part of the brochure on infection control techniques prepared by the State Department of Health and who keep the brochure and completed self-test available at the location at which the person is engaged in hair braiding.

SECTION 22. Section 73-7-33, Mississippi Code of 1972, is reenacted as follows:

73-7-33. In addition to the rules and regulations that may be prescribed and promulgated by the board under authority of this chapter, the following rules and regulations shall be observed:

Every establishment must be kept sanitary, including all utensils and equipment, must be well ventilated and properly lighted. Each salon must be provided with hot and cold running water. Electrical appliances must be properly installed and grounded.

Cosmetologists shall be allowed to wear any type of clothing or apparel while at work as long as such clothing or apparel is sanitary.

Cosmetologists shall be allowed to use any type of hair roller as long as they do so in a sanitary manner.

Anyone having an infectious or contagious disease shall not practice in any establishment. Salon owners will be held

responsible for knowingly permitting one with such disease to practice in his or her salon. No work shall be performed on any patron having a visible disease unless the patron shall produce a certificate from a practicing physician stating that the patron is free from infectious, contagious or communicable disease. A cosmetologist's license does not authorize such person to treat or prescribe for an infectious, contagious or any other disease.

A home salon must have a solid wall to the ceiling with an outside entrance, or if a door exists between the salon and the remainder of the house, the door must be kept closed at all times while service is being rendered.

SECTION 23. Section 73-7-35, Mississippi Code of 1972, is reenacted as follows:

73-7-35. (1) No person licensed pursuant to this chapter shall practice his or her profession except within the physical confines of a salon possessing and displaying a properly executed license issued pursuant to Section 73-7-17. However, this requirement shall not prevent a person from rendering his or her services to any person who may be confined to his or her home, a hospital, or other place as a result of illness, and cosmetologists shall be permitted to render their services to deceased persons away from their salons.

(2) No salon owner licensed pursuant to this chapter shall allow a cosmetologist, esthetician, manicurist or wig specialist to practice his/her profession in the salon without possessing a valid license issued pursuant to this chapter.

SECTION 24. Section 73-7-37, Mississippi Code of 1972, is reenacted as follows:

73-7-37. (1) The violation of any of the provisions of this chapter, including the use of fraudulent statements to obtain any benefits or privileges under this chapter or practicing one (1) of these professions without a license, shall constitute a misdemeanor, punishable in any court of competent jurisdiction,

and any person or firm convicted of the violation of any of the provisions of this chapter shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00). The court shall not be authorized to suspend or suspend the execution of the fine required under this section.

(2) If any person, firm or corporation violates any of the provisions of this chapter, the secretary of the board, upon direction of a majority of the board and in the name of the board, acting through the Attorney General or an attorney employed by the board, shall apply in any chancery court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with the provisions of this chapter. Upon the filing of a verified petition in the proper court and after notice as provided under the Mississippi Rules of Civil Procedure, such court or any judge thereof, if satisfied by the sworn petition, by affidavit or otherwise, that such person has violated any of the provisions of this chapter, may issue an injunction without notice or bond, enjoining such continued violation and such injunction shall remain in force and effect until a final hearing. If at such hearing it is established that such person has violated or is violating any of the provisions of this chapter, the court may enter a decree permanently enjoining such violation or enforcing compliance with this chapter. In addition, the court may enter a judgment against such person for attorney's fees, court costs and the actual costs incurred by the board in investigating the actions of such person for which the board brought the suit for an injunction. In case of violation of any decree issued in compliance with this subsection, the court may punish the offender for contempt of court and the court shall proceed as in other cases.

(3) The proceedings in this section shall be in addition to and not in lieu of the other remedies and penalties provided in this chapter.

SECTION 25. Section 73-7-51, Mississippi Code of 1972, is reenacted as follows:

73-7-51. From and after June 7, 1972, no person required by Sections 73-7-51 through 73-7-61 to have a wig specialist license or wig salon certificate of registration shall conduct a wig salon or service a wig or hairpiece unless application for an appropriate certificate or registration or license has been made. All persons required by law to obtain a certificate of registration or a license must file application therefor within thirty (30) days after May 8, 1972. However, upon the proper filing of an application by a holder of a current valid wigologist permit as issued by the board, such holder shall be issued a wig specialist license, and upon the proper filing of an application by a holder of a current, valid wig shop certificate of registration as issued by the board, such holder shall be issued a wig salon certificate of registration.

SECTION 26. Section 73-7-53, Mississippi Code of 1972, is reenacted as follows:

73-7-53. Any applicant who is at least seventeen (17) years of age, can read, write and speak English, has a high school education or its equivalent, and has successfully completed no less than three hundred (300) hours of practice and instruction and related theory in the care and treatment of wigs over a period of no less than eight (8) weeks in an accredited school of cosmetology is eligible to take the examination to secure a wig specialist license.

Application for an examination and license shall be accompanied by two (2) recent head photographs. The board shall hold examinations for wig specialists at least twice a year if applications have been received and approved and at such other times as the board may determine.

Applicants for a wig specialist license, after having satisfactorily passed the prescribed examination, shall be issued

a wig specialist license which shall be valid for one (1) year, and from and after July 1, 2001, shall be valid for two (2) years. All those licenses shall be subject to renewal.

All fees for application, examination and registration for a wig specialist license and the renewal thereof shall be the same as herein provided for cosmetologists.

A person holding a wig specialist license may perform for compensation services limited to a wig or hairpiece.

SECTION 27. Section 73-7-55, Mississippi Code of 1972, is reenacted as follows:

73-7-55. Registered wig specialists desiring to pursue additional hours to be eligible for a certificate of registration as a cosmetologist may be credited with the three hundred (300) hours acquired in studying and training to be a wig specialist which may be applied to the number of hours required to be eligible to take a cosmetologist's examination.

SECTION 28. Section 73-7-57, Mississippi Code of 1972, is reenacted as follows:

73-7-57. All wig salon owners shall have a wig salon license and shall pay to the board the required license fee therefor and pay the required renewal fee for the renewal thereof. Prior to the initial issuance of such a license, the board shall inspect the premises to determine if same qualifies with the law, upon payment by the applicant of the required inspection fee.

A person holding a wig salon license may maintain an establishment in which services shall be limited to wigs or hairpieces and performed only by licensed wig specialists and/or licensed cosmetologists.

SECTION 29. Section 73-7-59, Mississippi Code of 1972, is reenacted as follows:

73-7-59. Nothing in Sections 73-7-51 through 73-7-61 as amended by Laws, 2000, Chapter 485, shall be construed to cause any person who, as of May 8, 1972, holds a valid cosmetology

license to make any application or take any additional training in order to continue his or her practice as it then exists. Nothing in those sections shall be construed to force any person who desires to obtain a valid cosmetology license to take any training in addition to the fifteen hundred (1500) hours now required.

SECTION 30. Section 73-7-61, Mississippi Code of 1972, is reenacted as follows:

73-7-61. Nothing in Sections 73-7-51 through 73-7-61 shall apply to retail sales of wigs or hairpieces when such sales do not include arranging, dressing, waving, cleaning, curling, bleaching, coloring, cutting and shaping of such wig or hairpiece sold at retail. Such retail seller shall be exempted from all fees, inspections and other requirements of said sections. In connection with such retail sales, wigs and hairpieces may be fitted, combed and arranged before such retail sale is consummated.

SECTION 31. Section 73-7-63, Mississippi Code of 1972, is amended as follows:

73-7-63. Sections 73-7-1 through 73-7-37 and 73-7-51 through 73-7-61, Mississippi Code of 1972, which create the State Board of Cosmetology and prescribe its duties and powers, shall stand repealed as of July 1, 2013.

SECTION 32. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
March 28, 2011

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 28, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

4/26/11 6:33p