

1 HOUSE BILL NO. 593

2 INTRODUCED BY K. SEEKINS-CROWE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BARBERING AND COSMETOLOGY
 5 LAWS; REVISING MEMBERSHIP OF THE BOARD OF BARBERS AND COSMETOLOGISTS; PROVIDING
 6 FOR A MASTER ESTHETICS LICENSE; REVISING THE RULEMAKING AUTHORITY OF THE BOARD OF
 7 BARBERS AND COSMETOLOGISTS; REVISING REQUIREMENTS TO HOLD A LICENSE; REVISING
 8 REQUIREMENTS FOR SCHOOLS AND TEACHERS; DEFINING TERMS; REVISING CERTAIN
 9 QUALIFICATIONS FOR LICENSEES AND TEACHERS; PROVIDING FOR A TRANSITION; PROVIDING
 10 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-103, 37-31-203, 37-31-
 11 301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-31-331,
 12 37-33-404, AND 49-2-101, MCA; AND PROVIDING EFFECTIVE DATES."

13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15

16 **Section 1.** Section 2-15-1747, MCA, is amended to read:

17 **"2-15-1747. Board of barbers and cosmetologists.** (1) There is a board of barbers and
 18 cosmetologists.

19 (2) The board consists of nine members appointed by the governor with the consent of the senate
 20 and must include:

21 (a) ~~three~~two licensed cosmetologists each of whom has been a resident of this state for at least 5
 22 years and has been actively engaged in the profession of cosmetology for at least 5 years immediately prior to
 23 being appointed to the board;

24 (b) ~~one member~~one licensed esthetician or master esthetician who has been a resident of this state for at
 25 least 5 years and has been actively engaged ~~as a licensed electrologist, esthetician, or manicurist in the~~
 26 profession of esthetics for at least 5 years immediately prior to being appointed to the board;

27 (c) ~~three~~two licensed barbers or barbers nonchemical, each of whom has been a resident of this
 28 state for at least 5 years and has been actively engaged in the profession of barbering for at least 5 years

1 immediately prior to appointment to the board; and

2 (d) one licensed manicurist who has been a resident of this state for at least 5 years and has been
 3 actively engaged in the profession of manicuring for at least 5 years immediately prior to being appointed to the
 4 board;

5 (e) one member, either licensed or not licensed under this chapter, who is affiliated with a school for
 6 at least 5 years immediately prior to being appointed to the board; and

7 ~~(d) (f) two members of the public who are not engaged in the practice of barbering, cosmetology,~~
 8 ~~electrology, esthetics, or manicuring licensed under this chapter.~~

9 ~~(3) Two members of the board must be affiliated with a school.~~

10 ~~(4) (a) If there is not a licensed barber, or a barber nonchemical, esthetician, or manicurist who is~~
 11 ~~qualified and willing to serve on the board in one of the three positions under subsection (2)(c) subsections~~
 12 ~~(2)(a), (2)(b), (2)(c), and (2)(d), the governor may appoint a cosmetologist, electrologist, esthetician, or~~
 13 ~~manicurist otherwise qualified under this section to fill the position.~~

14 ~~(b) If there is not a licensed cosmetologist qualified and willing to serve on the board in one of the~~
 15 ~~three positions under subsection (2)(a), the governor may appoint a barber, barber nonchemical, electrologist,~~
 16 ~~master esthetician, or manicurist, or member affiliated with a school or otherwise qualified under this section to~~
 17 ~~fill the position.~~

18 ~~(5) (4)~~ Each member shall serve for a term of up to 5 years. The terms must be staggered.

19 ~~(6) (5)~~ The board is allocated to the department for administrative purposes only as prescribed in 2-
 20 15-121."

21

22 **Section 2.** Section 37-31-101, MCA, is amended to read:

23 **"37-31-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
 24 definitions apply:

25 (1) "Affiliated" is an individual who owns more than 20% of or is employed 32 hours or more weekly at
 26 a school licensed under this chapter.

27 (2) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

28 (3) "Barbering" means any of the following practices performed for payment, either directly or

1 indirectly, on the human body for tonsorial purposes and not performed for the treatment of disease or physical
2 or mental ailments:

3 (a) shaving or trimming a beard;

4 (b) cutting, styling, coloring, or waving hair;

5 (c) straightening hair by the use of chemicals;

6 (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other
7 preparations applied by hand or mechanical appliance;

8 (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or

9 (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face,
10 hands, or neck.

11 (4) "Barber nonchemical" means a person licensed under this chapter to engage in the practice of
12 nonchemical barbering.

13 (5) "Barbering nonchemical" means the practice or teaching of barbering as provided in subsection (3)
14 but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.

15 ~~(4)~~ (6) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.

16 ~~(2)~~ (7) "Booth" means any part of a salon or shop that is rented or leased for the performance of
17 barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring services, as ~~specified~~
18 provided for in 39-51-204.

19 (8) "Cosmetologist" means a person licensed under this chapter to engage in the practice of
20 cosmetology.

21 (9) (a) "Cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics", and
22 "beauty culture" when the work is done for the embellishment, cleanliness, and beautification of the hair and
23 body.

24 (b) The term may not be construed to include itinerant cosmetologists who perform their services
25 without compensation for demonstration purposes in any regularly established store or place of business
26 holding a license from the state as a store or place of business.

27 ~~(3)~~ (10) "Department" means the department of labor and industry provided for in Title 2, chapter 15,
28 part 17.

1 ~~(4)~~ (11) (a) "Electrology" means the study of and the professional practice of permanently removing
 2 superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle.
 3 Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the
 4 use of chemical depilatories.

5 (b) ~~Electrology~~ The term does not include pilethermology, which is the study and professional practice
 6 of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar
 7 devices.

8 (12) "Electrologist" means a person licensed under this chapter to engage in the practice of
 9 electrology.

10 ~~(5)~~ (13) "Esthetician" means a person licensed under this chapter to engage in the practice of
 11 esthetics.

12 ~~(6)~~ (14) "Esthetics" means skin care of the body, including but not limited to hot compresses or the
 13 use of safety-approved electrical appliances or chemical compounds formulated for professional application
 14 only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical
 15 apparatus or appliances on another person.

16 (15) "Instructor" or "teacher" means a person licensed under 37-31-303.

17 ~~(7)~~ (16) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs
 18 and the application and maintenance of artificial nails.

19 (17) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

20 (18) "Master esthetician" means a person who is licensed under this chapter to practice master
 21 esthetics.

22 (19) "Master esthetics" means procedures outside the scope of practice of a cosmetologist or
 23 esthetician that involve care of the skin through advanced nonablative procedures that use chemical,
 24 mechanical, laser, or heat modality, or a combination of modalities.

25 (20) "Nonablative" means involving an action performed on the skin or hair of a person that does not
 26 result in wounding, scarring, or altering scars of the skin or underlying tissue.

27 ~~(8)~~ (21) "Place of residence" means a home and the following residences defined under 50-5-101:

28 (a) an assisted living facility;

1 (b) an intermediate care facility for the developmentally disabled;

2 (c) a hospice;

3 (d) a critical access hospital;

4 (e) a long-term care facility; or

5 (f) a residential treatment facility.

6 ~~(9) "Practice or teaching of barbering" means any of the following practices performed for payment,~~
 7 ~~either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of~~
 8 ~~disease or physical or mental ailments:~~

9 ~~(a) shaving or trimming a beard;~~

10 ~~(b) cutting, styling, coloring, or waving hair;~~

11 ~~(c) straightening hair by the use of chemicals;~~

12 ~~(d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other~~
 13 ~~preparations applied by hand or mechanical appliance;~~

14 ~~(e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or~~

15 ~~(f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face,~~
 16 ~~hands, or neck.~~

17 ~~(10) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as~~
 18 ~~provided in subsection (9) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.~~

19 ~~(11) (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing",~~
 20 ~~"manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant~~
 21 ~~cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and~~
 22 ~~body.~~

23 ~~(b) The practice and teaching of cosmetology may not be construed to include itinerant~~
 24 ~~cosmetologists who perform their services without compensation for demonstration purposes in any regularly~~
 25 ~~established store or place of business holding a license from the state of Montana as a store or place of~~
 26 ~~business.~~

27 (22) (a) "Room" means the physical location in which a master esthetician practices under the
 28 supervision of a medical practitioner, as defined in 37-2-101.

1 **(b) The term does not include a room provided in a place of residence that is used for the purposes of**
 2 **master esthetics unless the owner, manager, or operator allows the room to be used for the practice of master**
 3 **esthetics to serve nonresidents for compensation, in which case the room must be licensed as a room.**

4 ~~(12)~~ **(23)** (a) "Salon or shop" means the physical location in which a person licensed under this
 5 chapter practices barbering, ~~or barbering nonchemical~~, cosmetology, electrology, esthetics, master esthetics, or
 6 manicuring.

7 (b) The term does not include:

8 **(i) a room provided in a place of residence that is used for the purposes of barbering, or barbering**
 9 **nonchemical, cosmetology, electrology, esthetics, master esthetics, or manicuring unless the owner, manager,**
 10 **or operator allows the room to be used for the practice of barbering, or barbering nonchemical, or the practice**
 11 **of cosmetology, electrology, esthetics, master esthetics, or manicuring to serve nonresidents for compensation,**
 12 **in which case the room must be licensed as a salon or a shop; or**

13 **(ii) a room within the practice location of a medical practitioner, as defined in 37-2-101, used for master**
 14 **esthetics, if the master esthetician practices under the supervision of the medical practitioner.**

15 ~~(13)~~ **(24)** "School" means a ~~program and~~ location approved by the board ~~with respect to its course of~~
 16 ~~instruction for training persons for licensure in barbering, barbering nonchemical, cosmetology, electrology,~~
 17 ~~esthetics, or manicuring and that meets any other criteria established by the board as provided for in 37-31-~~
 18 ~~311.~~

19 **(25) "Student teacher" means an individual enrolled in a teacher training course as provided for under**
 20 **37-31-301(1)(d).**

21 **(26) "Teacher" means a person licensed under 37-31-305.**

22 **(27) "Teacher training" means a 650-hour course prescribed by the board by rule under this chapter. "**
 23

24 **Section 3.** Section 37-31-103, MCA, is amended to read:

25 **"37-31-103. Purpose.** It is a matter of legislative policy in the state of Montana that the practice of
 26 barbering, barbering nonchemical, cosmetology, electrology, esthetics, master esthetics, and manicuring
 27 affects the public health, safety, and welfare and is subject to regulation and control in order to protect the
 28 public from unauthorized and unqualified practice."

1

2 **Section 4.** Section 37-31-203, MCA, is amended to read:3 "**37-31-203. Rulemaking powers.** The board shall, prescribe by notice, hearing, and submission of
4 views, adopt rules for:

5 (1) the conduct of board business;

6 (2) the qualification and licensure of applicants to practice ~~barbering, barbering nonchemical,~~
7 ~~cosmetology, electrology, esthetics, or manicuring or to teach barbering, barbering nonchemical, cosmetology,~~
8 ~~electrology, esthetics, or manicuring or teach under this chapter;~~9 (3) the regulation and instruction of ~~apprentices and~~ students;10 (4) the conduct of schools of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics,~~
11 ~~and manicuring for apprentices and~~ students;

12 (5) the qualification and licensure of applicants for booth rental licenses; and

13 (6) generally the conduct of the persons, firms, or corporations affected by this chapter."
1415 **Section 5.** Section 37-31-301, MCA, is amended to read:16 "**37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
17 unlawful ~~to~~:18 (a) ~~to~~ practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, master
19 esthetics, or manicuring for compensation;20 (b) ~~own, manage, operate, or conduct a school of barbering, barbering nonchemical, cosmetology,~~
21 ~~electrology, esthetics, or manicuring for an unlicensed student to provide services as a barber, a barber~~
22 ~~nonchemical, a cosmetologist, an electrologist, an esthetician, a master esthetician, or a manicurist other than~~
23 in a licensed school;24 (c) ~~manage or operate a salon or shop or a booth; or to own, manage, or operate a school without a~~
25 license; or26 (d) ~~to~~ teach in a school of ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or~~
27 ~~manicuring other than as a student enrolled in a teacher training course.~~

28 (2) It is unlawful:

1 (a) ~~for a person who owns, manages, or controls a salon or shop to employ or use an unlicensed~~
 2 ~~person as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist to~~
 3 ~~practice microblading and light energy treatments, including nonablative lasers, intense pulsed light, tattoo~~
 4 ~~removal, and advanced hair removal unless under the supervision of a medical practitioner, as defined in 37-2-~~
 5 ~~101;~~

6 (b) to employ or use an unlicensed person as a barber, a barber nonchemical, a cosmetologist, an
 7 electrologist, an esthetician, a master esthetician, or a manicurist;

8 (c) to operate a school of ~~for a teacher or student teacher to practice~~ barbering, barbering
 9 nonchemical, cosmetology, electrology, esthetics, master esthetics, or manicuring ~~without complying with all of~~
 10 ~~the regulations of 37-31-311 on the public in a school;~~

11 (d) for student teachers to substitute for full-time teachers;

12 (e) to operate a salon, shop, booth, or room in connection with a school;

13 ~~(e) (f)~~ (f) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, master
 14 esthetics, or manicuring in any place other than in outside a licensed salon, or shop, or room as provided in this
 15 chapter, except when a licensee is requested:

16 (i) by a customer to go to a place other than a licensed salon, ~~or shop, or room~~ and is sent to the
 17 customer from a licensed salon, ~~or shop, or room~~; or

18 (ii) by a customer with a disability or homebound customer to go to the customer's place of residence;

19 or

20 ~~(d) (g)~~ (g) to violate any of the provisions of this chapter."

21

22 **Section 6.** Section 37-31-302, MCA, is amended to read:

23 **"37-31-302. License required to practice, teach, or operate salon, ~~or shop, room, booth, or~~**

24 **school.** (1) A person may ~~not practice or teach~~ barbering, barbering nonchemical, cosmetology, electrology,
 25 esthetics, master esthetics, or manicuring ~~without~~ with a license as provided for in 37-31-304.

26 (2) ~~A place may not be used or maintained for the teaching of~~ A person may teach barbering,
 27 barbering nonchemical, cosmetology, electrology, esthetics, master esthetics, or manicuring ~~for compensation~~
 28 ~~unless licensed as a school~~ with a license as provided for in 37-31-311.

1 ~~(3)~~ (3) A place may be used to teach barbering, barbering nonchemical, cosmetology, electrology,
2 esthetics, master esthetics, or manicuring for compensation with a license as provided for in 37-31-311.

3 ~~(3) (4)~~ A person may ~~not temporarily~~ operate or manage a salon, ~~or shop,~~ booth, or room without a
4 license ~~or a temporary operating permit~~ as provided in 37-31-312.

5 ~~(4)~~ A person may not operate or conduct a school of barbering, barbering nonchemical, cosmetology,
6 electrology, esthetics, or manicuring or teach barbering, barbering nonchemical, cosmetology, electrology,
7 esthetics, or manicuring without a license to teach barbering, barbering nonchemical, cosmetology, electrology,
8 esthetics, or manicuring.

9 (5) A person may ~~not~~ manage or operate a booth ~~without a booth rental~~ with a license as provided in
10 39-51-204.

11 (6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon, ~~or shop,~~
12 booth, or room shall apply to the department for a license. The application must be accompanied by the license
13 fee.

14 (7) A license may ~~not~~ be issued until when the inspection fees required in 37-31-312 have been paid."

15

16 **Section 7.** Section 37-31-303, MCA, is amended to read:

17 "**37-31-303. Application for license to practice or teach.** An applicant for a license to practice or
18 teach ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ under this chapter
19 shall file an application provided by the department and pass the examination prescribed by the board by rule to
20 qualify for licensure."

21

22 **Section 8.** Section 37-31-304, MCA, is amended to read:

23 "**37-31-304. Qualifications of applicants for license to practice.** ~~(1) Before a person may practice:~~

24 ~~(a) barbering, the person shall obtain a license to practice barbering from the department;~~

25 ~~(b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from~~
26 ~~the department;~~

27 ~~(c) cosmetology, the person shall obtain a license to practice cosmetology from the department;~~

28 ~~(d) electrology, the person shall obtain a license to practice electrology from the department;~~

1 ~~(e) manicuring, the person shall obtain a license to practice manicuring from the department unless~~
2 ~~the person is licensed to practice cosmetology; or~~

3 ~~(f) esthetics, the person shall obtain a license to practice esthetics from the department unless the~~
4 ~~person is already licensed to practice cosmetology.~~

5 ~~(2) —(a) —(i) — (1) (a)~~ To be eligible to take the licensing examination ~~to practice barbering or barbering~~
6 ~~nonchemical under this chapter~~, the applicant must be at least 18 years of age, must be of good moral
7 character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of
8 public instruction. An applicant may apply to the board for an exception to the requirement of a high school
9 diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

10 (b) A person qualified under this section shall file an application with the department, deposit the
11 application fee with the department, and pass an examination as to fitness to practice.

12 (c) The board shall issue a license to practice under this chapter, without examination, to a person
13 licensed in another state if the board determines that:

14 (i) the other state's course of study hour requirement is equal to or greater than the hour requirement
15 in this state; and

16 (ii) the person's license from the other state is current, and the person is not subject to pending or final
17 disciplinary action for unprofessional conduct or impairment.

18 ~~(ii) (2)~~ An applicant to practice barbering must have completed a course of study of at least 1,100
19 hours ~~in a licensed barbering school and must have received a diploma from the a barbering school or must~~
20 ~~have completed the course of study in barbering at a school of cosmetology authorized to offer a course of~~
21 study in barbering as prescribed by the board by rule.

22 ~~(iii) (3)~~ An applicant to practice barbering nonchemical must have completed a course of study of at
23 least 900 hours ~~in a licensed barbering or barbering nonchemical school, not including hours applicable to the~~
24 ~~use of chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a diploma from~~
25 ~~the a barbering or barbering nonchemical school or must have completed the course of study in barbering or~~
26 ~~barbering nonchemical at a school of cosmetology authorized to offer a course of study in barbering or~~
27 barbering nonchemical as prescribed by the board by rule.

28 ~~(b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee~~

1 with the department and pass an examination as to fitness to practice barbering or barbering nonchemical.

2 (c) ~~The board shall issue a license to practice barbering or barbering nonchemical, without~~
3 ~~examination, to a person licensed in another state if the board determines that:~~

4 (i) ~~the other state's course of study hour requirement is equal to or greater than the hour requirement~~
5 ~~in this state; and~~

6 (ii) ~~the person's license from the other state is current and the person is not subject to pending or final~~
7 ~~disciplinary action for unprofessional conduct or impairment.~~

8 (3) ~~(a) To be eligible to take the examination~~

9 (4) An applicant to practice cosmetology, ~~the applicant must be at least 18 years of age, must be of~~
10 ~~good moral character, and must possess a high school diploma or its equivalent that is recognized by the~~
11 ~~superintendent of public instruction. A person may apply to the board for an exception to the educational~~
12 ~~requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an~~
13 ~~exception. The applicant must have completed a course of study of at least 1,500 hours in a licensed~~
14 ~~cosmetology school and must have received a diploma from the a cosmetology school or must have completed~~
15 ~~the authorized to offer a course of study in cosmetology as prescribed by the board by rule.~~

16 (b) ~~A person qualified under subsection (3)(a) shall file an application and deposit the required~~
17 ~~application fee with the department and pass an examination as to fitness to practice cosmetology.~~

18 (4) ~~(a) To be eligible to take the examination to practice electrology, the applicant must be at least 18~~
19 ~~years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is~~
20 ~~recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to~~
21 ~~the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for~~
22 ~~granting an exception. The applicant must have completed a course of education, training, and experience in~~
23 ~~the field of electrology as prescribed by the board by rule.~~

24 (b) ~~A person qualified under subsection (4)(a) shall file an application and deposit the required~~
25 ~~application fee with the department and pass an examination as to fitness to practice electrology.~~

26 (5) ~~(a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18~~
27 ~~years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is~~
28 ~~recognized by the superintendent of public instruction. The applicant must have completed a course of study~~

1 ~~prescribed by the board in a licensed school of cosmetology or a licensed school of manicuring. A person may~~
2 ~~apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or~~
3 ~~a certificate of completion from a vocational technical program. The board shall adopt by rule procedures for~~
4 ~~granting an exception.~~

5 ~~(b) A person qualified under subsection (5)(a) shall file an application and deposit the required~~
6 ~~application fee with the department and pass an examination as to fitness to practice manicuring.~~

7 ~~(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18~~
8 ~~years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is~~
9 ~~recognized by the superintendent of public instruction. The applicant must have completed a course of study~~
10 ~~prescribed by the board and consisting of not less than 650 hours of training and instruction in a licensed~~
11 ~~school of cosmetology or a licensed school of esthetics. A person may apply to the board for an exception to~~
12 ~~the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule~~
13 ~~procedures for granting an exception.~~

14 ~~(b) A person qualified under subsection (6)(a) shall file an application and deposit the required~~
15 ~~application fee with the department and pass an examination as to fitness to practice esthetics.~~

16 (5) An applicant to practice electrology must have completed a course of study of at least 600 hours
17 and received a diploma from a school authorized to offer a course of study in electrology as prescribed by the
18 board by rule.

19 (6) An applicant to practice manicuring must have completed a course of study of at least 400 hours
20 and received a diploma from a school authorized to offer a course of study in manicuring as prescribed by the
21 board by rule.

22 (7) An applicant to practice esthetics must:

23 (a) have completed a course of study of at least 650 hours of training and received a diploma from a
24 school authorized to offer a course of study in esthetics as prescribed by the board by rule; or

25 (b) be a licensed cosmetologist and file an application, deposit the application fee with the
26 department, and pass the esthetics examination as to fitness to practice.

27 (8) An applicant to practice master esthetics must:

28 (a) have completed a course of study of at least 1,150 hours of training and received a diploma from a

- 1 school authorized to offer a course of study in master esthetics as prescribed by the board by rule;
 2 (b) have completed a nationally recognized master esthetics program course that is approved by the
 3 board; or
 4 (c) be an esthetician and:
 5 (i) have completed an additional course of study prescribed by the board by rule and consisting of not
 6 less than 500 hours of training and instruction in a school authorized to offer a course of study in master
 7 esthetics or in a nationally recognized program that is approved by the board; or
 8 (ii) for estheticians who completed a course of study in a school authorized to offer a course of study in
 9 esthetics before October 1, 2018, have 3 years of experience practicing esthetics."

10

11 **Section 9.** Section 37-31-305, MCA, is amended to read:

12 **"37-31-305. Qualifications of applicants for license to teach.** ~~(1) Before a person may teach or~~
 13 ~~instruct in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the~~
 14 ~~person shall obtain from the department a license to teach.~~

15 ~~(2) To be eligible for a license to teach barbering, barbering nonchemical, cosmetology, electrology,~~
 16 ~~esthetics, or manicuring, a person must:~~

17 ~~(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized~~
 18 ~~by the superintendent of public instruction;~~

19 ~~(b)(1) An applicant for a license to teach under this chapter:~~

20 ~~(a) must have a license to practice issued by the department in the particular area of practice or~~
 21 ~~scope of practice, in which the person plans to teach;~~

22 ~~(e) (b) must have been actively engaged in that particular area of practice for 12 continuous months~~
 23 ~~before taking the teacher's examination; and~~

24 ~~(d) (c) —(i) must have:~~

25 ~~(i) completed a course of study of 650 hours and received a diploma from a licensed school~~
 26 ~~approved authorized to offer a course of study in teaching as prescribed by the board, certifying satisfactory~~
 27 ~~completion of 650 hours of student teacher training by rule; or~~

28 ~~(ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license~~

1 under this subsection ~~(2)(d)(ii)~~ (2)(c)(ii) has 2 years to complete board-approved coursework related to teaching
2 methodology before a license to teach is renewed;

3 (d) except as provided in subsection (2), must have passed the examination prescribed by the board
4 by rule to qualify for licensure; and

5 (e) shall file an application provided by the board.

6 (2) The board shall issue a license to practice under this chapter, without examination, to a person
7 licensed in another state if the board determines that:

8 (a) the other state's course of study hour requirement is equal to or greater than the hour requirement
9 in this state; and

10 (b) the person's license from the other state is current and the person is not subject to pending or final
11 disciplinary action for unprofessional conduct or impairment."

12

13 **Section 10.** Section 37-31-308, MCA, is amended to read:

14 **"37-31-308. Exemption for persons with disabilities.** A person with a physical disability who is
15 trained for barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to practice
16 under this chapter by the department of public health and human services is, for a period of 1 year immediately
17 following graduation, exempt from the examination and the fees described in 37-31-323. On certification from
18 the department of public health and human services that a department of public health and human services
19 beneficiary has successfully completed the required training in a school of ~~barbering, barbering nonchemical,~~
20 ~~cosmetology, electrology, esthetics, or manicuring,~~ the department shall issue the person the necessary license
21 to practice the profession in this state."

22

23 **Section 11.** Section 37-31-311, MCA, is amended to read:

24 **"37-31-311. Schools -- license -- requirements -- bond -- curriculum.** (1) A person, firm,
25 partnership, corporation, or other legal entity may ~~not~~ operate a school ~~for the purpose of teaching barbering,~~
26 ~~barbering nonchemical, cosmetology, electrology, esthetics, or manicuring~~ for compensation unless with a
27 licensed license issued by the department. Application for the license must be filed with the department on ~~an~~
28 ~~approved~~ a form approved by the board by rule.

1 (2) A school ~~for teaching barbering or barbering nonchemical~~ may not be granted a license unless the
2 school complies with or is able to comply with the following requirements:

3 (a) It has in its employ ~~either a licensed~~ at least one teacher ~~who is at all times involved in the~~
4 ~~immediate supervision of the work of the school or other teachers determined by the board to be necessary for~~
5 ~~the proper conduct of the school. There may.~~

6 **(b)** ~~It does not~~ be have more than 25 students for each teacher.

7 **(c)** The school's course of training and technical instruction comply with rules prescribed by the board.

8 **(b) (d)** ~~It possesses apparatus and equipment the board determines necessary for the teaching of all~~
9 ~~subjects or practices of barbering or barbering nonchemical~~ consistent with industry standards.

10 **(e)** It keeps a daily record of the attendance of each student, establishes grades, and holds
11 examinations before issuing a diploma.

12 **(f)** It does not permit a person to sleep in, or use for residential purposes or for any other purpose, a
13 room, wholly or in part, that could make the school unsanitary.

14 **(e) (3)** ~~It~~ A school for teaching barbering may not be granted a license unless the school maintains a
15 school term of not less than 1,100 hours for barbering and a course of practical training and technical
16 instruction equal to the requirements for board examinations.

17 **(4)** A school for teaching barbering nonchemical may not be granted a license unless the school
18 maintains a school term of ~~and~~ not less than 900 hours for barbering nonchemical and a course of practical
19 training and technical instruction equal to the requirements for board examinations. ~~The school's course of~~
20 ~~training and technical instruction must be prescribed by the board by rule.~~

21 **(d)** ~~It keeps a daily record of the attendance of each student, establishes grades, and holds~~
22 ~~examinations before issuing diplomas.~~

23 **(e)** ~~It does not permit a person to sleep in or use for residential purposes or for any other purpose that~~
24 ~~would make the room unsanitary a room used wholly or in part for a school of barbering or barbering~~
25 ~~nonchemical.~~

26 **(3) (5)** A school for teaching cosmetology may not be granted a license unless the school ~~complies~~
27 ~~with or is able to comply with the following requirements:~~

28 **(a)** ~~It has in its employ either a licensed teacher who is at all times involved in the immediate~~

1 supervision of the work of the school or other teachers determined by the board to be necessary for the proper
2 conduct of the school. There may not be more than 25 students for each teacher.

3 ~~(b) It possesses apparatus and equipment the board determines necessary for the teaching of all
4 subjects or practices of cosmetology.~~

5 ~~(c) It maintains a school term of not less than 1,500 hours and a course of practical training and
6 technical instruction equal to the requirements for board examinations. The school's course of training and
7 technical instruction must be prescribed by the board by rule.~~

8 ~~(d) It keeps a daily record of the attendance of each student, establishes grades, and holds
9 examinations before issuing diplomas.~~

10 ~~(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that
11 would make the room unsanitary a room used wholly or in part for a school of cosmetology.~~

12 ~~(4) (6) A school for teaching electrology may not be granted a license unless the school maintains a
13 school term of not less than 600 hours and a course of practical training and technical instruction ~~prescribed by~~
14 ~~the equal to the requirements for board, and possesses apparatus and equipment necessary for teaching~~
15 ~~electrology as prescribed by the board by rule~~ examinations.~~

16 ~~(5) (7) A school for teaching manicuring may not be granted a license unless the school ~~complies with~~
17 ~~subsections (3)(a) and (3)(d) and the following requirements:~~~~

18 ~~(a) It possesses apparatus and equipment the board determines necessary for the teaching of all
19 subjects or practices of manicuring.~~

20 ~~(b) It maintains a school term and a course of practical training and technical instruction as prescribed
21 by the board by rule.~~

22 ~~(c) It does not of not less than 400 hours and a course of practical training and technical instruction
23 equal to permit a person to sleep in or use for residential purposes or for any other purpose that would make
24 the room unsanitary a room used wholly or in part for a school of manicuring the requirements for board
25 examinations.~~

26 ~~(6) (8) A school for teaching esthetics may not be granted a license unless the school ~~complies with~~
27 ~~subsections (3)(a) and (3)(d) and the following requirements:~~~~

28 ~~(a) It possesses apparatus and equipment the board determines necessary for the ready and full~~

1 ~~teaching of all subjects or practices of esthetics.~~

2 ~~(b) It maintains a school term and a course consisting of not less than 650 hours and a course of~~
 3 ~~practical training and technical instruction as prescribed by the board equal to the requirements for board~~
 4 ~~examinations.~~

5 ~~(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that~~
 6 ~~would make the room unsanitary a room used wholly or in part for a school of esthetics.~~

7 (9) A school for teaching master esthetics may not be granted a license unless the school maintains a
 8 school term of not less than 500 hours and a course of practical training and technical instruction in master
 9 esthetics equal to the requirements for board examinations, or a school term of not less than 1,150 hours and a
 10 course of practical training and technical instruction in esthetics and master esthetics equal to the requirements
 11 for board examinations.

12 (10) A school for teaching teachers may not be granted a license unless the school maintains a school
 13 term of not less than 650 hours and a course of practical training and technical instruction equal to the
 14 requirements for board examinations.

15 ~~(7) (11) Licenses for schools of barbering, barbering nonchemical, cosmetology, electrology,~~
 16 ~~esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.~~

17 ~~(8) A teacher or student teacher may not be permitted to practice barbering, barbering nonchemical,~~
 18 ~~cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, barbering~~
 19 ~~nonchemical, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a~~
 20 ~~course of student teacher training may not have, at any one time, more than one student teacher for each full-~~
 21 ~~time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time~~
 22 ~~teachers.~~

23 ~~(9) The board may make further rules necessary for the proper conduct of schools of barbering,~~
 24 ~~barbering nonchemical, cosmetology, electrology, esthetics, and manicuring.~~

25 ~~(40) (12) The board shall require the person, firm, partnership, corporation, or other legal entity~~
 26 ~~operating a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to~~
 27 ~~furnish a bond or other similar security in the amount of \$5,000 and in a form and manner prescribed by the~~
 28 ~~board by rule.~~

1 ~~(11) A professional salon or shop may not be operated in connection with a school of barbering,~~
 2 ~~barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.~~

3 ~~(12) The board may, by rule, establish a suitable curriculum for teachers' training in licensed schools of~~
 4 ~~barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring."~~

5

6 **Section 12.** Section 37-31-312, MCA, is amended to read:

7 **"37-31-312. Inspection -- temporary permits.** (1) The department shall appoint one or more
 8 inspectors, each of whom shall devote time to inspecting salons, ~~or shops,~~ booths, schools, and rooms and
 9 performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter
 10 a salon or shop, booth, school, or room ~~of barbering, school of barbering nonchemical, school of cosmetology,~~
 11 ~~school of electrology, school of esthetics, or school of manicuring~~ during business hours for the purpose of
 12 inspection, ~~and the~~ The refusal of a licensee ~~or school~~ to permit the inspection during business hours is cause
 13 for license revocation ~~of a licensee's or school's license~~.

14 (2) When an owner or operator applies for a shop, ~~or salon,~~ booth, room, or school license and pays
 15 licensure and inspection fees prescribed by the board, the board:

16 (a) may authorize the department to grant to a new salon, ~~or shop,~~ booth, room, or school a
 17 temporary operating permit; or

18 (b) shall, in order to avoid a disruption of business, authorize the department to grant a temporary
 19 operating permit to an existing shop, ~~or salon,~~ booth, room, or school whose owner or operator is currently in
 20 good standing with the board, as defined by the board by rule, and who is relocating to a new location. An
 21 owner or operator of an existing shop, ~~or salon,~~ booth, room, or school may not receive a temporary operating
 22 permit under this section within 90 days of a license renewal date.

23 (3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon, ~~or shop,~~
 24 booth, room, or school to operate until an inspection is conducted of the salon, ~~or shop,~~ booth, room, or school
 25 and the salon, ~~or shop,~~ booth, room, or school and the owner, or manager, or operator has had 30 days to
 26 respond in writing to all inspection report violations to the board office. A license will not be granted to a salon,
 27 ~~or shop,~~ booth, room, or school if the board does not receive a response within 30 days from the date of the
 28 inspection or the response received does not indicate that all of the inspection violations have been corrected,

1 in which case a new license application must be filed. A temporary permit is not renewable.

2 (4) The department shall require an inspector appointed under subsection (1) to conduct an annual
3 inspection of each salon, ~~or shop,~~ booth, room, or school in the state."

4

5 **Section 13.** Section 37-31-323, MCA, is amended to read:

6 **"37-31-323. Fees.** (1) Fees for licenses must be paid to the department in amounts prescribed by the
7 board by rule.

8 (2) The license fees must be paid in advance to the department unless otherwise ~~provided~~ prescribed
9 by the board by ~~board~~-rule.

10 (3) Other or additional license fees may not be imposed by a municipal corporation or other political
11 subdivision of this state ~~for the practice or teaching of barbering, barbering nonchemical, cosmetology,~~
12 electrology, esthetics, or manicuring to practice under this chapter."

13

14 **Section 14.** Section 37-31-331, MCA, is amended to read:

15 **"37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing.** (1)

16 The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the
17 following cases:

18 (a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon, ~~or shop,~~
19 booth, room or a school ~~of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or~~
20 ~~manicuring~~ to comply with this chapter;

21 (b) failure to comply with the sanitary rules ~~adopted~~ prescribed by the board by rule and approved by
22 the department of public health and human services for the regulation of salons, ~~or shops,~~ booths, rooms, or
23 schools ~~of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring;~~

24 (c) gross malpractice;

25 (d) continued practice by a person who knowingly has an infectious or contagious disease;

26 (e) habitual drunkenness or habitual addiction to the use of any habit-forming drug;

27 (f) permitting a license to be used when the holder is not personally, actively, and continuously
28 engaged in business; or

1 (g) failure to display the license.

2 (2) The board may not refuse to authorize the department to issue or renew a license or to revoke or
3 suspend a license already issued until after notice and opportunity for a hearing."
4

5 **Section 15.** Section 37-33-404, MCA, is amended to read:

6 **"37-33-404. Exemptions -- rules.** (1) The provisions of this chapter do not limit or regulate the scope
7 of practice of any other profession licensed under the laws of this state, including but not limited to medicine,
8 dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine,
9 occupational therapy, naturopathic medicine, cosmetology, manicuring, barbering, barbering nonchemical,
10 esthetics, master esthetics, electrology, professional counseling, social work, psychology, or athletic training.

11 (2) A continuing education course instructor is not required to be licensed as a massage therapist.

12 (3) A massage therapy student, when enrolled in a board-approved ~~program~~ course and while
13 practicing the skills of massage therapy designated as a school-sanctioned activity and under the supervision of
14 a licensed massage therapist, is not required to be licensed.

15 (4) The provisions of this chapter do not limit or regulate the practice of Native American traditional
16 healing or faith healing.

17 (5) (a) The provisions of this chapter do not limit or regulate the practice of any person who uses:

18 (i) touch, words, and directed movement to deepen awareness of existing patterns of movement in
19 the body, as well as to suggest new possibilities of movement. Exempt practices under this subsection (5)(a)(i)
20 include but are not limited to the Feldenkrais method of somatic education, the Trager approach to movement
21 education, and body-mind centering.

22 (ii) touch to affect the human energy systems, energy meridians, or energy fields. Exempted practices
23 under this subsection (5)(a)(ii) include but are not limited to polarity bodywork therapy, Asian bodywork therapy,
24 acupressure, jin shin do, qigong, reiki, shiatsu, and tui na.

25 (iii) touch to effect change on the integration of the structure of the physical body. Exempt practices
26 under this subsection (5)(a)(iii) include but are not limited to the Rolf method of structural integration, Rolfing,
27 and Hellerwork.

28 (iv) touch to affect the reflex areas located in the hands, feet, and outer ears. Exempt practices under

1 this subsection (5)(a)(iv) include but are not limited to reflexology.

2 (b) The exemptions in subsection (5)(a) apply only if:

3 (i) the person is recognized by or meets the established requirements of either a professional
4 organization or credentialing agency that represents or certifies the respective practice based on a minimum
5 level of training, demonstration of competence, and adherence to ethical standards; and

6 (ii) the person's services are not designated as or implied to be massage therapy."
7

8 **Section 16.** Section 49-2-101, MCA, is amended to read:

9 **"49-2-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following
10 definitions apply:

11 (1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle
12 responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for
13 discrimination without reference to age.

14 (2) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as
15 distinguished from a general interest, and who has been or is likely to be specially and injuriously affected by a
16 violation of this chapter.

17 (3) "Commission" means the commission for human rights provided for in 2-15-1706.

18 (4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

19 (5) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt
20 and defer its payment, or to purchase property or services and defer payment. It includes without limitation the
21 right to incur and defer debt that is secured by residential real property.

22 (6) "Credit transaction" means any invitation to apply for credit, application for credit, extension of
23 credit, or credit sale.

24 (7) "Creditor" means a person who, regularly or as a part of the person's business, arranges for the
25 extension of credit for which the payment of a financial charge or interest is required, whether in connection
26 with loans, sale of property or services, or otherwise.

27 (8) "Department" means the department of labor and industry provided for in 2-15-1701.

28 (9) "Educational institution" means a public or private institution and includes an academy; college;

1 elementary or secondary school; extension course; kindergarten; nursery; school system; university; business,
2 nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

3 (10) (a) "Employee" means an individual employed by an employer.

4 (b) The term does not include an individual providing services for an employer if the individual has an
5 independent contractor exemption certificate issued under 39-71-417 and is providing services under the terms
6 of that certificate.

7 (11) "Employer" means an employer of one or more persons or an agent of the employer but does not
8 include a fraternal, charitable, or religious association or corporation if the association or corporation is not
9 organized either for private profit or to provide accommodations or services that are available on a
10 nonmembership basis.

11 (12) "Employment agency" means a person undertaking to procure employees or opportunities to
12 work.

13 (13) "Financial institution" means a commercial bank, trust company, savings bank, finance company,
14 savings and loan association, credit union, investment company, or insurance company.

15 (14) "Housing accommodation" means a building or portion of a building, whether constructed or to be
16 constructed, that is or will be used as the sleeping quarters of its occupants.

17 (15) "Labor organization" means an organization or an agent of an organization organized for the
18 purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms
19 or conditions of employment, or of other mutual aid and protection of employees.

20 (16) "National origin" means ancestry.

21 (17) (a) "Organization" means a corporation, association, or any other legal or commercial entity that
22 engages in advocacy of, enforcement of, or compliance with legal interests affected by this chapter.

23 (b) The term does not include a labor organization.

24 (18) "Person" means one or more individuals, labor unions, partnerships, associations, corporations,
25 legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees'
26 associations, employers, employment agencies, organizations, or labor organizations.

27 (19) (a) "Physical or mental disability" means:

28 (i) a physical or mental impairment that substantially limits one or more of a person's major life

1 activities;

2 (ii) a record of such an impairment; or

3 (iii) a condition regarded as such an impairment.

4 (b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental
5 disability includes the failure to make reasonable accommodations that are required by an otherwise qualified
6 person who has a physical or mental disability. An accommodation that would require an undue hardship or that
7 would endanger the health or safety of any person is not a reasonable accommodation.

8 (20) (a) "Public accommodation" means a place that caters or offers its services, goods, or facilities to
9 the general public subject only to the conditions and limitations established by law and applicable to all persons.
10 It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or
11 alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern,
12 nightclub, trailer park, resort, campground, barbering, barbering nonchemical, cosmetology, electrology,
13 esthetics, master esthetics, or manicuring salon, ~~or~~ shop, room, bathroom, resthouse, theater, swimming pool,
14 skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public
15 amusement and business establishments.

16 (b) Public accommodation does not include an institution, club, or place of accommodation that
17 proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be
18 considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and
19 regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or
20 indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this
21 subsection (20), any lodge of a recognized national fraternal organization is considered by its nature distinctly
22 private."
23

24 **NEW SECTION. Section 17. Transition -- application.** Within 60 days after [the effective date of this
25 section], the board membership must reflect [section 1]. All terms of all board members appointed under the
26 previous composition of the board terminate 60 days following [the effective date of this section], and all
27 appointments made and vacancies filled after [the effective date of this section] must be in accordance with
28 [section 1]. The appointments must consist of 2, 3, 4, or 5-year terms at the governor's discretion, so the initial

1 terms of the newly composed board members are staggered in accordance with [section 1].

2

3 NEW SECTION. Section 18. Saving clause. [This act] does not affect rights and duties that
4 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

5

6 NEW SECTION. Section 19. Severability. If a part of [this act] is invalid, all valid parts that are
7 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
8 the part remains in effect in all valid applications that are severable from the invalid applications.

9

10 NEW SECTION. Section 20. Effective dates. (1) Except as provided in subsection (2), [this act] is
11 effective January 1, 2022.

12 (2) [Sections 16, 18, 19] and this section are effective on passage and approval.

13

- END -