

CHAPTER 159.

BEAUTY PARLORS.

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159.01 Definitions, limitations, exceptions. (1) "Cosmetic art" is the systematic massaging with the hands or mechanical apparatus of the scalp, face, neck, shoulders and hands, the use of cosmetic preparations and antiseptics; manicuring, bobbing, dyeing, cleansing, arranging, waving, curling and marcelling of the hair and the use of electricity for stimulating and for the removal of superfluous hair.

(2) "Cosmetologist" is any person who, for compensation, either directly or indirectly or in the expectation thereof practices cosmetic art.

(3) "Beauty parlor" embraces and includes any establishment or place of business wherein cosmetic art is practiced.

(4) "Manager" or "managing cosmetician," as used in this section, is defined as any person who has direct supervision over operators or apprentices in a beauty parlor or school.

(5) "Operator" is any person who is not a manager, itinerant or apprentice cosmetician, who practices cosmetic art under the direction and supervision of a managing cosmetician.

(6) "Itinerant cosmetician" is any person who practices cosmetic art outside of a beauty parlor either in going from house to house or from place to place at regular or irregular intervals, within any one municipality.

(7) "Manicurist" is any person who does manicuring only, outside of a beauty parlor, for compensation.

(8) "Apprentice" is any person who is not a manager, itinerant cosmetician, operator, or student who is engaged in learning and acquiring the practice of cosmetic art under the direction and supervision of a licensed managing cosmetician. "Student" is any person engaged in learning cosmetology in a licensed school of cosmetology.

(9) A school of cosmetic art is a school established under the provisions of section 159.02.

(9a) "Board" when used in this chapter shall mean the state board of health.

(10) Licenses to practice cosmetic art shall not confer upon the holders thereof the right to diagnose, prescribe for or treat diseases or conditions other than those indicated in the definition of cosmetic art contained in subsection (1) of this section, except that licensed cosmeticians may, under direction of a duly licensed and practicing physician, give treatments for conditions of the skin other than as indicated in subsection (1) of this section, as specified by such directing physician.

(11) The provisions of this chapter shall not apply to:

(a) Persons authorized under the laws of this state to practice medicine and surgery and the branches thereof, chiroprodists, masseurs, hospital attendants, nurses and student nurses.

(b) Barbers duly licensed under the laws of this state, in the performance of the usual and ordinary duties of their vocation. [1939 c. 431; 1943 c. 275 s. 44]

159.02 Schools teaching cosmetic art; curriculum; requirements; regulation. (1) No person, firm or corporation shall operate a school for the purpose of teaching cosmetic art for compensation unless a proper annual certificate of registration has been obtained from the state board of health.

(2) Application for such certificate shall be filed with the board in such form as the board shall prescribe. No school for teaching cosmetic art shall be granted a certificate of registration unless it shall attach to its staff a regularly licensed physician and employ and maintain a sufficient number of instructors regularly as such who shall hold a manager's license as prescribed by the state board of health, nor unless at the time of application for said certificate the school shall have actually enrolled not less than ten bona fide students. If an applicant for a certificate of registration has not previously had a cer-

tificate of registration, said applicant must present to the state board of health proof in such form as the board may prescribe that the applicant has contracts with at least ten persons, showing that they will enroll as students in said school provided that said application be granted.

(3) No school teaching cosmetic art shall be granted a certificate of registration unless it requires as a prerequisite to admission, completion, as shown by certificate or affidavit, of the tenth grade or an equivalent education as determined by the extension division of the university of Wisconsin or the Milwaukee board of school directors, and unless it requires as a prerequisite to graduation a course of instruction of not less than fifteen hundred hours to be completed within a period of not less than eight months instruction of not more than eight hours in any one day. Said instruction shall be given only between the hours of 8:00 A. M. and 6:00 P. M. on week days. Such course of instruction shall include the following subjects: scientific fundamentals of cosmetic art; hygiene; histography of the hair, skin and nails; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; massaging and manipulating of the muscles of the scalp, face, neck, shoulders and hands; hair shaping, bobbing, thinning, singeing and shampooing; manicuring; cleansing, arranging, permanent waving, water waving, finger waving, round curling and marcelling of the hair; hair dyeing and coloring; the use of cosmetic preparations and antiseptics; and the care of instruments and equipment and may include electrology.

(4) No school holding a certificate of registration from the state board of health shall enroll or admit any student unless such student shall make and file in duplicate a duly verified application in a form to be prepared and furnished by the state board of health. One copy of such application shall be retained by the school and the other copy shall be sent to the state board of health.

(5) A school shall provide its students with subjects for practical work. The charge made for materials used shall not exceed the reasonable cost thereof. No school shall advertise for patrons to be used in clinical work. The board shall enforce the provisions of this section.

(6) Any school teaching cosmetic art shall display or cause to be displayed in its entrance, waiting room and in the rooms where patron public service is given, a sign furnished by the board, indicating that all work therein is done exclusively by students.

(7) The annual fee for a certificate of registration for a school to teach cosmetic art shall be not less than one hundred dollars for all schools now holding a certificate of registration. Applicants for a certificate of registration who do not at the time of the passage of this section hold a certificate of registration shall accompany their application with a fee of three hundred dollars. Said application fee shall include the fee for the first certificate of registration provided said application be granted. The annual fee for a certificate of registration shall be paid on or before the thirtieth day of November, annually; after that date an additional fee of twenty-five dollars shall be paid.

(8) Any person may receive a student permit:

- (a) Who is at least seventeen years of age;
- (b) Who is of good moral character and temperate habits;
- (c) Who is in good physical and mental condition;
- (d) Who, as shown by certificate or affidavit, has completed the tenth grade, or has an equivalent education as determined by the extension division of the university of Wisconsin, or the Milwaukee board of school directors; and

(e) Who attends a school teaching cosmetic art which has a certificate of registration from the state board of health. [1939 c. 457]

Note: Persons enrolled in a cosmetic school, and later graduated therefrom, who had not completed the period of apprenticeship and training required by 159.02, 159.08 (b), Stats. 1937, when those statutes were amended in 1939, and whose school was not one having the certificate of registration required by 159.02, had no right to take the examination for cosmetologist under the statutes as they existed at the time of the amendments, and hence did not obtain any "vested rights" of which they could be unconstitutionally deprived by the fact that the amendments of 1939 prescribed new requirements in order to qualify for the examination. *Moratto v. Harper*, 237 W 295, 296 NW 902.

The provision in 159.02 (5) that a school of cosmetic art shall provide its students with subjects for practical work, but that the charge made for materials used shall not exceed the reasonable cost thereof, is valid as a proper exercise of the police power of the state to regulate such schools so as

to prevent imposition on the public and evasion of the provisions of the statutes through charging an exorbitant price for the materials used. The state board of health acted within the scope of its powers under 159.02 (5) and 159.03 (1), in making an order setting up a schedule of reasonable prices or costs of materials to be charged by schools to patrons for work done by students, and the reasonableness of those prices was not before the trial court, nor before the supreme court on appeal, in an action by a school to enjoin the board from enforcing such order, but the complainant should have asked the board for a hearing thereon, as provided by rule of the board, and then, if aggrieved, should have proceeded by certiorari to obtain a review of the order. *Toebe Academy of Beauty Culture v. Kelly*, 239 W 103, 300 NW 476.

Demonstrators for dealers in beauty parlor equipment and supplies practice cosmetic art if they demonstrate upon subjects and teach cosmetic art when they demon-

strate equipment in actual use; dealer is aiding and abetting violation. 20 Atty. Gen. 585.

Authority to determine equivalency of tenth grade education under (3) can be exercised only by agencies named in statute. 28 Atty. Gen. 692.

Public vocational schools are not required to pay annual license fee provided by (7) for certificate of registration to teach cosmetic art. 29 Atty. Gen. 314.

Students matriculated in school of cosmetology on days other than first Monday and four days thereafter in each odd-numbered month, contrary to board of health's rule 11, are not entitled to student permits under 159.02 (8), and may be prosecuted for engaging in practice work under 159.15. School authorities misleading students as

to legality of such matriculation may be prosecuted under 159.16. Student permits issued to such students heretofore, if any, may be revoked under 159.14. 29 Atty. Gen. 424.

Student transferring from one school of cosmetology to another must file application in second school under (4). Student so transferring is entitled to credit for hours put in at first school, notwithstanding transfer may have been made on date other than that fixed by rule 11 of board for entering school, since rule applies only to original entries. 1500 hours of instruction required for graduation under (3) need not all be earned in same school although they must all be earned in schools registered by board. 30 Atty. Gen. 107.

159.03 Supervision by the board; regulations. (1) The board shall enforce the provisions of this chapter and shall prescribe and enforce rules and regulations governing beauty parlors, and schools teaching cosmetic art and for the examining and licensing of managers, operators and manicurists and the registration of apprentices and students, and shall make and enforce rules governing sanitary and hygienic conditions surrounding the practice of cosmetic art and the conduct and operation of beauty parlors and schools of cosmetic art.

(2) The board shall keep a record of all students, registered apprentices, licensed managers, operators, itinerant cosmeticians and manicurists, and a record of its proceedings relating to issuances, refusals, renewals, suspensions and revocations of each license with the name, place of business and residence of each licensee and certificate and permit holder. These records shall be open to the public inspection at all reasonable times.

(3) If a beauty parlor or school teaching cosmetic art be found insanitary or if any person working therein be charged with imparting a communicable disease the board may immediately order the local health officer to close such beauty parlor or school and the person so charged shall not practice or teach cosmetology until authorized to do so by the board. [1939 c. 431]

159.04 Division of cosmetology. (1) There is created and the board shall maintain a division thereof to be known as the division of cosmetology. Such division shall be composed of a supervisor, field inspectors, three examiners and such other assistants as the board may deem necessary to effectively carry out the provisions of this chapter.

(2) The board shall appoint a board of examiners in the division of cosmetology. Such board shall consist of three competent persons, each of whom shall have been engaged in this state, for at least five years immediately prior to his appointment, in the practice of all branches of cosmetic art as a managing cosmetician. No two members shall be graduates of the same school of cosmetic art or practitioners of the same system or method. Not more than two persons shall be selected from any one county. The board may remove any members of said board of examiners for cause.

(3) The provisions of chapter 16 shall not apply to appointments and removals of examiners. One examiner shall be appointed for a term expiring January first, next following his appointment; one examiner shall be appointed for a term expiring January first of the second year next following such appointment; and one examiner shall be appointed for a term expiring January first of the third year following such appointment. Thereafter members of the board of examiners shall be appointed and hold offices for a term of three years each. Each member shall hold office until his successor is appointed and qualified.

(4) Any vacancies on said board of examiners shall be filled by appointment by the board for the unexpired term. Each examiner shall receive ten dollars for each day actually engaged in the performance of his duty and his actual and necessary expenses incurred. [1939 c. 431]

159.05 Field inspectors. The board shall appoint, under the provisions of chapter 16, not less than four persons as field inspectors, each of whom shall have been engaged in the practice of cosmetic art in this state as a managing cosmetician for the last five years immediately preceding his appointment. Such field inspectors shall devote their time to inspecting beauty parlors and schools of cosmetic art and in the performance of such other duties as may be assigned by the board in connection with this chapter, and may enter any beauty parlor or school of cosmetic art during reasonable business hours for the purposes of inspection. [1939 c. 431]

159.06 Examinations. (1) Examinations for the licensing of managers, operators and manicurists shall be held by the board at least four times a year at such times and in such places as shall be determined by the board.

(2) The examination of applicants for managers and operators shall include both practical demonstrations as well as written and oral tests and shall include the subjects required to be taught in schools of cosmetic art.

(3) The examination of applicants for manicurists shall include both practical demonstrations and written and oral tests in manicuring only.

(4) The board of examiners shall prescribe rules and regulations for the conduct of such examinations, subject to the approval of the board. [1939 c. 431]

Note: One who has both barber's license and beauty parlor license and is authorized to bob hair under either license is not required to comply with state barber's code and discontinue work one-half day per week, so long as he complies with beauty parlor code. 23 Atty. Gen. 400.

159.07 Itinerant cosmeticians; new licenses prohibited. After the effective date of this section no new licenses shall be issued for itinerant cosmeticians, but licenses in effect at the effective date of this section may be renewed as provided in this chapter. [1939 c. 431]

159.08 Applications for licenses; requirements. (1) All applications for licenses under this chapter shall be filed with the board. No license shall be issued unless the applicant presents proof that he is of good moral character; in good physical and mental health, and has completed the tenth grade education or has an equivalent education as determined by the extension division of the university of Wisconsin or the Milwaukee board of school directors.

(2) A manager's license shall be issued only to one:

(a) Who is at least twenty-one years of age.

(b) Who has practiced cosmetic art at least two years under an operator's license in this state.

(c) Who has satisfactorily passed an examination conducted by the board to determine his fitness to practice as a managing cosmetician.

(d) Who is a citizen of the United States.

(2a) The fee to be paid by an applicant for an examination to determine his fitness to receive a manager's license shall be fifteen dollars. If a license be issued the fee for said license shall be five dollars.

(3) The requirements of subsection (1) and paragraph (b) of subsection (2) of this section shall not apply to licensed operators or to persons entitled to the issuance of a manager's license at the time of the taking effect of this section. Such applicants shall be governed by the law applicable when this section was enacted.

(4) An operator's license shall be issued to one:

(a) Who has completed two years as a registered apprentice under the supervision of a managing cosmetician, or who has completed the course prescribed by section 159.02 in a registered beauty school.

(b) Who has satisfactorily passed an examination conducted by the board to determine his fitness to practice cosmetic art.

(4a) The fee to be paid by an applicant for an examination to determine his fitness to receive an operator's license shall be ten dollars. If a license be issued the fee for said license shall be two dollars.

(5) Requirements of subsections (1), (4) and (4a) of this section shall not apply to any duly registered apprentice in any beauty parlor in the state at the time of the enactment of this section nor to any student enrolled in a cosmetic school at the time of the enactment of this section, provided that said school has been approved by the board.

(6) Any cosmetician from out of the state who is at least twenty years of age and presents proof that he is of good moral character, in good physical and mental health and has completed a tenth grade education as verified by certificate or affidavit or has an equivalent education as determined by the extension division of the university of Wisconsin or the Milwaukee board of school directors and either:

(a) Presents a license or certificate as a practicing cosmetician from another state which requires as a prerequisite to the granting of said certificate a course of not less than fifteen hundred hours in an accredited beauty school or an apprenticeship requirement substantially equal to that required in this state, or

(b) Can prove by affidavit that he has practiced as a cosmetician in another state or country for the four years immediately prior to making application in this state shall be entitled to take the examination for an operator's license.

(7) Applicants for a manicurist's license shall be at least eighteen years of age; shall have completed a course of instruction of not less than two hundred hours in not less than two months under the supervision of a licensed manager in a cosmetic school or beauty parlor. No license shall be issued to an applicant unless he shall have successfully passed an examination conducted by the board to determine his fitness to practice as a manicurist.

(8) In case any applicant for a license under this chapter fails to pass an examination the applicant shall be entitled to a further examination within one year thereafter without the payment of any additional fee. Such subsequent examination shall be only in such subjects in which the applicant failed in the first examination. [1939 c. 431]

Note: One is not eligible for examination under (4) (b) until he meets requirements of (4) (a). As used in (4) (a), words "who has completed the course prescribed by section 159.02 in a registered beauty school" imply that entire period of training must be had in registered beauty school. 29 Atty. Gen. 61.

159.09 Beauty parlor licenses. (1) No person, association, firm or corporation shall operate a beauty parlor unless such beauty parlor shall be first licensed by the board. Such licenses shall be renewed annually and shall designate the particular premises licensed.

(2) Before any such license is issued the board shall require sworn proof of ownership of the beauty parlor business in such form as it may prescribe, and the owner shall pay the required fee. Such licenses and renewals shall expire on the thirtieth day of November of the year the same are issued and the said licenses shall not be transferable. Changes of ownership of any beauty parlor shall be reported to the board by the manager of such beauty parlor within five days after such change of ownership.

(3) No part of any premises shall be licensed unless properly equipped for use as a beauty parlor and maintained in a sanitary condition and unless there is a substantial dust and odor-proof partition or wall extending from the floor to the ceiling, separating the beauty parlor from the remainder of said premises. No beauty parlor shall be used as a living, dining or sleeping room. Access to such beauty parlor shall be by means of a separate entrance. Interior doors leading to the beauty parlor from adjacent rooms shall be securely locked and closed and made unusable. Every beauty parlor shall furnish adequate toilet facilities for its patrons. Plans and specifications for any beauty parlor established, altered, moved to a new location or which changes ownership, after the taking effect of this section, showing details as to entrances, windows, openings, partitions, ventilation, toilets, water supply, waste connections, sanitary equipment and other matters affecting the suitability of the premises, as the board may require, shall be submitted to and approved by the board before the premises may be used for a beauty parlor.

(4) Any license granted under authority of this section may be revoked as provided in section 159.14, for violating any of the foregoing provisions or if any of the regulations of the board are not complied with in the operation of a licensed beauty parlor.

(5) The fee for a beauty parlor license shall be three dollars. [1939 c. 431]

159.10 Persons formerly licensed. (1) Any person now actually engaged in the practice of cosmetic art either as a manager, itinerant manicurist or operator who has been duly licensed as such under any provision of law in force at the time of the enactment of this chapter may have such license renewed without examination, providing application for such renewal is made on or before December 1, 1939.

(2) Any person having held a manager's license, who fails to renew such license for a period of three years or more shall, before such license be renewed, practice as a licensed operator in a beauty parlor in this state for at least forty-eight hours a week for a period of six months and pass the examination required by section 159.08. [1939 c. 431]

159.11 Licenses and certificates; terms of license. (1) The board shall furnish a card in such form as it shall determine, bearing the seal of the board and the signature of its secretary, to each:

(a) Apprentice, operator, manager and manicurist certifying that the holder is entitled to practice cosmetic art or manicuring and such license shall be posted in a conspicuous place in the beauty parlor.

(b) Beauty parlor certifying that the owner is entitled to conduct a beauty parlor at the address indicated on the license. Such license shall be posted in a conspicuous place in the said beauty parlor by the licensee.

(2) No license shall be for a longer period than one year. All licenses shall expire on December twentieth next succeeding, and on November thirtieth of each year thereafter. Apprentices' permits shall expire at the end of two years from the date of issue.

(3) All applications for the renewal of licenses as a manager, operator, manicurist or itinerant cosmetician shall be made on or before November thirtieth accompanied with the proper fee therefor.

(a) The renewal fee for a manager's license shall be five dollars if the application is made on or before November thirtieth annually; after that date an addition fee of two dollars shall be paid.

(b) The renewal fee for an itinerant's license shall be ten dollars if the application is made on or before November thirtieth annually; after that date an additional fee of five dollars shall be paid.

(c) The renewal fee for an operator's license shall be two dollars if the application is made on or before November thirtieth annually; after that date an additional fee of one dollar shall be paid.

(d) The renewal fee for a manicurist's license shall be two dollars if the application is made on or before November thirtieth annually; after that date an additional fee of one dollar shall be paid.

(e) The fee for an apprentice's permit shall be one dollar.

(f) There shall be no fee for a student's permit. [1939 c. 431]

159.12 Apprenticeship; experience required. (1) Any person may become an indentured apprentice and receive an apprentice's registration card:

(a) Who is seventeen years or more of age.

(b) Who is of good moral character and of temperate habits.

(c) Who has shown by affidavit or certificate that he has completed a tenth grade education or has an equivalent education as determined by the university of Wisconsin extension division or the Milwaukee board of school directors.

(2) Apprentices must practice for at least two years under the personal supervision and direction of a licensed manager before they shall be eligible to make application to take the examination for operator. Applicants shall be given instruction by a manager in all branches of practical work and in the subjects required to be taught in schools of cosmetic art as set forth in section 159.02. No apprentice or operator shall practice cosmetic art unless under the supervision and direction of a licensed manager and cannot be the owner, manager, director, lessee or have any financial interest in a beauty parlor in which he is employed.

(3) All apprentices regardless of age shall be indentured and shall be governed by the provisions of section 106.01 and apprenticeship rules and regulations of the industrial commission and the board. The requirements of subsections (1), (2) and (3) of this section shall not apply to any person who began his apprenticeship before the enactment of this chapter. Such apprenticeship shall be governed by the law applicable when the permit was issued and shall be completed by July, 1940. [1939 c. 431]

Note: Supervision and direction of manager may extend to room where work is done although room is not immediately adjacent to balance of beauty parlor. 23 Atty. Gen. 400. Contract of apprenticeship for beauty parlor apprentices which is in conflict with beauty parlor statute, minimum wage law and beauty parlor code is invalid. 23 Atty. Gen. 747.

159.13 Practice. (1) No person shall engage in the practice of cosmetic art unless he holds a license issued by the board.

(2) Licenses shall be issued only to such persons who are possessed of the requisite skill as cosmeticians or manicurists. Cosmeticians shall have sufficient knowledge concerning the common diseases of the face and scalp to avoid aggravation and spread of disease in the practice of their profession. No license to practice that branch of cosmetic art, involving the use of the electric needle for the removal of superfluous hair, shall be issued unless special application therefor shall be made to the board showing that such applicant holds a manager's license; has successfully completed a course of training in such branch of cosmetic art, and has passed an examination to the satisfaction of the board. Managing and itinerant cosmeticians must notify the board of change of address within five days thereof. [1939 c. 431]

Note: Treatment of abnormal or pathological conditions of feet, such as corns, bunions, callouses and like, is within exclusive province of licensed chiropodists and may not be undertaken by cosmetologists. 30 Atty. Gen. 45.

159.14 Perjury and revocation of licenses. (1) The wilful making of any false statement as to material matters in any oath or affidavit which is required by this chapter is perjury and shall be punished as such.

(2) The board may either refuse to issue or renew or may suspend or revoke any certificate of registration of a school of cosmetic art, beauty parlor license, manager's, operator's or manicurist's license, apprentice's or student's permit for any of the following causes:

(a) Conviction of a crime.

(b) Malpractice or gross incompetency.

(c) Continued practice by a person who knowingly has an infectious, contagious or communicable disease.

(d) Fraudulent advertising.

(e) Advertising, practicing, or attempting to practice under another's name or under another's trade name.

(f) Habitual drunkenness, or habitual addiction to the use of habit forming drugs.

(g) Guilty of unprofessional conduct which is reprehensible in the judgment of the board.

(h) Violation of any section of this chapter or of any of the rules or regulation prescribed under authority thereof.

(i) Immoral conduct or character.

(3) Any license, certificate or permit may be revoked or renewal thereof may be refused by the board upon five days' notice in writing setting forth the charges relied upon for revocation or refusal of renewal to the holder and upon a public hearing at which such holder shall have an opportunity to present testimony in his behalf and to be confronted by witnesses against him. [1939 c. 431]

159.15 Penalties. Any person, association, partnership, firm or corporation that shall without a license practice cosmetic art either as a manager, operator, apprentice, itinerant cosmetician or manicurist, or any person who shall employ an unlicensed manager, operator, manicurist or apprentice, or shall violate or shall aid or abet any person in violating any provision of this chapter or any rule or regulation made pursuant thereto or shall obtain a license fraudulently, or shall falsely pretend to be licensed, shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten nor more than ninety days, or by both such fine and imprisonment. [1939 c. 431]

Note: Canvassers selling on commission who demonstrate cosmetics by actual application are engaged in practice of cosmetic art. Persons not authorized to practice cosmetic art who, in soliciting orders for cosmetics, prepare or assist in preparation of statement of unhealthy condition of skin and scalp are engaged in diagnosing and thereby violate medical practice act. 21 Atty. Gen. 1135.

159.16 Unlawful contracts. Any owner, proprietor or manager of a beauty parlor or school of cosmetic art who contracts with any person to train such person in cosmetic art or any branch thereof and accepts money in payment, or who sells or rents or offers to sell or rent such beauty parlor to any person who is not the holder of a manager's license, without first explaining to such person the provisions of this chapter, shall be punished as provided in section 159.15.