

CHAPTER 108
HOUSE BILL No. 2721

AN ACT concerning the board of cosmetology; relating to licensing requirements; amending K.S.A. 65-1901, 65-1903, 65-1904b, 65-1905, 65-1906, 65-1908, 65-1909, 65-1912, 65-1926, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1953 and 65-1954 and K.S.A. 2007 Supp. 65-1902 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1901 is hereby amended to read as follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912, and amendments thereto:

(a) "Apprentice" means any person engaged in learning the practice of cosmetology, nail technology, esthetics or electrology in a school of cosmetology, nail technology, esthetics or electrology licensed by the board, except until such time as an electrology school is established in this state apprenticing of electrology will be subject to approval by the board in a clinic or establishment.

(b) "Board" means the state board of cosmetology.

(c) "Cosmetologist" means any person, other than a manicurist or esthetician, who practices the profession of cosmetology for compensation.

(d) (1) "Cosmetology" means the profession of:

(A) Arranging, dressing, permanently curling, curling, waving, cleansing, temporarily or permanently coloring, bleaching, relaxing, conditioning or cutting the hair;

(B) cleansing, stimulating or performing any other noninvasive beautifying process on any skin surface by means of hands or mechanical or electrical appliances, other than electric needles, provided for purposes other than treatment of medical, physical or mental ailments *esthetic rather than medical purposes*;

(C) ~~removing superfluous hair from the face or any part of the body by use of either the hands or mechanical or electrical appliances other than electric needles~~ *temporary hair removal from the face or any part of the body by use of the hands or mechanical or electrical appliances other than electric needles*;

(D) using cosmetic preparations, antiseptics, lotions, creams or other preparations in performing any of the practices described in paragraphs (A), (B) and (C) of this subsection (d)(1); or

(E) manicuring, pedicuring or sculpturing nails.

(2) "Cosmetology" shall not include a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device so long as the service does not include the application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl or alter the structure of the hair and so long as the requirements of K.S.A. 65-1928, and amendments thereto are met. Nothing in this paragraph shall be construed to preclude a licensed cosmetologist from performing the service described in this paragraph.

(e) "Esthetician" means any person who, for compensation practices the profession of cosmetology only to the following extent:

(1) ~~Performing facials, skin care and eyebrow and eyelash services;~~

~~(2) Eyebrow and eyelash services,~~ cleansing, stimulating or performing any other noninvasive beautifying process on any skin surface by means of hands or mechanical or electrical appliances, other than electric needles, provided for purposes other than treatment of medical, physical or mental ailments *esthetic rather than medical purposes*;

~~(3) removing superfluous hair from the face or body, using either the hands or mechanical or electrical appliances other than electric needles~~

~~(2) temporary hair removal from the face or any part of the body by use of the hands or mechanical or electrical appliances other than electric needles;~~ or

~~(4) (3) using cosmetic preparations, antiseptics, lotions, creams or other preparations in performing any of the practices described in paragraph (1), (2) or (3) of subsection (e) in this subsection.~~

(f) "Manicurist" means any person who, for compensation practices the profession of cosmetology only to the extent of:

(1) Nail technology;

(2) cleansing, stimulating or performing similar work on the arms, hands or ankles and feet by means of hands or mechanical or electrical appliances, other than electric needles; or

(3) using cosmetic preparations, antiseptics, lotions, creams or other preparations in performing any practice described in subsection (f)(2).

(g) "Nail technology" means manicuring, pedicuring and sculpturing nails.

(h) "Electrologist" means any person who, for compensation removes hair from, or destroys hair on, the human body for beautification by use of an electric needle only.

(i) "Person" means any individual, corporation, partnership, association or other entity.

(j) "Instructor-in-training" means a person who is a licensed cosmetologist and has met the board's training requirements for obtaining an instructor-in-training permit.

(k) "Physician" means a person licensed to practice medicine and surgery by the state board of healing arts.

Sec. 2. K.S.A. 2007 Supp. 65-1902 is hereby amended to read as follows: 65-1902. (a) Except as provided in subsection (b), no person shall:

(1) Engage in practice of cosmetology, esthetics, nail technology or electrology unless the person holds a valid license, issued by the board, to engage in that practice;

~~(2) conduct a school for teaching cosmetology unless the person holds a valid license, issued by the board, to conduct the school~~ *engage in the practice of tattooing, cosmetic tattooing or body piercing unless the person holds a valid license, issued by the board, to engage in such practice;*

(3) teach cosmetology in a licensed school unless the person holds a valid cosmetology instructor's license issued by the board;

(4) conduct a school for teaching nail technology unless the person holds a valid license, issued by the board, to conduct the school;

(5) teach nail technology in a licensed school unless the person holds a valid cosmetology or manicuring instructor's license issued by the board;

(6) conduct a school for teaching electrology unless the person holds a valid license, issued by the board, to conduct the school;

(7) teach electrology in a licensed school or clinic unless the person holds a valid electrology instructor's license issued by the board;

(8) conduct a school for teaching esthetics unless the person holds a valid license, issued by the board, to conduct the school;

(9) teach esthetics in a licensed school unless the person holds a valid cosmetology or esthetics instructor's license issued by the board;

(10) own or operate a school, salon or clinic where cosmetology, esthetics, nail technology or electrology is taught or practiced unless the person holds a valid school, salon or clinic license issued by the board; ~~or~~

(11) teach or practice cosmetology, esthetics, nail technology or electrology in a school, salon or clinic unless the owner or operator of the school, salon or clinic holds a valid school, salon or clinic license issued by the board; *or*

(12) *provide a service constituting the practice of cosmetology, nail technology, esthetics or electrology by use of a medical device registered with the federal food and drug administration, or as defined in federal or state law which may be distributed only upon the order of a physician. This act does not prohibit a board of cosmetology licensee from providing services using a medical device upon the order and under the supervision of a physician and in a location maintained by the physician.*

(b) The provisions of this act shall not apply to:

(1) Any person licensed as a barber or apprentice barber;

(2) any person licensed to practice medicine and surgery, chiropractic, optometry, nursing or dentistry, while engaged in that practice;

(3) any person who is a licensed physical therapist or certified physical therapist assistant while engaged in that practice; or

(4) any teacher while engaged in instructing elementary or secondary school students in the proper care of their own persons.

(c) A person holding a license as a cosmetology technician on the day immediately preceding the effective date of this act shall continue to be a licensed cosmetology technician and perform the functions of a cosmetology technician, as such term was defined immediately prior to the effective date of this act, and may renew such license subject to the payment of fees and other conditions and limitations on the renewal of licenses under article 19 of chapter 65 of the Kansas Statutes Annotated

and acts amendatory of the provisions thereof.

(d) If the board determines that an individual has violated subsection (a), in addition to any other penalties imposed by law, the board, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual or may assess such individual a fine of not to exceed \$1,500, or may issue such order and assess such fine. In determining the amount of fine to be assessed, the board may consider the following factors: (1) Willfulness of the violation, (2) repetitions of the violation and (3) risk of harm to the public caused by the violation.

(e) A violation of subsection (a) of this section is a class C misdemeanor.

Sec. 3. K.S.A. 65-1903 is hereby amended to read as follows: 65-1903. (a) Licensed schools may be established and maintained in this state where the profession of cosmetology may be taught or acquired, under the following conditions and regulations:

(1) (A) Any person may apply to the board for a license for conducting a school for the teaching of the profession of cosmetology.

(B) The license shall be granted by the board upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the board for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto.

(C) Prior to issuance of the license, the applicant shall pay to the board the nonrefundable license application fee established under K.S.A. 65-1904, and amendments thereto.

(D) School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904, and amendments thereto.

(E) Any license may be renewed by the applicant within 30 days after the expiration date of the last license upon payment of a delinquent renewal fee.

(F) No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(G) Nothing in this act shall prohibit any person who is a licensed electrologist, while acting as owner and manager of the person's clinic or establishment, from teaching electrology in the regular course of the person's business, but at no time shall any clinic or establishment have more than one apprentice or charge tuition for its teaching services.

(2) (A) Each school licensed under this subsection (a) shall remain under the constant supervision of the board.

(B) *Before July 1, 2009, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students. On and after July 1, 2009, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students on the floor where the consumer services are provided in addition to one instructor for every 25 students in the instructional classroom.*

(C) One instructor in training shall count as an instructor toward to the required ratio of instructors to students.

(D) (1) Each licensed school shall provide a course of instruction and practice in preparation for the profession of cosmetology.

(2) The course of instruction and practice shall require not less than 1,500 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.

(3) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(4) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(5) Each course of instruction and practice shall include those core areas of education as determined and defined by the board.

(6) Each licensed school of cosmetology shall cover a period of not less than nine nor more than 12 months of training for full-time students.

(E) (1) In addition, the school may provide a course of instruction and practice in preparation for the profession of nail technology.

(2) The course of instruction and practice shall require not less than 350 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.

(3) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(4) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(5) Each course of instruction and practice shall include those core areas of education as determined and defined by the board.

(F) (1) Each licensed school of cosmetology may provide instruction and practice in the profession of esthetics.

(2) *Before July 1, 2009, the course of instruction and practice shall require not less than 650 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours. On and after July 1, 2009, the course of instruction and practice shall require not less than ~~650~~ 1,000 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.*

(3) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(4) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(5) Each course of instruction and practice shall include those core areas of education as determined by the board.

(6) (i) Such course of training shall include the practices of cosmetology for all major ethnic groups residing in the state, and the board shall require by rules and regulations that each school shall provide instruction for part-time students who are unable to attend a full schedule of classes each week because of part-time employment; enrollment in an accredited public or private school of secondary education by a student who is pursuing a course of study leading to a diploma from such school; enrollment in a cooperative industrial training program, approved by the division of vocational education of the state department of education, by a student who is working toward an occupational objective; or the principles or tenets of the student's religion preventing full-time attendance.

(ii) Instruction of a part-time student shall be completed by the student within 18 months after the student's enrollment in the school.

(b) Any person who teaches the profession of cosmetology in a licensed school of cosmetology shall be required to obtain a cosmetology instructor's license from the board. To qualify for a cosmetology instructor's license, the applicant must: (1) Be licensed as a cosmetologist under this act; (2) either (A) have practiced as a cosmetologist for one year prior to licensure and successfully completed 300 hours of instructor training or (B) have successfully completed 450 hours of instructor training; (3) pass a cosmetology instructor exam, administered by the board or the board's designee; and (4) pay the nonrefundable instructor license application fee established by K.S.A. 65-1904, and amendments thereto. A cosmetology instructor license shall be renewed every two years by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding a cosmetology instructor license on the effective date of this act, has completed 20 clock hours of continuing education approved by the board in the practice of cosmetology and teaching skills and methods, and by paying the nonrefundable license renewal fee established by K.S.A. 65-1904, and amendments thereto.

(c) Licensed schools may be established and maintained in this state where nail technology may be taught or acquired, under the following conditions and regulations:

(1) (A) Any person may apply to the board for a license for conducting a school for the teaching of nail technology.

(B) The license shall be granted by the board upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the board for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto.

(C) Prior to issuance of the license, the applicant shall pay to the board the nonrefundable license application fee established under K.S.A. 65-1904, and amendments thereto.

(D) School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904, and amendments thereto.

(E) Any license may be renewed by the applicant within 30 days after the expiration date of the last license upon payment of a delinquent renewal fee.

(F) No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(2) (A) Each school licensed under this subsection (c) shall remain under the constant supervision of the board.

(B) *Before July 1, 2009, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students. On and after July 1, 2009, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students on the floor where the consumer services are provided in addition to one instructor for every 25 students in the instructional classroom.*

(C) Not more than one instructor in training shall count as an instructor toward the required ratio of instructors to students.

(D) Each licensed school shall provide a course of instruction and practice in preparation for the profession of manicurist.

(E) The course of instruction and practice shall require not less than 350 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.

(F) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(G) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(H) Each course of instruction and practice shall include those core areas of education as determined and defined by the board.

(3) (A) The board shall require by rules and regulations that each school shall provide instruction for part-time students who are unable to attend a full schedule of classes each week because of part-time employment; enrollment in an accredited public or private school of secondary education by a student who is pursuing a course of study leading to a diploma from such school; enrollment in a cooperative industrial training program, approved by the division of vocational education of the state department of education, by a student who is working toward an occupational objective; or the principles or tenets of the student's religion preventing full-time attendance.

(B) Instruction of all students shall be completed by the student within six months after the student's enrollment in the school.

(d) Any person who teaches nail technology in a licensed school of cosmetology or nail technology shall be required to obtain a manicuring instructor's license from the board, unless the person holds a valid cosmetology instructor's license issued under subsection (b). To qualify for a manicuring instructor's license, the applicant must: (1) Be licensed as a cosmetologist or manicurist under this act; (2) either (A) have practiced as a manicurist or cosmetologist for one year prior to licensure and successfully completed 300 hours of instructor training or (B) have successfully completed 450 hours of instructor training; (3) pass a manicuring instructor exam, administered by the board or the board's designee; and (4) pay a nonrefundable instructor license application fee established by K.S.A. 65-1904, and amendments thereto. A manicuring instructor li-

license shall expire every two years and shall be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding a manicuring instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the board, in the practice of manicuring and teaching skills and methods and paying the nonrefundable license renewal fee established by K.S.A. 65-1904, and amendments thereto.

(e) Licensed schools may be established and maintained in this state where the profession of esthetics may be taught or acquired, under the following conditions and regulations:

(1) (A) Any person may apply to the board for a license for conducting a school for the teaching of the profession of esthetics.

(B) The license shall be granted by the board upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the board for proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto.

(C) Prior to issuance of the license, the applicant shall pay to the board the nonrefundable license application fee established under K.S.A. 65-1904, and amendments thereto.

(D) School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904, and amendments thereto.

(E) Any license may be renewed by the applicant within 30 days after the date of expiration of the last license upon payment of a delinquent renewal fee.

(F) No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(2) (A) Each school licensed under this subsection (e) shall remain under the constant supervision of the board.

(B) *Before July 1, 2009*, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one full-time instructor for every 25 students. *On and after July 1, 2009*, each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students on the floor where the consumer services are provided in addition to one instructor for every 25 students in the instructional classroom.

(C) Not more than one instructor in training shall count as an instructor toward the required ratio of instructors to students.

(D) Each licensed school shall provide a course of instruction and practice in preparation for the profession of esthetics.

(E) *Before July 1, 2009*, the course of instruction and practice shall require not less than 650 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours. *On and after July 1, 2009*, the course of instruction and practice shall require not less than ~~650~~ 1,000 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.

(F) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(G) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(H) Each course of instruction and practice shall include those core areas of education as determined and defined by the board.

(f) Any person who teaches esthetics in a licensed school of cosmetology or esthetics shall be required to obtain an esthetics instructor's license from the board, unless the person holds a valid cosmetology instructor's license issued under subsection (b). To qualify for an esthetics instructor's license, the applicant must: (1) Be licensed as a cosmetologist or esthetician under this act; (2) either (A) have practiced as an esthetician or cosmetologist for one year prior to licensure and successfully completed 300 hours of instructor training or (B) have successfully completed

450 hours of instructor training; (3) pass an esthetician instructor exam, administered by the board or the board's designee; and (4) pay a nonrefundable license application fee established by K.S.A. 65-1904, and amendments thereto. An esthetics instructor license shall expire every two years and shall be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding an esthetics instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the board, in the practice of esthetics and teaching skills and methods and by paying the nonrefundable license renewal fee established by K.S.A. 65-1904, and amendments thereto.

(g) Licensed schools may be established and maintained in this state where the profession of electrology may be taught or acquired, under the following conditions and regulations:

(1) (A) Any person may apply to the board for a license for conducting a school for the teaching of the profession of electrology.

(B) The license shall be granted by the board upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the board for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto.

(C) Prior to issuance of the license, the applicant shall pay to the board the nonrefundable license application fee established under K.S.A. 65-1904, and amendments thereto.

(D) School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904, and amendments thereto.

(E) Any license may be renewed by the applicant within 30 days after the expiration date of the last license upon payment of a delinquent renewal fee.

(F) No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(G) Nothing in this act shall prohibit any person who is a licensed instructor of electrology or who is and has been for at least three years a licensed electrologist, while acting as owner and manager of the person's salon, clinic or establishment, from teaching electrology in the regular course of the person's business, but at no time shall any salon, clinic or establishment have more than one apprentice or charge tuition for its teaching services.

(2) (A) Each school licensed under this subsection ~~(e)~~ (g) shall remain under the constant supervision of the board.

(B) Each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one full-time instructor for every four students *on the floor where the consumer services are provided in addition to one instructor for every four students in the instructional classroom.*

(C) Each licensed school shall provide a course of instruction and practice in preparation for the profession of electrology.

(D) The course of instruction and practice shall require not less than 500 clock hours, or a licensed school may elect to base the course of instruction and practice on credit hours.

(E) The formula for conversion from clock hour to credit hour shall be provided by a recognized accrediting body which is approved by the United States department of education for the accreditation of schools of cosmetology and the licensed school applying the credit hour conversion must be accredited through the accrediting body providing the conversion formula.

(F) The formula for conversion from clock hour to credit hour shall be subject to review by the board.

(G) Each course of instruction and practice shall include those core areas of education as determined and defined by the board.

(h) Any person who teaches electrology in a licensed school of cosmetology or electrology shall be required to obtain an electrology instructor's license from the board. To qualify for an electrology instructor's license, the applicant must: (1) Be licensed as an electrologist under this act; (2) either (A) have practiced as an electrologist for one year prior to licensure and successfully completed 300 hours of instructor training or

(B) have successfully completed 450 hours of instructor training; (3) pass an electrology instructor exam, administered by the board or the board's designee; and (4) pay a nonrefundable instructor license application fee established under K.S.A. 65-1904, and amendments thereto. Electrology instructor licenses shall expire every two years and may be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding an electrology instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the board, in the practice and teaching of electrology and paying the nonrefundable license renewal fee established under K.S.A. 65-1904, and amendments thereto. To teach in a licensed salon, the electrologist is issued a license for the period of training for the student. To qualify they must: (1) Be a licensed practicing electrologist for a three-year period and (2) pay a nonrefundable instructor license application fee established under K.S.A. 65-1904, and amendments thereto.

(i) The board may adopt through rules and regulations a curriculum for cosmetology, nail technology, esthetics and electrology instructor training to be provided in a licensed school of cosmetology.

(j) Any instructor's license may be renewed by an applicant within one month after the date of expiration of the applicant's last license upon submission of proof, satisfactory to the board, of the applicant's current hours and qualifications to renew practice as an instructor and payment of the applicable nonrefundable renewal fee and delinquent fee prescribed in K.S.A. 65-1904, and amendments thereto. Any applicant whose instructor's license has expired for more than one month may obtain a license in the same manner and on payment of the same nonrefundable fees as provided for an applicant for an original license.

(k) (1) The board shall provide by rules and regulations instructor-in-training permits for applicants wishing to become an instructor in any of the schools listed in subsections (a) through (i).

(2) To obtain an instructor-in-training permit the applicant shall:

(A) One week prior to starting the 100 clock hours of teaching skills and methodology required under (B)(ii) submit to the board a notice of intent to become an instructor-in-training and be enrolled in a board-approved instructor's training program. This notification shall be on the application form for the instructor-in-training permit and accompanied by a nonrefundable fee set by the board.

(B) Upon the applicant's submitting to the board proof, satisfactory to the board, of achieving the following terms the applicant shall obtain the instructor-in-training permit:

(i) Be licensed as a cosmetologist or licensed in the profession in which the application would be instructing;

(ii) have completed 100 clock hours of the required clock hours of teaching skills and methodology; and

(iii) pay the required nonrefundable application fee.

(3) The instructor-in-training permit shall be good for six months. If the student does not complete the required training, the board, upon good cause shown, may extend the permit for an additional six months.

(4) For purposes of the required student-to-instructor ratio, there shall be only one student with a student instructor permit who may be a student instructor on the school staff.

(5) At no time shall an instructor-in-training practice without the supervision of a licensed instructor.

(6) Failure to complete the instructor curriculum or to take the required exam within six months of the date of application will require the submission of a new instructor's application and the required number of clock hours of instructor's training.

Sec. 4. K.S.A. 65-1904b is hereby amended to read as follows: 65-1904b. (a) Upon application to the Kansas state board of cosmetology on a form provided for application for a cosmetologist, esthetician or electrologist license, accompanied by the application fee, a person practicing as a cosmetologist, esthetician or electrologist under the laws of another state or jurisdiction shall be granted a license entitling the person to practice in this state if:

(1) The person is not less than 17 years of age and a graduate of an accredited high school, or equivalent thereof;

(2) the person submits to the board verification of date of birth; *and*

~~(3) the person submits to the board a written statement from a person~~

~~licensed to practice medicine and surgery under the laws of any state showing that the person is free from infectious or contagious disease; and~~
~~(4) (3) the person holds a current license in another state in the area of practice in which the person seeks a license and meets at least one of the following criteria:~~

(A) The person passes a written and a practical examination administered by the board relating to the area of practice in which the person seeks a license; or

(B) the person has the number of hours of training required for licensure in this state and passes the written examination administered for license renewal under subsection (a) of K.S.A. 65-1904, and amendments thereto.

(b) The renewal of a license issued pursuant to this section shall be in the manner provided in K.S.A. 65-1904, and amendments thereto.

Sec. 5. K.S.A. 65-1905 is hereby amended to read as follows: 65-1905. (a) All examinations held or conducted by the board shall be in accordance with rules and regulations adopted by the board. The examinations shall include a written test administered at the completion of 1,000 hours of training. If the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the written test shall be administered at the completion of the credit hours which are the equivalent of 1,000 clock hours under the formula for conversion used by the licensed school. A practical test may be administered prior to licensure. Examinations to qualify for an instructor's license shall be limited to written tests.

(b) Each applicant for licensure by examination shall:

(1) Be at least 17 years of age;

(2) be a graduate of an accredited high school, or equivalent thereof.

The provisions of this paragraph shall not apply to any applicant who was at least 25 years of age and licensed as an apprentice on May 21, 1998;

(3) submit to the board verification of date of birth; *and*

~~(4) submit to the board a written statement from a person licensed to practice medicine and surgery under the laws of any state showing that the applicant is free from contagious and infectious diseases; and~~

~~(5) (4) have served as an apprentice for the period of time provided by K.S.A. 65-1912, and amendments thereto.~~

(c) Any person making application who apparently possesses the necessary qualifications to take an examination provided herein, upon application and payment of the nonrefundable temporary permit fee, may be issued a temporary permit by the board to practice cosmetology until the next regular examination conducted by the board.

Sec. 6. K.S.A. 65-1906 is hereby amended to read as follows: 65-1906. (a) Each licensed cosmetologist, *cosmetology technician*, esthetician, manicurist, electrologist and instructor shall display such person's license in a conspicuous place in the salon, clinic or school where the holder thereof is employed or working.

(b) Each holder of a salon, clinic or school license shall display the license and most recent inspection report *and the sanitation standards prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto*, in a conspicuous place in the salon, clinic or school.

Sec. 7. K.S.A. 65-1908 is hereby amended to read as follows: 65-1908. (a) ~~The state board of cosmetology may revoke any license provided for by this act, may censure, limit or condition any license or may refuse to issue, renew or suspend any license or assess a fine, not to exceed \$1,000 per violation. The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to issue or renew a license, or revoke, suspend, censure, limit or condition a license for any of the following reasons:~~

(1) Failure to comply with the ~~sanitary requirements~~ *sanitation standards* prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto;

(2) failure to comply with any provision of this act, with the rules and regulations of the board of cosmetology or with any order issued by the board;

(3) has become a danger to the public by reason of alcohol or drug abuse;

(4) conviction of a felony unless the applicant or licensee is able to

demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust;

(5) the obtaining of, or the attempt to obtain, a license by fraudulent misrepresentation or bribery;

(6) advertising by means of false or knowingly deceptive matter or statement;

(7) failure to display the annual license or inspection report as provided for in this act;

(8) ~~being found guilty of~~ gross negligence or unprofessional conduct as defined by rules and regulations of the board; or

(9) has had a license revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act, and the board may issue a cease and desist order upon board determination that the holder of a license or any person has violated any order of the board, any rules and regulations of the board or any provision of this act.

(c) Inspectors employed by the board shall have such powers as the board may prescribe by rules and regulations to make inspections, investigations, and inquiries, except that a permanent order for closing any establishment licensed by the board shall be issued only by the board.

(d) ~~All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In addition to the board's authority to refuse licensure or impose discipline pursuant to subsection (a), the board shall have the authority to assess a fine not in excess of \$1,000 against a licensee for each of the reasons specified in subsection (a). Such fine may be assessed in lieu of or in addition to such discipline.~~

Sec. 8. K.S.A. 65-1909 is hereby amended to read as follows: 65-1909. (a) No person shall:

(1) Employ an individual *or allow any individual* to engage in any activity for which a license is required pursuant to K.S.A. 65-1902, and amendments thereto unless such individual holds a currently valid license issued to such individual;

(2) violate any order or ruling of the state board of cosmetology;

(3) fail or refuse to comply with rules and regulations prescribed by the board or applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto; or

(4) violate any of the provisions of article 19 of chapter 65 of Kansas Statutes Annotated.

(b) Violation of subsection (a) is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, or by both such fine and imprisonment.

(c) The board may bring an action in its own name in a court of competent jurisdiction to enjoin any person from practicing or teaching cosmetology, esthetics, nail technology or electrology or from operating a salon, clinic or school where such courses are taught without a currently valid license. In any civil action brought under this section, it shall be presumed that irreparable damage will occur where the board alleges and proves a person committed a violation of such licensing laws. In addition to issuing an order for injunctive relief, the court also may assess a fine of not to exceed \$1,500 against such person.

Sec. 9. K.S.A. 65-1912 is hereby amended to read as follows: 65-1912. (a) Any person desiring to practice as an apprentice shall be required to pay to the board the fee required pursuant to K.S.A. 65-1904, and amendments thereto, and obtain an apprentice license from the board. Application for an apprentice license allowing a person to practice in a licensed school shall be submitted to the board not more than 15 days after the person's enrollment in the school.

(b) (1) An applicant for examination and licensure as a cosmetologist shall be required to have practiced as an apprentice in a licensed school for not less than 1,500 clock hours or, if the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the

applicant shall have practiced as an apprentice for not less than those credit hours which are the equivalent of 1,500 clock hours under the formula for conversion used by the licensed school.

(2) (A) *Before July 1, 2009*, an applicant for examination and licensure as an esthetician shall be required to have practiced as an apprentice in a licensed school for not less than 650 clock hours or, if the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the applicant shall have practiced as an apprentice for not less than those credit hours which are the equivalent of 650 clock hours under the formula for conversion used by the licensed school.

(B) *On and after July 1, 2009*, an applicant for examination and licensure as an esthetician shall be required to have practiced as an apprentice in a licensed school for not less than 1,000 clock hours, or, if the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the applicant shall have practiced as an apprentice for not less than those credit hours which are the equivalent of 1,000 clock hours under the formula for conversion used by the licensed school.

(3) An applicant for examination and licensure as a manicurist shall be required to have practiced as an apprentice in a licensed school of cosmetology or nail technology for not less than 350 clock hours or, if the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the applicant shall have practiced as an apprentice for not less than those credit hours which are the equivalent of 350 clock hours under the formula for conversion used by the licensed school.

(4) An applicant for examination and licensure as an electrologist shall be required to have practiced as an apprentice: (A) In a licensed school of cosmetology or electrology for not less than 500 clock hours or, if the applicant has attended a licensed school electing to base the course of instruction and practice on credit hours as provided in K.S.A. 65-1903, and amendments thereto, the applicant shall have practiced as an apprentice for not less than those credit hours which are the equivalent of 500 clock hours under the formula for conversion used by the licensed school; or (B) in a licensed clinic or establishment for not less than 1,000 clock hours of training. The duration of practice as an apprentice in a clinic or establishment must be in the clinic or establishment in which practice was commenced, except that the board may permit, upon written application and for good cause, the transfer of the apprentice to another clinic or establishment for completion of the term of apprenticeship. Any licensed cosmetologist who is practicing electrology in a licensed clinic or establishment on July 1, 1987, may apply for and be issued an electrologist's license without examination.

(c) No apprentice shall make any charge for the apprentice's services, but a licensed school of cosmetology, electrology or nail technology or a proprietor of a licensed clinic or establishment in which an apprentice of electrology practices may charge for services of the apprentice.

(d) For purposes of subsection (b), a person is not required to have practiced as an apprentice continuously or without interruption in obtaining the required number of hours.

Sec. 10. K.S.A. 65-1926 is hereby amended to read as follows: 65-1926. (a) A person shall not operate a tanning facility without a valid license issued by the board.

(b) The license shall be displayed in a conspicuous place in the tanning facility.

(c) On application, on forms provided by the board, and on receipt of the appropriate fee, a license shall be renewed by the board.

(d) The board may adopt a system under which licenses expire on various dates during the year. As part of this system the annual renewal fee may be prorated on a monthly basis to reflect the actual number of months the license is valid.

(e) The board may *deny, refuse to renew*, revoke, cancel, suspend or place on probation a license to operate a tanning facility for any of the following reasons:

- (1) A failure to pay a license fee or an annual renewal fee for a license;
- (2) the applicant obtained or attempted to obtain a license by fraud

or deception;

(3) a violation of any of the provisions of this act; or

(4) a violation of any rules and regulations adopted by the board or by the secretary of health and environment, as provided by K.S.A. 65-1925, and amendments thereto.

(f) The board shall establish appropriate licensure and renewal fees, not to exceed \$100 per year for each tanning facility, by adoption of rules and regulations. The board may establish the fees based upon the number of beds used for tanning which the facility maintains. In addition to the fee for licensure and the fee for renewal of a license, the board may establish a fee not to exceed \$150 for delinquent renewal of a license and a fee not to exceed \$200 for reinstatement of a license.

(g) The executive director of the board shall remit all moneys received from fees under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the manner specified under K.S.A. 74-2704, and amendments thereto.

(h) *In addition to the board's authority to refuse licensure or impose discipline pursuant to subsection (a), the board shall have the authority to assess a fine not in excess of \$1,000 against a licensee for each of the reasons specified in subsection (e). Such fine may be assessed in lieu of or in addition to such discipline.*

Sec. 11. K.S.A. 65-1940 is hereby amended to read as follows: 65-1940. As used in this act, unless the context otherwise requires:

(a) "Board" means the Kansas state board of cosmetology or its designee.

(b) "Director" means the executive director of the board.

(c) "Department" means the department of health and environment.

(d) "Secretary" means the secretary of health and environment.

~~(e) "Licensed permanent color technician and tattoo artist" means a person licensed under this act to practice tattooing or permanent color technology, or both.~~

~~(f) "Permanent color technician and tattoo artist" means a person who practices tattooing or permanent color technology, or both pursuant to this act. "Tattoo artist" and "cosmetic tattoo artist" mean a person who practices tattooing or cosmetic tattooing or both pursuant to this act.~~

(f) "Body piercer" means a person engaged in the practice of body piercing pursuant to this act.

(g) "Body piercing" means puncturing the skin of a person by aid of needles ~~or other instruments~~ designed or used to puncture the skin for the purpose of inserting removable jewelry ~~or other objects~~ through the human body, except puncturing the external part of the human earlobe shall not be included in this definition. This act shall not be construed to authorize a licensed body piercer to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.

(h) "Physician" means a person licensed to practice medicine and surgery by the state board of healing arts.

~~(i) "Tattoo" means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.~~

~~(j) "Tattooing" means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments by use of a needle into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.~~

~~(k) (j) "Tattoo facility establishment" means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted.~~

~~(l) (k) "Body piercing facility establishment" means any room space, or any part thereof, where body piercing is practiced or where the business of body piercing is conducted.~~

~~(m) "Permanent color technology" (l) "Cosmetic tattooing" means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin, by use of a needle, so as to form indelible marks for cosmetic or figurative purposes.~~

(m) "Cosmetic tattooing establishment" means any room, space, or any part thereof, where cosmetic tattooing is practiced or where the busi-

ness of cosmetic tattooing is conducted.

(n) "Court appointed guardian" means one who is appointed by a court and has legal authority and duty to care for another person, especially because of the other's infancy, incapacity or disability.

(o) "Needle" means a sharp, pointed implement used for the purpose of tattooing, cosmetic tattooing or body piercing. The term "needle" does not include any implements or objects altered to be used as needles.

(p) "Trainer" means a licensed individual who guides another in tattooing, cosmetic tattooing or body piercing.

(q) "Apprentice" means any person licensed by the board to engage in learning the practice of tattooing, cosmetic tattooing or body piercing.

Sec. 12. K.S.A. 65-1941 is hereby amended to read as follows: 65-1941. (a) No person, including a ~~permanent color technician and tattoo artist~~ tattoo artist, cosmetic tattoo artist or body piercer, shall perform tattooing, cosmetic tattooing or body piercing on another person, display a sign or in any other way advertise or purport to be a ~~permanent color technician and tattoo artist~~ tattoo artist, cosmetic tattoo artist or body piercer unless that person holds a valid license issued by the board. ~~No person shall perform body piercing, display a sign or in any other way advertise or purport to be in the business of body piercing unless that person holds a valid license issued by the board.~~ This act does not prevent or affect the use of tattooing, ~~permanent color technology~~ cosmetic tattooing or body piercing by a physician, a person under the control and supervision of a physician, a licensed dentist, a person under the control and supervision of a licensed dentist, an individual performing tattooing, ~~permanent color technology~~ cosmetic tattooing or body piercing solely on such individual's body or any other person specifically permitted to use electrolysis or tattooing by law.

(b) Violation of subsection (a) is a class A nonperson misdemeanor.

(c) The board may bring an action to enjoin any person required to be licensed under K.S.A. 65-1940 ~~to through 65-1954, inclusive,~~ and amendments thereto, from practicing body piercing, tattooing or ~~permanent color technology~~ cosmetic tattooing if such person does not hold a currently valid license authorizing the person to engage in such practice. The board may bring an action to enjoin any person from operating a ~~facility~~ an establishment required to be licensed under K.S.A. 65-1940 ~~to through 65-1954, inclusive,~~ and amendments thereto, if such person does not hold a currently valid ~~facility~~ establishment license.

(d) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act and the board may issue a cease and desist order upon board determination that the holder of a license has violated any order of the board, any rules and regulations of the board or any provision of K.S.A. 65-1940 ~~to through 65-1954, inclusive,~~ and amendments thereto.

Sec. 13. K.S.A. 65-1942 is hereby amended to read as follows: 65-1942. (a) No person shall:

(1) Sell, barter or offer to sell or barter a license;

(2) purchase or procure by barter a license with intent to use it as evidence of the person's qualification to practice tattooing, cosmetic tattooing or body piercing;

(3) alter materially a license with fraudulent intent;

(4) use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered; or

(5) willfully make a false, material statement in an application for licensure or for renewal of a license.

(b) A violation of subsection (a), and amendments thereto, is a class A nonperson misdemeanor.

(c) No person shall:

(1) produce an indelible mark or figure on the body of another by scarring using scalpels or other related equipment;

(2) produce an indelible mark or figure on the body of another by branding using a hot iron or other instrument; or

(3) use any other instrument other than a needle, as defined in K.S.A. 65-1940, and amendments thereto, for the purpose of tattooing, cosmetic tattooing or body piercing.

(d) A violation of any of the prohibitions in subsection (c) is a class A misdemeanor.

Sec. 14. K.S.A. 65-1943 is hereby amended to read as follows: 65-1943. (a) An applicant for licensure shall pay a non-refundable fee estab-

lished by rules and regulations adopted by the board and shall show to the satisfaction of the board that the applicant:

- ~~(a)~~ (1) Has complied with the provisions of this act and the applicable rules and regulations of the secretary;
- ~~(b)~~ (2) is not less than 18 years of age;
- ~~(c)~~ (3) has a high school diploma or equivalent education;
- ~~(d)~~ (4) has submitted evidence of completion of education or training prescribed and approved by the board as follows:

~~(1) (A) A training program under the direct supervision of a licensed permanent color technician and tattoo artist in a state approved by the board, or a person or school in this state designated by the board, if the application is for a permanent color technician and tattoo artist license; or~~

~~(B) a training program under the direct supervision of a person licensed in a state approved by the board or a person or school in this state designated by the board if the application is for a license to perform body piercing; and~~

~~(2) if the license is applied for under either subpart (A) or (B), has passed an examination approved, administered or recognized by the board.~~

(A) A training program under the direct supervision of a licensed tattoo artist, cosmetic tattoo artist or body piercer approved and licensed as a trainer by the board, or another state, in the area of practice in which the person seeks licensure;

(B) has performed at least 50 completed procedures;

(C) pays a non-refundable application fee set by the board;

(D) provides verification of training;

(E) completes eight hours of continuing education, approved by the board, in infection control and blood-borne pathogens, in addition to the infection control curriculum requirement; and

(F) has successfully completed an examination approved, administered or recognized by the board.

(b) As a condition of annual license renewal, licensees shall complete five hours of continuing education, approved by the board, in infection control and blood-borne pathogens, in addition to paying any non-refundable renewal fee set by the board. Successfully completing the exam is not a substitute for continuing education requirements.

(c) If an applicant seeks renewal within six months after the expiration of the practitioner's license, the license may be renewed by submitting, within the six month late renewal period:

(1) The non-refundable renewal fee;

(2) the non-refundable delinquent fee; and

(3) documentation of completion of eight hours of continuing education, approved by the board, in infection control and blood-borne pathogens.

(d) If an applicant seeks renewal more than six months after the expiration of a practitioner's license, the license may be renewed by submitting:

(1) The application and application fee;

(2) the renewal fee;

(3) the delinquent fee; and

(4) documentation of completion of eight hours of continuing education, approved by the board, in infection control and blood-borne pathogens. The continuing education hours shall have been obtained within two months of the submission of the application and fees.

(e) An applicant seeking a license as a trainer shall:

(1) Pay any fees set by the board;

(2) concurrently maintain a practitioner's license;

(3) have no more than one apprentice at any time; and

(4) maintain direct supervision of the apprentice.

(f) All application, renewal and delinquent fees shall be non-refundable.

Sec. 15. K.S.A. 65-1944 is hereby amended to read as follows: 65-1944. (a) A person who holds a license shall notify the board in writing of the regular address of the ~~place or places~~ *licensed establishment* where the person performs or intends to perform tattooing, *cosmetic tattooing* or body piercing and shall keep the license conspicuously posted in the ~~place of business~~ *establishment* at all times.

(b) The board shall keep a record of the place or places of business

of each person who holds a license.

(c) Any notice required to be given by the board to a person who holds a license may be given by mailing the notice to the address of the last place of business of which the person has notified the board.

(d) The board shall issue to each qualified applicant a license to operate a ~~tattoo facility or a body piercing facility~~ *tattooing, cosmetic tattooing or body piercing establishment* and to advertise ~~permanent~~ tattooing, *cosmetic tattooing* or body piercing services for which the ~~facility~~ *establishment* is licensed.

(e) *Each establishment for tattooing, cosmetic tattooing or body piercing shall conspicuously post the establishment's license in the establishment at all times.*

Sec. 16. K.S.A. 65-1945 is hereby amended to read as follows: 65-1945. (a) Except as otherwise provided in this section, a license issued under K.S.A. 65-1950, *and amendments thereto*, expires one year after the date of issue unless renewed by payment of the required *non-refundable* renewal fee. ~~The board may vary the date of license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee.~~ If payment is transmitted by postal service, the envelope must be postmarked on or before the expiration of the license. ~~If the license expires, the license may be renewed on payment of a renewal fee and late penalty fee established by the board under this act.~~

~~—(b) The board may suspend the license of any person who fails to renew. A suspended license may be reactivated upon the payment of a reactivation fee established by the board under this act and all past unpaid renewal fees.~~

~~—(c) A person applying for reactivation shall not be required to take an examination as a condition of reactivation if the reactivation occurs within three years after the date the license expired.~~

~~—(d) (b) All permanent color technicians, tattoo artists and persons who are licensed to perform body piercing, *cosmetic tattoo artists and body piercers* must participate in continuing education, with guidelines and effective date to be established by rules and regulations of the board.~~

Sec. 17. K.S.A. 65-1946 is hereby amended to read as follows: 65-1946. Licensed practicing ~~permanent color technicians and tattoo artists and persons who are licensed to perform body piercing~~ *tattoo artists, cosmetic tattoo artists and body piercers* shall meet the following standards and any others the board may adopt by rules and regulations:

(a) ~~Permanent color technicians and tattoo artists, persons performing body piercing, tattoo facilities and body piercing facilities~~ *Tattoo artists, cosmetic tattoo artists and body piercers, and their establishments* shall comply with all applicable sanitation standards adopted by the secretary pursuant to K.S.A. 65-1,148, and amendments thereto;

(b) practicing ~~permanent color technicians and tattoo artists and persons licensed to perform body piercing~~ *tattoo artists, cosmetic tattoo artists and body piercers* shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(c) case history cards shall be kept for each client for a period of five years.

Sec. 18. K.S.A. 65-1947 is hereby amended to read as follows: 65-1947. (a) The board may revoke, *censure, limit or condition*, suspend, refuse to issue ~~a license or renewal or place on probation any or renew any license issued under this act, or assess a fine, not to exceed \$1,000 per violation, on any person or licensee~~ upon proof that a person or licensee:

~~(a) (1) Has been convicted of a violation under K.S.A. 65-1942, and amendments thereto;~~

~~(b) (2) has been convicted in this or any other state of a crime related to the practice of tattooing or body piercing of any felony offense in this or any other state and fails to demonstrate, to the board's satisfaction, that such person or licensee has been sufficiently rehabilitated to warrant the public's trust. The board may make recommendations to an applicant as to what constitutes proof of rehabilitation;~~

~~(c) (3) has knowingly misrepresented, misstated or failed to disclose personal qualifications or other information necessary to practice tattooing, *cosmetic tattooing* or body piercing in any communication to the board or the department;~~

~~(d)~~ (4) has used, caused or promoted the use of any advertising matter, promotional literature, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive;

~~(e)~~ (5) has knowingly deceived the public by acting in a manner as to mislead clients as to the person's professional status;

~~(f)~~ (6) has employed directly or indirectly any suspended or unlicensed person to perform any tattooing, *cosmetic tattooing* or body piercing covered by this act;

~~(g)~~ has permitted another person to use the license;

(7) *has obtained or attempted to obtain a license through fraud, bribery, deceit, misrepresentation, or other misconduct;*

~~(h)~~ (8) has practiced tattooing, *cosmetic tattooing* or body piercing under a false, misleading or deceptive name;

~~(i)~~ (9) has failed, if a licensed permanent color technician and tattoo artist or if licensed to perform body piercing tattoo artist, *cosmetic tattoo artist or body piercer*, to maintain a business address and telephone number at which the licensee may be reached during business hours;

~~(j)~~ (10) has failed, if a nonpracticing permanent color technician and tattoo artist or a person licensed to perform body piercing tattoo artist, *cosmetic tattoo artist or body piercer*, to provide the board with a home address and telephone number;

~~(k)~~ (11) has failed to properly and reasonably accept responsibility for the actions of employees;

~~(l)~~ (12) has practiced tattooing, *cosmetic tattooing* or body piercing with a mental or physical illness that affects ability to perform or endangers the public;

~~(m)~~ (13) has demonstrated gross incompetence in performing tattooing, *cosmetic tattooing* or body piercing; ~~or~~

(14) *has become a danger to the public by reason of alcohol or drug abuse; or*

~~(n)~~ (15) has violated any of the provisions of this act or rules and regulations adopted by the board pursuant to this act.

Sec. 19. K.S.A. 65-1948 is hereby amended to read as follows: 65-1948. The powers and duties of the board as related to this act are as follows:

(a) To authorize all disbursements necessary to carry out the provisions of this act;

(b) to determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;

(c) to license persons who apply to the board and who have qualified to practice tattooing, *cosmetic tattooing* or body piercing;

~~(d) to rent facilities when necessary to carry out the examination of applicants for licensure;~~

~~(e) to renew licenses;~~

~~(f) to suspend or revoke licenses or place licensees on probation in the manner provided by this act;~~

~~(g) (e) to appoint representatives to conduct or supervise the examination of applicants for licensure;~~

~~(h) (f) to designate the time and place for examining applicants for licensure;~~

~~(i) (g) to carry out, together with the department or separately, the periodic inspection of facilities establishments of persons who are licensed to practice tattooing, *cosmetic tattooing* or body piercing;~~

~~(j) (h) to issue a tattoo facility tattooing, *cosmetic tattooing* or body piercing establishment license to qualified applicants upon compliance with this act; and~~

~~(k) to issue a body piercing facility license to qualified applicants upon compliance with this act; and~~

~~(l) (i) to appoint or employ subordinate employees.~~

Sec. 20. K.S.A. 65-1949 is hereby amended to read as follows: 65-1949. (a) The board shall adopt rules and regulations to prescribe education and training standards for the practice of tattooing and separate education and training standards for the licensure of body piercing each of the practices of tattooing, *cosmetic tattooing* and *body piercing*.

~~(b) An applicant seeking licensure as a permanent color technician and tattoo artist or to be licensed to perform body piercing shall be required to demonstrate safety, sanitation and sterilization techniques by~~

means of an inspection conducted by the board to test the applicant's knowledge of infection control practices and requirements.

(b) *An applicant seeking licensure as a tattoo artist, cosmetic tattoo artist or body piercer shall be required to demonstrate knowledge of safety and infection control techniques by means of a test conducted by the board.*

(c) *Each tattoo, cosmetic tattoo or body piercing establishment shall be inspected by the board to ensure that proper safety and infection control techniques are followed before an establishment license is issued.*

Sec. 21. K.S.A. 65-1950 is hereby amended to read as follows: 65-1950. (a) The board shall assess, by rules and regulations adopted by the board, ~~the following fees and any other fees necessary to carry out the provisions of this act: such non-refundable fees as are necessary to carry out the provisions of this act.~~

- ~~(1) Application fee;~~
- ~~(2) examination fees;~~
- ~~(3) reexamination fees;~~
- ~~(4) reciprocity fee;~~
- ~~(5) license fee;~~
- ~~(6) license renewal fee, active and inactive;~~
- ~~(7) late fee;~~
- ~~(8) reactivation fee;~~
- ~~(9) duplicate license fee;~~
- ~~(10) demonstration permit;~~
- ~~(11) tattoo facility fee and renewal fee, active or inactive, and~~
- ~~(12) body piercing facility fee renewal fee.~~

(b) The board shall license each applicant, without discrimination, who proves to the satisfaction of the board, fitness for such licensure as required by this act and upon payment of a *non-refundable* fee established by the board under this section. Except as provided in K.S.A. 65-1945, *and amendments thereto*, the board shall issue to the applicant a license that expires one year after the date of issuance.

(c) ~~An applicant who is employed as a permanent color technician and tattoo artist on the day immediately preceding the effective of this act shall be licensed by the board, even though the applicant does not meet the training requirements of this act, so long as the applicant successfully passes an examination required by the board.~~

~~(d) The board shall establish all fees under this act. The fees and charges established under this section shall not exceed the cost of administering the regulatory program under this act pertaining to the purpose for which the fee or charge is established.~~

Sec. 22. K.S.A. 65-1953 is hereby amended to read as follows: 65-1953. No person shall perform body piercing, *cosmetic tattooing* or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing, *cosmetic tattooing* or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given ~~is granted~~ by a guardian, shall be retained by the person administering such body piercing, *cosmetic tattooing* or tattooing for a period of five years. Violation of this section is a class A misdemeanor.

Sec. 23. K.S.A. 65-1954 is hereby amended to read as follows: 65-1954. (a) The board, in addition to any other penalty prescribed under the act governing ~~permanent color technicians and tattoo artists~~ *tattoo artists, cosmetic tattoo artists or body piercers*, may assess civil fines and costs, including attorney fees, after proper notice and an opportunity to be heard, against any person or entity for a violation of the statutes, rules and regulations or orders enforceable by the board in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation.

(b) In determining the amount of penalty to be assessed pursuant to this section, the board may consider the following factors among others: (1) Willfulness of the violation; (2) repetitions of the violation; and (3) magnitude of the risk of harm caused by the violation.

(c) In addition to a civil penalty and costs, the board may assess investigation and hearing costs against ~~a licensee~~ *any individual required to be licensed, pursuant to this act*, for proceedings which have resulted in a successful action by the board against the ~~license of the licensee~~ *individual* under K.S.A. 65-1947, and amendments thereto.

(d) All civil fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *cosmetology fee fund*. All costs assessed under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~cosmetology fee~~ *state general* fund.

Sec. 24. K.S.A. 65-1901, 65-1903, 65-1904b, 65-1905, 65-1906, 65-1908, 65-1909, 65-1912, 65-1926, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1953 and 65-1954 and K.S.A. 2007 Supp. 65-1902 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2008.
