

1 AN ACT relating to licensed professionals.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 317.570 is amended to read as follows:

- 4 (1) No examination or part of any examination required by this chapter shall be given  
5 unless two (2) or more members of the board are present to supervise the  
6 examination;
- 7 (2) Examinations given by the board shall cover all phases of the applicant's  
8 qualifications for the license applied for including skill and technique of applicant  
9 as well as scientific and other knowledge;
- 10 (3) Examinations shall be given at regularly prescribed intervals;
- 11 (4) Examinations shall be given at the principal office of the board.

12 **(5) *An applicant who fails all or part of an examination shall be eligible to retake the***  
13 ***failed portion after one (1) month has passed from the date the applicant received***  
14 ***actual notice of the failure.***

15 ➔Section 2. KRS 317A.020 is amended to read as follows:

- 16 (1) No person shall engage in the practice of cosmetology, esthetic practices, or nail  
17 technology for other than cosmetic purposes nor shall any person engage in the  
18 practice of cosmetology, esthetic practices, or nail technology for the treatment of  
19 physical or mental ailments. This chapter does not apply to:
- 20 (a) Persons authorized by the law of this state to practice medicine, podiatry,  
21 optometry, dentistry, chiropractic, nursing, or embalming who perform  
22 incidental practices of cosmetology, esthetic practices, and nail technology in  
23 the normal course of the practice of their profession;
- 24 (b) Commissioned medical or surgical personnel of the United States Armed  
25 Forces who perform incidental practices of cosmetology, esthetic practices, or  
26 nail technology in the course of their duties;
- 27 (c) Cosmetology, esthetic practices, or nail technology services performed at an

1 institution operated or under contract to the Department of Corrections or the  
2 Department of Juvenile Justice; and

3 (d) Persons engaged in natural hair braiding.

4 (2) Except as provided in subsection (1) of this section, no person shall engage in the  
5 practice of cosmetology, esthetic practices, or nail technology for the public,  
6 generally, or for consideration without the appropriate license required by this  
7 chapter.

8 (3) No person unless duly and properly licensed pursuant to this chapter shall:

9 (a) Teach cosmetology, esthetic practices, or nail technology;

10 (b) Operate a beauty salon;

11 (c) Operate an esthetic salon;

12 (d) Act as an esthetician;

13 (e) Operate a nail salon;

14 (f) Act as a nail technician; or

15 (g) Conduct or operate a school for cosmetologists, estheticians, or nail  
16 technicians.

17 (4) No person shall aid or abet any person in violating this section, nor shall any person  
18 engage or employ for consideration any person to perform any practice licensed by  
19 this chapter unless the person to perform the practice holds and displays the  
20 appropriate license.

21 (5) No licensed cosmetology or esthetic practices instructors, licensed cosmetologists,  
22 licensed estheticians, or licensed nail technicians shall hold clinics for teaching or  
23 demonstrating for personal profit, either monetary or otherwise, if the clinics are not  
24 sponsored by a recognized professional cosmetologist's, esthetician's, or nail  
25 technician's group.

26 (6) Whenever a person engages in different practices separately licensed, certified, or  
27 permitted by this chapter, that person shall procure a separate license, certificate, or

1 permit for each of the practices in which the person engages.

2 (7) The board shall:

3 (a) Govern all issues related to this chapter;

4 (b) Investigate alleged violations brought to its attention, conduct investigations,  
5 and schedule and conduct administrative hearings in accordance with KRS  
6 Chapter 13B to enforce the provisions of this chapter and administrative  
7 regulations promulgated pursuant to this chapter;

8 (c) Administer oaths, receive evidence, interview persons, and require the  
9 production of books, papers, documents, or other evidence; and

10 (d) Have the authority to take emergency action affecting the legal rights, duties,  
11 privileges, or immunities of named persons without a hearing to stop, prevent,  
12 or avoid an immediate danger to the public health, safety, or welfare, in  
13 accordance with KRS 13B.125(1), subject to the following:

14 1. An emergency order shall be based upon verified probable cause or  
15 substantial evidence, documented by the board, that the emergency  
16 order is in the interest of public health, welfare, and safety of any  
17 customer, patient, or the general public; and

18 2. Upon the issuance of an emergency order, the board shall comply with  
19 the administrative hearing procedures in KRS 13B.125(3) to determine  
20 the reinstatement of operations of the licensed facility.

21 (8) (a) Unless a documented and verified violation creates an immediate and present  
22 danger to the health and safety of the public, a warning notice shall be first  
23 issued prior to imposing incremental punitive action against an otherwise  
24 lawful salon. The warning notice shall include a specific and detailed  
25 description of the violation and the specific remediation required to bring the  
26 salon into compliance.

27 (b) *It shall be deemed an immediate and present danger to the health and safety*

1                   *of the public if it is documented and verified that a licensee knowingly*  
2                   *employs or utilizes the services of an unlicensed nail technician.*

3 (9) The board may:

4       (a) Bring and maintain actions in its own name to enjoin any person in violation  
5           of any provision of this chapter. These actions shall be brought in the Circuit  
6           Court of the county where the violation is alleged to have occurred; and

7       (b) Refer violations of this chapter to county attorneys, Commonwealth's  
8           attorneys, and to the Attorney General.

9 (10) Nothing in this section shall be construed to prohibit an instructor, student,  
10       cosmetologist, or nail technician from using callus graters for callus removal, and  
11       the board shall not promulgate any administrative regulation prohibiting the use of  
12       callus graters for callus removal.

13       ➔Section 3. KRS 317A.040 is amended to read as follows:

14 (1) The board may employ inspectors and any other personnel reasonably necessary to  
15       carry out the provisions of this chapter, whose compensations shall be established  
16       within budgetary limits by the Personnel Cabinet. The board may delegate staffing  
17       decisions to the executive director.

18 (2) The board shall by appropriate order employ an executive director who shall be  
19       charged with the responsibility of administering the provisions of this chapter, and  
20       the policies and administrative regulations of the board relating to cosmetology and  
21       esthetic practices.

22 ~~(3) No person shall be employed as an executive director unless the person is a licensed~~  
23       ~~cosmetologist.~~

24 ~~(4)~~ The executive director may receive a salary as may be established by classification  
25       of the position by the Personnel Cabinet.

26 ~~(4)~~~~(5)~~ The board shall publish or electronically provide copies of its administrative  
27       regulations and any proposed amendments to all persons licensed by it and to any

1 other persons, places, or agencies as may be required by law or deemed by it  
2 reasonably necessary to the administration of the provisions of this chapter.

3 ➔Section 4. KRS 317A.100 is amended to read as follows:

4 (1) The board may promulgate reasonable administrative regulations pertaining to the  
5 issuance of a license, upon payment of the prescribed license fee, to any person  
6 holding a comparable license issued by another state or United States territory  
7 where the laws of that state or territory, in the opinion of the board, provide  
8 comparable professional qualification, health, and safety standards;

9 (2) A person who provides certification of licensure from a state board or appropriate  
10 agency, whose requirements are not comparable to those of Kentucky, who has held  
11 a license in good standing for more than two (2) years, shall be issued a Kentucky  
12 license after completion of an application, payment of a fee, and passage of the  
13 theory and practical examinations.

14 (3) A person who provides certification of licensure from a state board or appropriate  
15 agency, whose requirements are not comparable to those of Kentucky, who has held  
16 a license in good standing for less than two (2) years, shall be able to cure the  
17 deficiency of comparability through continuing education in Kentucky as  
18 determined by the board. The board may require completion of an application,  
19 payment of a fee, and passage of the theory and practical examinations.

20 ➔Section 5. KRS 317A.120 is amended to read as follows:

21 (1) Examinations given by the board shall cover all phases of qualifications for the  
22 license applied for including skill and technique of applicant as well as scientific  
23 and other knowledge. National exams may be used if approved by the board.

24 (2) Examinations shall be given by trained proctors.

25 (3) Examinations shall be given at regularly prescribed intervals.

26 (4) Examinations shall be given at locations that have been approved by the board.

27 (5) ~~An~~A ~~nail technician~~ applicant who fails a written theory test or an oral practical

1 demonstration shall be eligible to retake that portion after one (1) month has passed  
2 from the date the applicant received actual notice of the failure.

3 **(6) A cosmetologist or esthetician applicant may retake any examination an**  
4 **unlimited number of times until the applicant passes that examination.**