

1 HOUSE BILL NO. 81

2 INTRODUCED BY R. LYNCH

3 BY REQUEST OF THE BOARD OF BARBERS AND COSMETOLOGISTS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A BARBERING NONCHEMICAL LICENSE;
6 PROVIDING RULEMAKING AUTHORITY TO IMPLEMENT THE SCOPE OF PRACTICE AND REGULATIONS
7 FOR THE BARBERING NONCHEMICAL LICENSE AND SCHOOLS THAT TEACH BARBERING
8 NONCHEMICAL; AND AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-103, 37-31-203, 37-31-301,
9 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-31-331,
10 37-33-404, AND 49-2-101, MCA."

11

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

13

14 **Section 1.** Section 2-15-1747, MCA, is amended to read:15 **"2-15-1747. Board of barbers and cosmetologists.** (1) There is a board of barbers and
16 cosmetologists.17 (2) The board consists of nine members appointed by the governor with the consent of the senate and
18 must include:19 (a) three licensed cosmetologists each of whom has been a resident of this state for a least 5 years and
20 has been actively engaged in the profession of cosmetology for at least 5 years immediately prior to being
21 appointed to the board;22 (b) one member who has been a resident of this state for at least 5 years and has been actively engaged
23 as a licensed electrologist, esthetician, or manicurist for at least 5 years immediately prior to being appointed to
24 the board;25 (c) three licensed barbers or barbers nonchemical each of whom has been a resident of this state for
26 at least 5 years and has been actively engaged in the profession of barbering for at least 5 years immediately
27 prior to appointment to the board; and28 (d) two members of the public who are not engaged in the practice of barbering, cosmetology,
29 electrology, esthetics, or manicuring.

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

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

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

7 (5) Each member shall serve for a term of 5 years. The terms must be staggered.

8 (6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."
 9

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

11 **"37-31-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
 12 apply:

13 (1) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.

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

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

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

21 (b) Electrology does not include pilethermology, which is the study and professional practice of removing
 22 superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

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

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

28 (7) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and
 29 the application and maintenance of artificial nails.

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

- 1 (a) an assisted living facility;
- 2 (b) an intermediate care facility for the developmentally disabled;
- 3 (c) a hospice;
- 4 (d) a critical access hospital;
- 5 (e) a long-term care facility; or
- 6 (f) a residential treatment facility.
- 7 (9) "Practice or teaching of barbering" means any of the following practices performed for payment, either
- 8 directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of disease
- 9 or physical or mental ailments:
- 10 (a) shaving or trimming a beard;
- 11 (b) cutting, styling, coloring, or waving hair;
- 12 (c) straightening hair by the use of chemicals;
- 13 (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations
- 14 applied by hand or mechanical appliance;
- 15 (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or
- 16 (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands,
- 17 or neck.
- 18 (10) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as
- 19 provided in subsection (9) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.
- 20 ~~(10)~~(11) (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing",
- 21 "manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant
- 22 cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.
- 23 (b) The practice and teaching of cosmetology may not be construed to include itinerant cosmetologists
- 24 who perform their services without compensation for demonstration purposes in any regularly established store
- 25 or place of business holding a license from the state of Montana as a store or place of business.
- 26 ~~(11)~~(12) (a) "Salon or shop" means the physical location in which a person licensed under this chapter
- 27 practices barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.
- 28 (b) The term does not include a room provided in a place of residence that is used for the purposes of
- 29 barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring unless the owner,
- 30 manager, or operator allows the room to be used for the practice of barbering or barbering nonchemical or the

1 practice of cosmetology to serve nonresidents for compensation, in which case the room must be licensed as a
2 salon or a shop.

3 ~~(12)~~(13) "School" means a program and location approved by the board with respect to its course of
4 instruction for training persons in barbering, barbering nonchemical, cosmetology, electrology, esthetics, or
5 manicuring and that meets any other criteria established by the board."

6

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

8 **"37-31-103. Purpose.** It is a matter of legislative policy in the state of Montana that the practice of
9 barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring affects the public health,
10 safety, and welfare and is subject to regulation and control in order to protect the public from unauthorized and
11 unqualified practice."

12

13 **Section 4.** Section 37-31-203, MCA, is amended to read:

14 **"37-31-203. Rulemaking powers.** The board shall prescribe rules for:

15 (1) the conduct of board business;

16 (2) the qualification and licensure of applicants to practice barbering, barbering nonchemical,
17 cosmetology, electrology, esthetics, or manicuring or to teach barbering, barbering nonchemical, cosmetology,
18 electrology, esthetics, or manicuring;

19 (3) the regulation and instruction of apprentices and students;

20 (4) the conduct of schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, and
21 manicuring for apprentices and students;

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

23 (6) generally the conduct of the persons, firms, or corporations affected by this chapter."

24

25 **Section 5.** Section 37-31-301, MCA, is amended to read:

26 **"37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is unlawful
27 to:

28 (a) practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for
29 compensation;

30 (b) own, manage, operate, or conduct a school of barbering, barbering nonchemical, cosmetology,

1 electrology, esthetics, or manicuring;

2 (c) manage or operate a salon or shop or a booth; or

3 (d) teach in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or
4 manicuring.

5 (2) It is unlawful:

6 (a) for a person who owns, manages, or controls a salon or shop to employ or use an unlicensed person
7 as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist;

8 (b) to operate a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or
9 manicuring without complying with all of the regulations of 37-31-311;

10 (c) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring in
11 any place other than in a licensed salon or shop as provided in this chapter, except when a licensee is requested:

12 (i) by a customer to go to a place other than a licensed salon or shop and is sent to the customer from
13 a licensed salon or shop; or

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

15 or

16 (d) to violate any of the provisions of this chapter."
17

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

19 **"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1)**

20 A person may not practice or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or
21 manicuring without a license.

22 (2) A place may not be used or maintained for the teaching of barbering, barbering nonchemical,
23 cosmetology, electrology, esthetics, or manicuring for compensation unless licensed as a school.

24 (3) A person may not operate or manage a salon or shop without a license or a temporary operating
25 permit as provided in 37-31-312.

26 (4) A person may not operate or conduct a school of barbering, barbering nonchemical, cosmetology,
27 electrology, esthetics, or manicuring or teach barbering, barbering nonchemical, cosmetology, electrology,
28 esthetics, or manicuring without a license to teach barbering, barbering nonchemical, cosmetology, electrology,
29 esthetics, or manicuring.

30 (5) A person may not manage or operate a booth without a booth rental license.

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

3 (7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."
4

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

6 "**37-31-303. Application for license to practice or teach.** An applicant for a license to practice or teach
7 barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring shall file an application
8 provided by the department and pass the examination prescribed by the board to qualify for licensure."
9

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

11 "**37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice:

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

13 (b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from the
14 department;

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

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

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

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

21 (2) (a) (i) To be eligible to take the examination to practice barbering or barbering nonchemical, the
22 applicant must be at least 18 years of age, must be of good moral character, and must possess a high school
23 diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply
24 to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt
25 by rule procedures for granting an exception. ~~The~~

26 (ii) An applicant to practice barbering must have completed a course of study of at least 1,500 hours in
27 a licensed barbering school and must have received a diploma from the barbering school or must have completed
28 the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering
29 prescribed by the board by rule.

30 (iii) An applicant to practice barbering nonchemical must have completed a course of study of at least

1 1,000 hours in a licensed barbering or barbering nonchemical school, not including hours applicable to the use
2 of chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a diploma from the
3 barbering or barbering nonchemical school or must have completed the course of study in barbering or barbering
4 nonchemical at a school of cosmetology authorized to offer a course of study in barbering or barbering
5 nonchemical as prescribed by the board by rule.

6 (b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee with
7 the department and pass an examination as to fitness to practice barbering or barbering nonchemical.

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

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

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

14 (3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18
15 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that
16 is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the
17 educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for
18 granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a licensed
19 cosmetology school and must have received a diploma from the cosmetology school or must have completed
20 the course of study in cosmetology prescribed by the board by rule.

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

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

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

1 (5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18
2 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that
3 is recognized by the superintendent of public instruction. The applicant must have completed a course of study
4 prescribed by the board in a licensed school of cosmetology or a licensed school of manicuring. A person may
5 apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or
6 a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for
7 granting an exception.

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

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

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

19

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

21 **"37-31-305. Qualifications of applicants for license to teach.** (1) Before a person may teach or
22 instruct in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the
23 person shall obtain from the department a license to teach.

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

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

28 (b) have a license to practice issued by the department in the particular area of practice in which the
29 person plans to teach;

30 (c) have been actively engaged in that particular area of practice for 12 continuous months before taking

1 the teacher's examination; and

2 (d) (i) have received a diploma from a licensed school approved by the board, certifying satisfactory
3 completion of 650 hours of student teacher training; or

4 (ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license
5 under this subsection (2)(d)(ii) has 2 years to complete board-approved coursework related to teaching
6 methodology before a license to teach is renewed."

7

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

9 **"37-31-308. Exemption for persons with disabilities.** A person with a physical disability who is trained
10 for barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring by the department of
11 public health and human services is, for a period of 1 year immediately following graduation, exempt from the
12 examination and the fees described in 37-31-323. On certification from the department of public health and
13 human services that a department of public health and human services beneficiary has successfully completed
14 the required training in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or
15 manicuring, the department shall issue the person the necessary license to practice the profession in this state."

16

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

18 **"37-31-311. Schools -- license -- requirements -- bond -- curriculum.** (1) A person, firm, partnership,
19 corporation, or other legal entity may not operate a school for the purpose of teaching barbering, barbering
20 nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation unless licensed by the
21 department. Application for the license must be filed with the department on an approved form.

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

24 (a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision
25 of the work of the school or other teachers determined by the board to be necessary for the proper conduct of
26 the school. There may not be more than 25 students for each teacher.

27 (b) It possesses apparatus and equipment the board determines necessary for the teaching of all
28 subjects or practices of barbering or barbering nonchemical.

29 (c) It maintains a school term of not less than 1,500 hours for barbering and not less than 1,000 hours
30 for barbering nonchemical and a course of practical training and technical instruction equal to the requirements

1 for board examinations. The school's course of training and technical instruction must be prescribed by the board
2 by rule.

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

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

8 (3) A school for teaching cosmetology may not be granted a license unless the school complies with or
9 is able to comply with the following requirements:

10 (a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision
11 of the work of the school or other teachers determined by the board to be necessary for the proper conduct of
12 the school. There may not be more than 25 students for each teacher.

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

15 (c) It maintains a school term of not less than 2,000 hours and a course of practical training and technical
16 instruction equal to the requirements for board examinations. The school's course of training and technical
17 instruction must be prescribed by the board by rule.

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

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

22 (4) A school for teaching electrology may not be granted a license unless the school maintains a school
23 term and a course of practical training and technical instruction prescribed by the board, and possesses
24 apparatus and equipment necessary for teaching electrology as prescribed by the board by rule.

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

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

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

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

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

5 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
6 teaching of all subjects or practices of esthetics.

7 (b) It maintains a school term and a course consisting of not less than 650 hours of practical training and
8 technical instruction as prescribed by the board.

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

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

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

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

20 (10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a
21 school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to furnish a bond
22 or other security in the amount of \$5,000 and in a form and manner prescribed by the board by rule.

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

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

27

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

29 **"37-31-312. Inspection -- temporary permits.** (1) The department shall appoint one or more inspectors,
30 each of whom shall devote time to inspecting salons or shops and performing other duties as the department,

1 in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering,
2 school of barbering nonchemical, school of cosmetology, school of electrology, school of esthetics, or school of
3 manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit
4 the inspection during business hours is cause for revocation of a licensee's or school's license.

5 (2) When an owner or operator applies for a shop or salon license and pays licensure and inspection
6 fees prescribed by the board, the board:

7 (a) may authorize the department to grant to a new salon or shop a temporary operating permit; or

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

12 (3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon or shop to
13 operate until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had
14 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted
15 to a salon or shop if the board does not receive a response within 30 days from the date of the inspection or the
16 response received does not indicate that all of the inspection violations have been corrected, in which case a new
17 license application must be filed. A temporary permit is not renewable.

18 (4) The department shall require an inspector appointed under subsection (1) to conduct an annual
19 inspection of each salon or shop in the state."
20

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

22 "**37-31-323. Fees.** (1) Fees for licenses must be paid to the department in amounts prescribed by the
23 board by rule.

24 (2) The license fees must be paid in advance to the department unless otherwise provided by board rule.

25 (3) Other or additional license fees may not be imposed by a municipal corporation or other political
26 subdivision of this state for the practice or teaching of barbering, barbering nonchemical, cosmetology,
27 electrology, esthetics, or manicuring."
28

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

30 "**37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing.** (1)

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

3 (a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon or shop or
4 a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to comply with
5 this chapter;

6 (b) failure to comply with the sanitary rules adopted by the board and approved by the department of
7 public health and human services for the regulation of salons or shops or schools of barbering, barbering
8 nonchemical, cosmetology, electrology, esthetics, or manicuring;

9 (c) gross malpractice;

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

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

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

14 (g) failure to display the license.

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

17

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

19 **"37-33-404. Exemptions -- rules.** (1) The provisions of this chapter do not limit or regulate the scope
20 of practice of any other profession licensed under the laws of this state, including but not limited to medicine,
21 dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine,
22 occupational therapy, naturopathic medicine, cosmetology, manicuring, barbering, barbering nonchemical,
23 esthetics, electrology, professional counseling, social work, psychology, or athletic training.

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

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

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

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

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

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

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

11 (iv) touch to affect the reflex areas located in the hands, feet, and outer ears. Exempt practices under this
12 subsection (5)(a)(iv) include but are not limited to reflexology.

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

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

17 (ii) the person's services are not designated as or implied to be massage therapy."
18

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

20 **"49-2-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following
21 definitions apply:

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

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

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

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

30 (5) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt

1 and defer its payment, or to purchase property or services and defer payment. It includes without limitation the
2 right to incur and defer debt that is secured by residential real property.

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

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

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

9 (9) "Educational institution" means a public or private institution and includes an academy; college;
10 elementary or secondary school; extension course; kindergarten; nursery; school system; university; business,
11 nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

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

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

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

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

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

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

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

28 (16) "National origin" means ancestry.

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

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

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

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

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

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

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

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

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

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

26

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