



## 2021 South Dakota Legislature

# House Bill 1016

*Introduced by: The Committee on Commerce and Energy at the request of the Department of Labor and Regulation*

1 **An Act to revise the structure and certain fees of the Board of Barber Examiners,**  
 2 **the Board of Massage Therapy, and the Cosmetology Commission.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 36-14-2 be AMENDED.

5 **36-14-2. Barbering, Cosmetology, and Massage Therapy--Members--Terms**  
 6 **of office-- Removal--Vacancies.**

7 The Governor shall appoint a Board of ~~Barber Examiners~~ which shall include three professional  
 8 Barbering, Cosmetology, and Massage Therapy that consists of nine members. The term of  
 9 each member is three years, commencing on the thirty-first day of October. ~~The appointee's~~  
 10 term expires in the year of appointment and expiring on October thirtieth in the third year ~~of~~  
 11 appointment. Any member's term ending June 30, 2013, or thereafter is extended to October  
 12 thirtieth in the year the term is to expire. No member may serve more than three consecutive  
 13 full terms, including any full term that was served on the Board of Barber Examiners, Board  
 14 of Massage Therapy, or Cosmetology Commission immediately before being appointed to the  
 15 board. ~~However, appointment~~ Appointment to fill an unexpired term is not considered a  
 16 complete full term for this purpose. ~~Each of these members shall be a practical barber who~~  
 17 ~~has followed the occupation of barber in this state for at least five years immediately preceding~~  
 18 ~~the barber's appointment.~~ The board shall be composed of two barbers, two massage  
 19 therapists, three members of the public, one cosmetologist, and one cosmetologist,  
 20 esthetician, or nail technician. The Governor may remove a member for cause and shall fill all  
 21 vacancies. Any member appointed to fill a vacancy shall serve the remainder of the unexpired  
 22 term. The Governor may stagger the terms to enable the board to have different terms expire  
 23 each year.

24 **Section 2.** That a NEW SECTION be added:

1           **36-14-2.2. Definition of board.**

2           For purposes of this chapter, the term, board, means the Board of Barbering,  
3           Cosmetology, and Massage Therapy as established and created in § 36-14-2.

4           **Section 3.** That § 36-14-3 be AMENDED.

5           **36-14-3. Quorum of board.**

6           A majority of the ~~Board of Barber Examiners~~ board, in meeting duly assembled,  
7           may perform and exercise all the duties and powers devolving upon the board.

8           **Section 4.** That § 36-14-4 be AMENDED.

9           **36-14-4. Officers of board--Seal--Duties and bond of secretary-treasurer.**

10           ~~The Board of Barber Examiners~~ board shall elect a president and a  
11           secretary-treasurer. ~~It~~The board shall adopt and use a common seal. The  
12           secretary-treasurer shall keep a record of all proceedings of the board and shall report to  
13           the president, all moneys collected, at least once a month. The secretary-treasurer shall  
14           give such bond as the board may require, with sufficient sureties, to be approved by the  
15           board, for the faithful performance of his duties.

16           Any member of the board may resign by giving written notice to the board and to  
17           the Governor. A resignation is effective when delivered to the Governor and the board.

18           **Section 5.** That § 36-14-4.1 be AMENDED.

19           **36-14-4.1. Board continued within Department of Labor and Regulation--**  
20           **Records and reports.**

21           ~~The Board of Barber Examiners~~ board shall continue within the Department of  
22           Labor and Regulation, and shall retain all its prescribed functions, including administrative  
23           functions. The board shall submit such records, information, and reports in the form and  
24           at such times as required by the secretary of labor and regulation, except that the board  
25           shall report at least annually.

26           **Section 6.** That § 36-14-5 be AMENDED.

27           **36-14-5. Employment of personnel by board.**

28           ~~The Board of Barber Examiners~~ board may employ inspectors, clerks, and other  
29           assistants, as the board deems necessary to carry out the provisions of this chapter.

1 **Section 7.** That § 36-14-6 be AMENDED.

2 **36-14-6. Inspection of shops and schools by board.**

3 Any member of the ~~Board of Barber Examiners~~ board, or its agents or assistants,  
4 shall have authority to enter upon and to inspect any barbershop or barber school at any  
5 time during business hours.

6 **Section 8.** That § 36-14-7 be AMENDED.

7 **36-14-7. Monthly deposit of money into treasury--Special account--**  
8 **Continuous appropriation--Limit on expense.**

9 All money coming into the custody of the ~~Board of Barber Examiners~~ board each  
10 calendar month shall be paid by the board to the state treasurer on or before the tenth  
11 day of next month. The state treasurer shall credit the money to the ~~Board of Barber~~  
12 ~~Examiners'~~ board's account in the general fund, which account is hereby created. The  
13 money in the ~~Board of Barber Examiners'~~ board's account is hereby continuously  
14 appropriated to the board for the purpose of paying the expense of administering and  
15 enforcing the provisions of this chapter. However, the total expense incurred may not  
16 exceed the total money collected by the board under the provisions of this chapter.

17 All funds previously held by the Board of Barber Examiners, Cosmetology  
18 Commission, and Board of Massage Therapy shall be combined into one fund and be  
19 appropriated under the provisions of this section.

20 **Section 9.** That § 36-14-9 be AMENDED.

21 **36-14-9. Promulgation of rules--Posting in shops and schools.**

22 The ~~Board of Barber Examiners~~ board may promulgate reasonable rules, pursuant  
23 to chapter 1-26, for the administration of the provisions of this chapter and to prescribe  
24 sanitary requirements for barbershops and barber schools. A copy of the rules  
25 promulgated by the board shall be furnished by the board to the owner or manager of  
26 each barbershop and barber school. A copy of the rules shall be posted in a conspicuous  
27 place in each barbershop or barber school.

28 The ~~Board of Barber Examiners~~ board may also promulgate rules, pursuant to chapter  
29 1-26, to establish:

- 30 (1) The fee for the annual renewal of the certificate of registration for barbers pursuant  
31 to § 36-14-24;
- 32 (2) The fee for the operation of a barber school or college pursuant to § 36-14-24;

- 1 (3) The fee for the operation of a barbershop pursuant to § 36-14-27; and  
2 (4) The procedures governing the inspection of barbershops and the barbershop  
3 equipment pursuant to § 36-14-28.

4 **Section 10.** That § 36-14-11 be AMENDED.

5 **36-14-11. Certificate of registration required.**

6 No person may practice barbering without having a certificate of registration issued  
7 by the ~~Board of Barber Examiners~~ board.

8 **Section 11.** That § 36-14-13 be AMENDED.

9 **36-14-13. Qualifications for registration.**

10 Any person who is at least eighteen years of age and has passed a satisfactory  
11 examination conducted by the ~~Board of Barber Examiners~~ board to determine the person's  
12 fitness to practice barbering is entitled to a certificate of registration as a registered  
13 barber.

14 **Section 12.** That § 36-14-14 be AMENDED.

15 **36-14-14. Qualifications for transfer of license or registration from another**  
16 **state or country.**

17 Any person who is at least eighteen years of age may transfer a barber license or  
18 registration to this state if the applicant has:

- 19 (1) A license or certificate of registration as a barber from another state or country that  
20 has substantially the same requirements for licensing or registering barbers as  
21 required by this chapter; or  
22 (2) Can prove by affidavits that the applicant has practiced as a barber in another state  
23 or country for at least five years.

24 After a qualified applicant pays the required fee, the ~~Board of Barber Examiners~~ board  
25 shall issue a certificate of registration to practice barbering. If an applicant applying to  
26 transfer a barber license or registration to this state from another state or country that  
27 requires less than fifteen hundred hours of instruction as a prerequisite to licensing, the  
28 applicant shall receive an additional fifty hours of credit for each month the applicant has  
29 practiced as a licensed barber in the other state or country. This credit shall be applied  
30 toward the required fifteen hundred hours of instruction required by § 36-14-17.

31 **Section 13.** That § 36-14-17 be AMENDED.

1           **36-14-17. Curriculum required for approval of barber school.**

2           No school of barbering shall ~~may~~ be approved by the ~~Board of Barber Examiners~~  
3 ~~board~~ unless it requires, as a prerequisite to graduation, a course of instruction of not less  
4 than nine months, with a minimum of fifteen hundred hours, ~~such course of instruction to~~  
5 ~~include that includes~~ the following subjects: scientific fundamentals for barbering,  
6 hygiene, bacteriology as applied to barbering, structure of the head, face and neck,  
7 elementary chemistry relating to sterilization and antiseptics, diseases of the skin and  
8 hair, massaging and manipulating the muscles of the upper body, haircutting, shaving,  
9 and arranging, dressing, coloring, bleaching, and tinting the hair.

10 **Section 14.** That § 36-14-18 be AMENDED.

11           **36-14-18. Contents of application for examination--Photographs.**

12           Each applicant for an examination shall make application to the ~~Board of Barber~~  
13 ~~Examiners~~ board on blank forms prepared and furnished by the board, setting forth, under  
14 oath, the particular qualifications of the applicant, and shall furnish to the board two  
15 five-by-three inch photographs of the applicant, one of which shall be returned to the  
16 applicant and presented to the board when the applicant appears for examination. The  
17 application shall be accompanied by the required fee.

18 **Section 15.** That § 36-14-19 be AMENDED.

19           **36-14-19. Time, place, and scope of examinations--Issuance of certificates--**  
20 **Employment pending examination.**

21           The ~~Board of Barber Examiners~~ board shall conduct examinations not less than two  
22 times each year at such time and place as the board may determine. The examinations  
23 shall include both a practical demonstration and a written test, ~~which shall embrace that~~  
24 ~~embraces~~ the subjects ~~taught in schools of barbering approved by the board~~ set forth in  
25 § 36-14-17. If the provisions of this chapter have been complied with, the board shall  
26 issue the proper certificate of registration to the applicant. However, the board may permit  
27 a student to be employed at the barber profession from the time the student has  
28 completed schooling until the next examination.

29 **Section 16.** That § 36-14-24 be AMENDED.

1           **36-14-24. Fees required of barbers and barber schools.**

2           The fee to be paid by an applicant for an examination to determine the applicant's  
3 fitness to receive a certificate of registration to practice barbering may not exceed one  
4 hundred dollars and for the issuance of the certificate, may not exceed fifty dollars. ~~All~~  
5 ~~fees shall be set by the board by rules promulgated pursuant to chapter 1-26.~~ For the  
6 annual renewal of a certificate of registration to practice barbering, no more than ~~eighty~~  
7 thirty-five dollars, and for the restoration of an expired certificate, no more than twenty  
8 dollars, plus no more than fifteen dollars penalty for each expired year. The fee to be paid  
9 for a permit to operate a barber school or college ~~shall be set by rule promulgated pursuant~~  
10 ~~to chapter 1-26 and may not be more than one hundred fifty dollars annually.~~ The fees in  
11 this section shall otherwise be set by the board by rules promulgated pursuant to chapter  
12 1-26.

13 **Section 17.** That § 36-14-26 be AMENDED.

14           **36-14-26. Record of proceedings relative to certificates--Contents--Public**  
15 **inspection.**

16           ~~The Board of Barber Examiners board~~ shall keep a record of its proceedings relative  
17 to the issuance, refusal, renewal, suspension, and revocation of certificates of registration,  
18 ~~which record shall contain the.~~ For each barber to whom the board issues a certificate of  
19 registration, the board shall keep a record that contains the barber's name, place of  
20 business, and the residence of each registered barber, and the date and number of the  
21 barber's certificate of registration number. ~~This record~~ The records required to be kept  
22 pursuant to this section shall be open to public inspection at all reasonable times.

23 **Section 18.** That § 36-14-27 be AMENDED.

24           **36-14-27. License required for shop--Supervision by registered barber--**  
25 **Petty offense--Application--Fee.**

26           It is a petty offense for any person to operate a barbershop unless it has been  
27 licensed by the ~~Board of Barber Examiners board~~, and it is at all times under the direct  
28 supervision and management of a registered barber. Application for license shall be made  
29 annually before the first day of July on forms prepared and furnished by the ~~Board of~~  
30 ~~Barber Examiners annually before the first day of July board.~~ The fee to accompany such  
31 license shall be set by rule promulgated by the board pursuant to chapter 1-26 and may  
32 not be more than fifty dollars annually for each shop, plus a fee of no more than ten  
33 dollars, for each chair.

1 **Section 19.** That § 36-14-28 be AMENDED.

2 **36-14-28. Inspection before issuance of shop license--Fee.**

3 No shop license may be issued to any person for any new shop wanting to  
4 commence operation, or for any shop changing hands, or changing location, until the shop  
5 has passed an inspection of the premises and equipment. The inspection shall be made  
6 by the ~~Board of Barber Examiners~~ pursuant to board in accordance with the rules  
7 promulgated by the board pursuant to chapter 1-26. The fee for the original inspection  
8 may not exceed one hundred twenty-five dollars, as established by the board by rule  
9 promulgated pursuant to chapter 1-26, and shall be submitted along with the application  
10 for license and license fee.

11 **Section 20.** That § 36-14-30 be AMENDED.

12 **36-14-30. Annual inspection of shops.**

13 All barbershops after original inspection pursuant to § 36-14-28 shall be inspected  
14 annually by the ~~Board of Barber Examiners~~ board, but the board may not charge a fee for  
15 the annual inspection. However, if the shop does not pass the annual inspection and the  
16 inspector has to go back to the shop for a second or subsequent inspection, the ~~Board of~~  
17 ~~Barber Examiners~~ board may charge the shop owner fifty dollars for the cost of such  
18 inspection.

19 **Section 21.** That § 36-14-31 be AMENDED.

20 **36-14-31. Mobile shop license fee--Annual inspection--Place of operation.**

21 The operator of a mobile barbershop shall pay a license fee required by § 36-14-  
22 27 annually for each mobile shop operated. Such mobile barbershop after original  
23 inspection pursuant to § 36-14-28 shall be inspected annually by the ~~State Board of Barber~~  
24 ~~Examiners~~ board. No mobile barbershop may be operated in a municipality or  
25 unincorporated town in which there is a licensed barbershop.

26 **Section 22.** That § 36-14-32 be AMENDED.

27 **36-14-32. Grounds for refusal, suspension, or revocation of certificates.**

28 The ~~Board of Barber Examiners~~ board may refuse to issue or renew, or may  
29 suspend or revoke, any certificate of registration for any of the following causes:

- 30 (1) Conviction of a felony;  
31 (2) Malpractice or incompetency;

- 1 (3) Continued practice by a person knowingly having an infectious or contagious  
 2 disease;
- 3 (4) Advertising by means of knowingly false or deceptive statements;
- 4 (5) Advertising, practicing, or attempting to practice under a trade name other than  
 5 one's own;
- 6 (6) Drunkenness, or addiction to the use of habit-forming drugs;
- 7 (7) Immoral or unprofessional conduct; or
- 8 (8) The commission of any of the offenses described in § 36-14-36.

9 **Section 23.** That § 36-14-33 be AMENDED.

10 **36-14-33. Procedure for refusal, suspension, or revocation of certificate.**

11 The ~~Board of Barber Examiners shall~~ board may not suspend or revoke, nor refuse  
 12 to issue, or renew, any certificate of registration, except in compliance with chapter 1-26.

13 **Section 24.** That § 36-14-35 be AMENDED.

14 **36-14-35. Appeal from Board.**

15 An appeal from the decision of the ~~Board of Barber Examiners~~ board may be taken  
 16 as provided by chapter 1-26.

17 **Section 25.** That § 36-14-37.1 be AMENDED.

18 **36-14-37.1. Injunction for enforcement of chapter--Election of remedies.**

19 The ~~Board of Barber Examiners~~ board may commence actions for injunction for  
 20 violation of this chapter or rules promulgated hereunder as an alternate to criminal  
 21 proceedings. The commencement of one proceeding by the board constitutes an election.

22 **Section 26.** That § 36-15-1 be AMENDED.

23 **36-15-1. Definition of terms.**

24 Terms used in this chapter mean:

- 25 (1) "Apprentice," any person licensed by the ~~commission~~ board to receive education  
 26 through an apprenticeship in a salon;
- 27 (2) "Apprentice salon," any salon licensed by the commission to teach apprentices;
- 28 (3) "Board," the Board of Barbering, Cosmetology, and Massage Therapy as established  
 29 and created in § 36-14-2;



- 1       (4) "Booth," any part within a licensed salon that is rented or leased for the purpose of  
 2           rendering licensed cosmetology services as a separate, independent salon business;  
 3       ~~(4) "Commission," the Cosmetology Commission as established and created in § 36-~~  
 4           ~~15-3;~~
- 5       (5) "Cosmetologist," any person who, for compensation, engages in any of the practices  
 6           of cosmetology;
- 7       (6) "Cosmetology," any one or any combination of the practices set forth in § 36-15-2;
- 8       (7) "Demonstrator," any person licensed to practice cosmetology, nail technology, or  
 9           esthetics in this state, in another state, or in another country, who demonstrates  
 10          the various practices of cosmetology, as applicable, in order to inform or educate  
 11          other licensees or the public;
- 12       (8) "Esthetician," any person who, for compensation, engages in the practice of  
 13          esthetics, but not in other practices of cosmetology;
- 14       (9) "Esthetics," any one or any combination of the practices set forth in § 36-15-2.2;
- 15       (10) "Instructor," any person who is licensed by the commission board to instruct in a  
 16          school and who meets the requirements set forth in § 36-15-25;
- 17       (11) "Nail technology," any one or any combination of the practices set forth in § 36-15-  
 18          17.2;
- 19       (12) "Nail technician," any person who, for compensation, engages in the practice of nail  
 20          technology, but not in other practices of cosmetology;
- 21       (13) "Natural hair braiding," any one or any combination of the practices set forth in  
 22          § 36-15-1.1;
- 23       (14) "Salon," any place, premise, or building or any part of a building operated for the  
 24          purpose of engaging in the practice of cosmetology, nail technology, or esthetics,  
 25          or any combination of these practices;
- 26       (15) "School," any place, premise, or building that is licensed by the commission board  
 27          to provide education to students in the practice of cosmetology, nail technology, or  
 28          esthetics, or any combination of these practices;
- 29       (16) "School premises," any permanent building or other structures approved by the  
 30          commission board as a school campus under one school license;
- 31       (17) "Student," any person who is licensed by the commission board to receive education  
 32          in a licensed school.

33       **Section 27.** That § 36-15-2 be AMENDED.

1           **36-15-2. License required to practice cosmetology--Acts constituting**  
2           **practice of cosmetology.**

3           No person may engage in the practice of cosmetology unless the person is licensed  
4           by the ~~commission~~ board. A person is engaged in the practice of cosmetology if that  
5           person, for compensation, a fee, or any valuable consideration, engages in any of the  
6           following practices with hands, chemicals, or any mechanical or electrical apparatus or  
7           appliance for beautifying or cosmetic purposes:

- 8           (1) Hair care by styling, wrapping, arranging, braiding, twisting, weaving, extending,  
9           fusing, dressing, curling, waving, permanent waving, singeing, cleansing,  
10          shampooing, cutting, bleaching, setting, coloring, straightening, relaxing, fitting,  
11          massaging, or similar work upon the hair, scalp, wigs, or hairpieces of a person;  
12          (2) Nail technology;  
13          (3) Esthetics; or  
14          (4) Removal of superfluous hair by nonpermanent means.

15       **Section 28.** That § 36-15-2.2 be AMENDED.

16           **36-15-2.2. License required for practice of esthetics--Practices constituting**  
17           **esthetics.**

18          No person may engage in the practice of esthetics unless the person is licensed by  
19          the ~~commission~~ board. A person is engaged in the practice of esthetics if that person, for  
20          compensation, a fee, or any valuable consideration, engages in any of the following  
21          practices with hands, chemicals, or any mechanical or electrical apparatus or appliance  
22          for beautifying or cosmetic purposes:

- 23          (1) Beautifying, massaging, cleansing, exfoliating, stimulating, or applying oils,  
24          creams, cosmetic preparations, make-up, facial treatments, body treatments, body  
25          wraps, antiseptics, scrubs, clays, lotions, masks, waxes, or other preparations for  
26          the noninvasive care of the skin. For purposes of this subdivision, noninvasive  
27          means confined to the nonliving cells of the stratum corneum of the epidermis. Such  
28          practices shall be in a superficial mode and not for the treatment of medical  
29          disorders, and living cells may never be altered, cut, or damaged;  
30          (2) Grooming or applying eyebrows or eyelashes, including arching and tinting; or  
31          (3) Removing superfluous hair by nonpermanent means, including tweezing and  
32          waxing.

33          Esthetics does not include scalp treatments or scalp massage.

1 **Section 29.** That § 36-15-2.3 be AMENDED.

2 **36-15-2.3. Application for esthetics examination--Information required.**

3 Any person desiring to practice esthetics in this state as an esthetician shall apply  
4 to the ~~commission~~ board to take the esthetics examination. The application shall:

- 5 (1) Contain the information required by § 36-15-15;  
6 (2) Contain proof that the applicant is enrolled in or has completed the required hours  
7 of education, as established by rules pursuant to § 36-15-13, or equivalent credit  
8 hours in an approved and licensed cosmetology or esthetics school; and  
9 (3) Be accompanied by the fee required in this chapter.

10 **Section 30.** That § 36-15-2.4 be AMENDED.

11 **36-15-2.4. Terms of licenses--Renewal dates.**

12 Any license or permit issued under this chapter or any license issued under prior  
13 law may be annually renewed for ~~periods of one year, but in any event expiring on through~~  
14 the next annual renewal date as established by the ~~commission~~ board. The ~~commission~~  
15 board shall, by rules promulgated pursuant to chapter 1-26, establish the renewal date  
16 for any ~~licenses or permits~~ license or permit issued under this chapter.

17 **Section 31.** That § 36-15-4 be AMENDED.

18 **36-15-4. Qualifications of board members--School affiliation prohibited.**

19 Each professional cosmetology member of the ~~commission~~ board shall be:

- 20 (1) A resident of this state;  
21 (2) At least twenty-five years of age;  
22 (3) Actively engaged in the practice of cosmetology for the three years immediately  
23 preceding the appointment; and  
24 (4) Currently licensed as a cosmetologist in this state at the time of the appointment  
25 and while serving on the ~~commission~~ board.

26 No member of the ~~commission~~ board may be a member of or affiliated with or have  
27 an interest in any school while in office.

28 **Section 32.** That § 36-15-6 be AMENDED.

1           **36-15-6. Employment of personnel by board--Expenses--School affiliation**  
2 **prohibited.**

3           The ~~commission board~~ may employ personnel as it deems necessary to administer  
4 and enforce the provisions of this chapter. The ~~commission board~~ may pay the travel and  
5 subsistence expenses of each employee pursuant to the provisions of § 3-9-2. However,  
6 no employee of the ~~commission board~~ may be connected or associated in any manner  
7 with any school.

8 **Section 33.** That § 36-15-11 be AMENDED.

9           **36-15-11. General duties of board members.**

10           The duties of the members of the ~~commission board~~ under this chapter include:

- 11           (1) Inspecting salons, booths, schools, nail technicians, estheticians, and  
12           cosmetologists;  
13           (2) Conducting examinations for applicants for licenses under this chapter;  
14           (3) Approving continuing education courses;  
15           (4) Investigating violations and enforcing provisions of this chapter and the rules  
16           established by the ~~commission board~~ pursuant to this chapter;  
17           (5) Maintaining an office for the keeping of records; and  
18           (6) Doing all things necessary for the proper administration of this chapter.

19 **Section 34.** That § 36-15-13 be AMENDED.

20           **36-15-13. Scope of rules.**

21           The ~~commission board~~ may adopt rules pursuant to chapter 1-26 pertaining to the  
22 following:

- 23           (1) Application requirements for any license or permit issued pursuant to this chapter;  
24           (2) Examinations;  
25           (3) Reports of students' education and work performed;  
26           (4) Minimum standards and requirements for cosmetology, nail technology, and  
27           esthetics salons and schools;  
28           (5) Minimum standards for plumbing, electrical, physical, and sanitary conditions for  
29           the health and safety of persons utilizing cosmetology, nail technology, or esthetics  
30           salons or schools;  
31           (6) The professional conduct of licensees;  
32           (7) The reinstatement of lapsed licenses and lapsed renewal pursuant to § 36-15-20.1;  
33           (8) The fee for a lapsed license and lapsed renewal pursuant to § 36-15-20.1;

- 1 (9) The course and education requirements received by transfer students pursuant to  
2 § 36-15-34;
- 3 (10) The textbooks, educational material, and the general course of study for schools  
4 and for cosmetology salons and nail salons having apprentices pursuant to § 36-  
5 15-46;
- 6 (11) The progress and education received by an apprentice pursuant to § 36-15-48;
- 7 (12) The fees for all licenses, permits, and renewals;
- 8 (13) Minimum standards for the use of chemicals or any mechanical or electrical  
9 apparatus or appliance;
- 10 (14) Amount of work experience of an out-of-state licensed applicant that may be used  
11 as a substitute for the education requirement pursuant to §§ 36-15-17, 36-15-17.1,  
12 and 36-15-2.3;
- 13 (15) Inspection and reinspection of individual licensees, salons, and schools;
- 14 (16) Administration and duties of the ~~commission board~~; and
- 15 (17) Minimum hours of education for esthetics licensing.

16 **Section 35.** That § 36-15-13.2 be AMENDED.

17 **36-15-13.2. Continuing education for licensees--Board authorized to adopt**  
18 **rules--Scope.**

19 The ~~commission board~~ may adopt rules pursuant to chapter 1-26 pertaining to  
20 continuing education for licensees on health issues, safety issues, and services that require  
21 the use of chemicals or electrical or mechanical apparatus. The ~~commission board~~ may  
22 provide, by rule promulgated pursuant to chapter 1-26, the kinds and subjects of  
23 education and the number of hours of education required. The ~~commission board~~ may also  
24 substitute experience in addition to or in lieu of educational requirements. The ~~commission~~  
25 board may waive any of the education requirement in case of certified illness or undue  
26 hardship. The ~~commission board~~ may establish a fee by rules adopted pursuant to chapter  
27 1-26 to cover the cost of verifying the required continuing education. The ~~commission~~  
28 board may offer a course and charge a registration fee to cover the costs.

29 **Section 36.** That § 36-15-14 be AMENDED.

30 **36-15-14. Access of authorities to salons or schools for inspection and**  
31 **enforcement purposes.**

32 The ~~commission board~~, any state or local board of health, or any officer or  
33 employee thereof, may enter during the business hours, any salon or school licensed

1 under the provisions of this chapter and any other place where the practice of cosmetology  
2 is followed, practiced, or taught for the purpose of inspection and enforcement of this  
3 chapter and the rules adopted pursuant to this chapter.

4 **Section 37.** That § 36-15-15 be AMENDED.

5 **36-15-15. Application for license or permit--Evidence of qualifications.**

6 An applicant for any license or permit shall first submit evidence, satisfactory to  
7 the ~~commission~~ board that the applicant:

- 8 (1) Is at least eighteen years of age or older, except as otherwise provided in this  
9 chapter; and  
10 (2) Has complied with all the rules adopted by the ~~commission~~ board as to the  
11 qualifications, standards, and requirements required for the license and application.

12 **Section 38.** That § 36-15-17 be AMENDED.

13 **36-15-17. Application for cosmetologist examination--Information required.**

14 Any person desiring to practice cosmetology in this state as a cosmetologist shall  
15 make application to the ~~commission~~ board to take the examination. The application shall:

- 16 (1) Contain the information required pursuant to § 36-15-15;  
17 (2) Contain information satisfactory to the ~~commission~~ board that the applicant is  
18 enrolled in or has completed fifteen hundred hours of education or equivalent credit  
19 hours in an approved and licensed cosmetology school, or in lieu of such education,  
20 is enrolled in or has successfully completed a course of apprenticeship in a licensed  
21 cosmetology salon as provided for in this chapter; and  
22 (3) Be accompanied by the fee required in this chapter.

23 **Section 39.** That § 36-15-17.1 be AMENDED.

24 **36-15-17.1. Application for nail technician examination--Information**  
25 **required.**

26 Any person desiring to practice nail technology in this state as a nail technician  
27 shall apply to the ~~commission~~ board to take the nail technician examination. The  
28 application shall:

- 29 (1) Contain the information required by § 36-15-15;  
30 (2) Contain proof that the applicant is enrolled in or has completed four hundred hours  
31 of education or equivalent credit hours in an approved and licensed cosmetology or

- 1 nail school or, in lieu of such education, is enrolled in or has successfully completed  
2 a course of apprenticeship in a licensed cosmetology salon or nail salon, as provided  
3 in § 36-15-45; and  
4 (3) Be accompanied by the fee required in this chapter.

5 **Section 40.** That § 36-15-17.2 be AMENDED.

6 **36-15-17.2. License required to practice nail technology--Practices**  
7 **constituting nail technology.**

8 No person may engage in the practice of nail technology unless the person is  
9 licensed by the ~~commission~~ board. A person is engaged in the practice of nail technology  
10 if that person, for compensation, a fee, or any valuable consideration, engages in any of  
11 the following practices with hands, chemicals, or any mechanical or electrical apparatus  
12 or appliance for beautifying or cosmetic purposes:

- 13 (1) Cutting, filing, trimming, shaping, polishing, coloring, removing polish, tinting,  
14 air-brushing, decorating, cleansing, or otherwise beautifying a person's fingernails  
15 or toenails;  
16 (2) Applying and removing artificial nails; or  
17 (3) Massaging, cleansing, and exfoliating a person's hands, arms, feet, and legs.

18 Nail technology does not include hair removal, cutting nail beds, treating corns or  
19 calluses, or any medical treatment involving the feet, hands, or nails.

20 **Section 41.** That § 36-15-19 be AMENDED.

21 **36-15-19. Number, time, and place of examinations.**

22 The ~~commission~~ board shall conduct at least six examinations in the practice of  
23 cosmetology, at least two examinations in the practice of nail technology, and at least two  
24 examinations in the practice of esthetics each year. The ~~commission~~ board shall set the  
25 times and places for the conduct of the examination.

26 **Section 42.** That § 36-15-19.1 be AMENDED.

27 **36-15-19.1. Cosmetologist's examination--Issuance of license--Annual**  
28 **expiration and renewal.**

29 Each applicant for a cosmetologist license who has complied with § 36-15-17, shall  
30 take the prescribed examination in the practice of cosmetology. The ~~commission~~ board  
31 shall determine the contents of the examination. Upon successful completion of the

1 required education, passing the examination to the satisfaction of the ~~commission board~~  
2 and the receipt of the fee required in this chapter, the applicant shall be licensed as a  
3 cosmetologist in the practice of cosmetology. Any cosmetologist license issued by the  
4 ~~commission board~~ pursuant to this chapter expires annually on a date set by the  
5 ~~commission board~~ in rules promulgated pursuant to chapter 1-26, and is renewable  
6 annually.

7 **Section 43.** That § 36-15-19.2 be AMENDED.

8 **36-15-19.2. Licensure by reciprocity--Requirements.**

9 The ~~commission board~~ may waive the examination required in § 36-15-19.1, 36-  
10 15-19.3, or in 36-15-19.5 upon application made to the ~~commission board~~ that the  
11 applicant possesses the qualifications required pursuant to § 36-15-15, and that:

- 12 (1) The applicant holds a currently valid license issued by another state, district, or  
13 foreign country and the requirements of that state, district, or foreign country at  
14 the time of the examination were ~~equal to or not less greater than or equal to~~ those  
15 required by this state;
- 16 (2) The applicant has passed an examination acceptable to the ~~commission board~~ in  
17 cosmetology, nail technology, or esthetics, as applicable;
- 18 (3) The applicant shall take the prescribed written examination on the provisions of this  
19 chapter and rules adopted pursuant to this chapter. The ~~commission board~~ shall  
20 determine the contents of the examination; and
- 21 (4) The application is accompanied by the fee provided for in this chapter.

22 **Section 44.** That § 36-15-19.3 be AMENDED.

23 **36-15-19.3. Nail technician's examination--Issuance of license--Annual**  
24 **expiration and renewal.**

25 Each applicant for a nail technician license who has complied with § 36-15-17.1  
26 shall take the prescribed examination in the practice of nail technology. The ~~commission~~  
27 board shall determine the contents of the examination. Upon successful completion of the  
28 required education, passing the examination to the satisfaction of the ~~commission board~~  
29 and the receipt of the fee required in this chapter, the applicant shall be licensed as a nail  
30 technician. Any nail technician license issued by the ~~commission board~~ pursuant to this  
31 chapter expires annually on a date set by the ~~commission board~~ in rules promulgated  
32 pursuant to chapter 1-26, and is renewable annually.



1 **Section 45.** That § 36-15-19.5 be AMENDED.

2 **36-15-19.5. Esthetician's examination--Issuance of license--Annual**  
3 **expiration and renewal.**

4 Each applicant for an esthetician license who has complied with § 36-15-2.3 shall  
5 take the prescribed examination in the practice of esthetics. The commission board shall  
6 determine the contents of the examination. Upon successful completion of the required  
7 education, passing the examination to the satisfaction of the commission board and the  
8 receipt of the fee required in this chapter, the applicant shall be licensed as an esthetician  
9 in the practice of esthetics. Any esthetician license issued by the commission board  
10 pursuant to this chapter expires annually on a date set by the commission board in rules  
11 promulgated pursuant to chapter 1-26, and is renewable annually.

12 **Section 46.** That § 36-15-20 be AMENDED.

13 **36-15-20. Fees for licenses, permits, and renewals.**

14 The fees promulgated in rules by the commission board pursuant to chapter 1-26  
15 for all examinations, licenses, permits, and renewals required by this chapter may not  
16 exceed the following maximums:

- 17 (1) Examination fee ~~which that~~ includes the initial license, one hundred dollars;  
18 (2) Examination retake fee, one test, sixty dollars; two tests, seventy dollars; three  
19 tests, eighty dollars;  
20 (3) Cosmetologist, nail technician, or esthetician license renewal fee, ~~twenty-five-thirty-~~  
21 five dollars;  
22 (4) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;  
23 (5) Instructor initial license fee and license renewal fee, thirty-five dollars;  
24 (6) Reciprocity, initial license, and waiver of examination fee, one hundred dollars;  
25 (7) For certification of a license issued under this chapter for a South Dakota licensee  
26 to obtain licensure in another state, or furnishing of other papers to another state  
27 or school, twenty dollars;  
28 (8) Apprentice license fee, twenty-five dollars;  
29 (9) Apprentice salon initial license and renewal fee, two hundred fifty dollars;  
30 (10) School initial license fee and renewal fee, three hundred dollars;  
31 (11) Student license fee, six dollars;  
32 (12) Salon or booth initial permit license fee, sixty dollars;  
33 (13) Salon or booth license renewal fee, forty dollars;

1 (14) Reinspection fee for failed salon, fifty dollars for each reinspection;

2 (15) License duplicate or replacement fee, five dollars.

3 Any license, permit, or renewal fee ~~which~~that is collected by the ~~commission board~~  
4 shall be the same for each respective license, permit, or renewal regardless of the time  
5 remaining before the expiration date.

6 **Section 47.** That § 36-15-20.1 be AMENDED.

7 **36-15-20.1. Reinstatement of lapsed licenses and renewals--Fee.**

8 The ~~commission board~~ shall promulgate reasonable rules pursuant to chapter 1-26  
9 concerning the reinstatement of lapsed licenses and lapsed renewals required by this  
10 chapter. The ~~commission board~~ shall by rules promulgated pursuant to chapter 1-26  
11 establish the fee, which may not be greater than twenty-five dollars for each year that the  
12 license or renewal has lapsed. The ~~commission board~~ shall also collect the fee for the  
13 license and renewal as otherwise required by this chapter.

14 **Section 48.** That § 36-15-22 be AMENDED.

15 **36-15-22. Temporary permit for out-of-state cosmetologist, nail technician**  
16 **or esthetician--Duration of permit.**

17 Any person who holds a current valid license from another state or foreign country  
18 in the practices of cosmetology, nail technology, or esthetics may apply to the ~~commission~~  
19 board for a temporary permit to practice cosmetology, nail technology, or esthetics, as  
20 applicable. The application shall be accompanied with evidence satisfactory to the  
21 ~~commission board~~ that the applicant possesses those qualifications required pursuant to  
22 §§ 36-15-15 and 36-15-19.2. The application shall be accompanied by the fee required in  
23 this chapter. A temporary permit is valid until the date of the next regular scheduled  
24 examination in cosmetology, nail technology, or esthetics, as applicable. If the holder of  
25 a temporary permit takes the examination at the scheduled time, the ~~commission board~~  
26 shall extend the temporary permit until the result of the examination is mailed to the  
27 applicant. If an applicant is not excused from the examination by the ~~commission board~~  
28 or fails the examination, the temporary permit is invalid and may not be extended or  
29 reissued.

30 **Section 49.** That § 36-15-25 be AMENDED.

1           **36-15-25. Instructor license required to teach--Application--Conditional**  
 2           **license--Areas of instruction.**

3           No person may teach in a school unless that person is licensed by the ~~commission~~  
 4           board as an instructor. Any person may qualify and be licensed by the ~~commission~~ board  
 5           as an instructor for cosmetology, nail technology, or esthetics, as applicable, upon  
 6           application made to the ~~commission~~ board. The application shall be accompanied by  
 7           satisfactory evidence that the applicant:

- 8           (1) Possesses the qualifications required by § 36-15-15;  
 9           (2) Currently holds a valid cosmetologist, nail technician, or esthetician license, as  
 10           applicable;  
 11           (3) Has complied with any instructor education, as prescribed by § 36-15-26.2, or has  
 12           at least one year of teaching experience as a licensed instructor from another state  
 13           in cosmetology, nail technology, or esthetics, as applicable; and  
 14           (4) Has passed an examination prescribed by the ~~commission~~ board.

15           However, the applicant may receive the license conditionally, dependent on completing  
 16           instructor education and passing the examination as prescribed by the ~~commission~~ board  
 17           in rules adopted pursuant to chapter 1-26.

18           An instructor with a cosmetologist license may instruct in any practice of cosmetology.  
 19           An instructor with a nail technician license may only instruct in the practice of nail  
 20           technology. An instructor with an esthetician license may only instruct in the practice of  
 21           esthetics.

22           The ~~commission~~ board may promulgate rules, pursuant to chapter 1-26, to establish  
 23           education and experience requirements for a person to serve as a substitute instructor.

24           **Section 50.** That § 36-15-25.1 be AMENDED.

25           **36-15-25.1. Annual expiration and renewal.**

26           Any instructor license issued by the ~~commission~~ board pursuant to this chapter  
 27           expires annually on a date set by the ~~commission~~ board in rules promulgated pursuant to  
 28           chapter 1-26, and is renewable annually. The application shall be accompanied by the fee  
 29           required in this chapter and proof of completion of any required, ~~commission-approved~~  
 30           board-approved instructor education pursuant to § 36-15-26.2.

31           **Section 51.** That § 36-15-26.2 be AMENDED.

1           **36-15-26.2. Education for instructors.**

2           The ~~commission board~~ may adopt rules pursuant to chapter 1-26 pertaining to  
 3 educational requirements for instructor licenses and the renewal of instructor licenses,  
 4 including the kinds and subjects of education and the number of hours of education  
 5 required. The ~~commission board~~ may also substitute experience in addition to or in lieu of  
 6 educational requirements. The ~~commission board~~ may set a fee through rules adopted  
 7 pursuant to chapter 1-26 to cover the cost of verifying the required continuing education.  
 8 The ~~commission board~~ may offer a course and charge a registration fee to cover the costs.

9           **Section 52.** That § 36-15-29 be AMENDED.

10           **36-15-29. License required for school of cosmetology, nail technology or**  
 11 **esthetics--Requirements for license.**

12           No person may conduct a cosmetology, nail technology, or esthetics school for any  
 13 of the practices of cosmetology, as applicable, unless that person is licensed as a school  
 14 by the ~~commission board~~. The ~~commission board~~ shall issue the license if the applicant  
 15 meets the following requirements:

- 16           (1) The applicant completes the application and provides any required documentation;  
 17           (2) The application is accompanied by the fee required in this chapter;  
 18           (3) The applicant has no violations with another cosmetology board;  
 19           (4) The education offered is a complete program of not less than fifteen hundred hours  
 20 for a cosmetology program or a complete program of not less than four hundred  
 21 hours for a nail technician program or a complete program of not less than the  
 22 hours established by rules pursuant to § 36-15-13 for an esthetician license or the  
 23 respective equivalent credit hours; and  
 24           (5) The applicant meets all requirements established by rules adopted pursuant to this  
 25 chapter.

26           **Section 53.** That § 36-15-29.1 be AMENDED.

27           **36-15-29.1. School license restricted to premises--Exceptions--Transfer**  
 28 **prohibited.**

29           The license issued pursuant to § 36-15-29 authorizes the cosmetology, nail  
 30 technology, or esthetics school holding a license to transact a school in this state only on  
 31 the premises approved by the ~~commission board~~, subject to the rules of the ~~commission~~  
 32 board. The license is not transferable to any other person. If the holder of the school  
 33 license proposes to conduct a complete or partial education program on premises other

1 than those licensed by the ~~commission board~~, the licensee shall obtain an additional  
2 license for the newly proposed premises as a school pursuant to § 36-15-29 or pursuant  
3 to § 36-15-29.3 as applicable. However, the ~~commission board~~ may approve limited field  
4 trips supervised by instructors.

5 **Section 54.** That § 36-15-29.3 be AMENDED.

6 **36-15-29.3. Branch school--Requirements for license.**

7 No school may conduct an education program at a separate school premises unless  
8 the school premises is licensed by the ~~commission board~~ as a branch school. The  
9 ~~commission board~~ shall issue a license for a branch school if the applicant meets the  
10 following requirements:

- 11 (1) The applicant holds a school license under § 36-15-29 that is accredited by a  
12 nationally recognized accrediting agency approved by the ~~commission board~~;
- 13 (2) The applicant completes the application and provides any required documentation;
- 14 (3) The application is accompanied by the fee required in this chapter;
- 15 (4) The applicant has no violations with another cosmetology board;
- 16 (5) The branch school offers at least twenty-five percent of the required hours for  
17 cosmetology education, nail technology education, or esthetics education or  
18 equivalent credit hours; and
- 19 (6) The applicant meets all requirements established by rules adopted pursuant to this  
20 chapter.

21 **Section 55.** That § 36-15-33 be AMENDED.

22 **36-15-33. Student license application--Requirements and issuance of**  
23 **license--Withdrawal or transfer.**

24 Any person entering or enrolling in a licensed school for education in the practice  
25 of cosmetology, nail technology, or esthetics shall apply to the ~~commission board~~ for a  
26 student license within ten days after the date of enrollment. The applicant for a student  
27 license shall be at least seventeen years of age. The application shall contain the  
28 information required pursuant to § 36-15-15 and the name and location of the school  
29 being attended. Upon receipt of the application and the fee provided for in this chapter,  
30 the ~~commission board~~ shall issue to the applicant a student license ~~which that~~ entitles the  
31 student to complete the course of education in which the student is enrolled without  
32 additional license fees. If the student withdraws from the school or course in cosmetology,  
33 nail technology, or esthetics for which the fee was paid and later enrolls in the same or a

1 different school or course, the student shall pay the student license fee again. If at any  
2 time a student transfers schools, the student shall submit an application, and pay the  
3 applicable license fee, for a student license.

4 **Section 56.** That § 36-15-34 be AMENDED.

5 **36-15-34. Students transferring from out-of-state school--Credit allowed.**

6 Any person who wishes to transfer from an out-of-state school of cosmetology to  
7 a licensed school in this state for the purpose of meeting the requirements of the state for  
8 ~~commission~~ board examination in cosmetology, nail technology, or esthetics shall apply  
9 for a student license pursuant to § 36-15-33. The ~~commission~~ board may adopt rules  
10 pursuant to chapter 1-26, establishing requirements relating to courses and education  
11 received by such transfer students. Transfer students shall be given South Dakota credit  
12 hours for their out-of-state education as determined and allowed by the ~~commission~~  
13 board.

14 **Section 57.** That § 36-15-42 be AMENDED.

15 **36-15-42. Apprentice license --Requirements--Term of license.**

16 A person may receive apprenticeship education in cosmetology and nail  
17 technology. However, no person may receive apprenticeship education unless that person  
18 is licensed as an apprentice. Any person may apply to the ~~commission~~ board to be licensed  
19 as an apprentice if the applicant:

- 20 (1) Submits evidence satisfactory to the commission that the applicant possesses those  
21 qualifications, except for age, required pursuant to § 36-15-15;  
22 (2) Is at least seventeen years of age or older; and  
23 (3) The cosmetology or nail salon in which the apprentice will receive education is  
24 currently licensed as an apprentice salon and is adequately equipped to teach the  
25 profession of cosmetology or nail technology, as applicable.

26 Any apprentice license issued pursuant to this chapter is valid for the full period of the  
27 apprenticeship as defined in § 36-15-45 and is not renewable. The application shall be  
28 accompanied by the fee required in this chapter.

29 **Section 58.** That § 36-15-42.1 be AMENDED.

1           **36-15-42.1. Apprentice salon license--Requirements--Term of license.**

2           No salon may offer apprenticeship education without obtaining an apprentice salon  
3 license. The owner of the salon may apply to the ~~commission~~ board to be licensed as an  
4 apprentice salon if:

- 5           (1) The salon meets the applicable requirements of this chapter and rules promulgated  
6           pursuant to this chapter;  
7           (2) The salon has passed the annual inspection for the current year; and  
8           (3) The application is accompanied by the fee required in this chapter.

9           The apprentice salon license is valid for the length of the apprenticeship as stated in  
10 § 36-15-45. If the apprenticeship period extends longer than the length of hours in § 36-  
11 15-45, as applicable, then the apprentice salon license shall be renewed. The ~~commission~~  
12 board may grant an extension of the license for good cause. The ~~commission~~ board shall  
13 define good cause by rules promulgated pursuant to chapter 1-26.

14 **Section 59.** That § 36-15-45 be AMENDED.

15           **36-15-45. Required period of apprenticeship--Transfer to another salon--**  
16 **Break in apprenticeship period.**

17           A licensed apprentice in cosmetology shall receive education in the practice of  
18 cosmetology as required by this chapter in the same cosmetology salon for two thousand  
19 one hundred fifty consecutive hours. A licensed apprentice in nail technology shall receive  
20 education in the practice of nail technology as required by this chapter for nine hundred  
21 consecutive hours in the same cosmetology salon or nail salon. The ~~commission~~ board  
22 may permit an apprentice to transfer to another cosmetology salon or nail salon, as  
23 applicable, for completion of the apprenticeship if the apprentice applies for the transfer  
24 in writing to the ~~commission~~ board and shows good cause for the request. The ~~commission~~  
25 board may permit a break in the consecutive period of the apprenticeship if the apprentice  
26 applies for the break in writing to the ~~commission~~ board and shows good cause for the  
27 request. The ~~commission~~ board shall define good cause by rules promulgated pursuant to  
28 chapter 1-26.

29 **Section 60.** That § 36-15-46 be AMENDED.

30           **36-15-46. Textbooks and course of study--Schools and apprenticeships.**

31           The ~~commission~~ board may prescribe textbooks, educational material, and the  
32 general course of study required for schools and for salons having one or more

1 apprentices. Such textbooks and educational material shall be furnished without charge  
2 for use by apprentices.

3 **Section 61.** That § 36-15-46.1 be AMENDED.

4 **36-15-46.1. General Coursework--Credit--Promulgation of rules.**

5 Notwithstanding any other provision of this chapter, the ~~commission~~ board shall  
6 allow credit for general coursework in areas not specific to the practice of cosmetology,  
7 nail technology, or esthetics, that is completed in other programs or institutions, to be  
8 applied to any course of study required for licensure under this chapter.

9 The ~~commission~~ board may promulgate rules, pursuant to chapter 1-26,  
10 establishing criteria for accepting and applying the credit allowable under this section.

11 **Section 62.** That § 36-15-48 be AMENDED.

12 **36-15-48. Instructor's report on apprentice.**

13 The ~~commission~~ board may adopt reasonable rules pursuant to chapter 1-26  
14 pertaining to a report on the progress and education received by any apprentice required  
15 of the licensed instructor under whom the apprentice is being supervised.

16 **Section 63.** That § 36-15-50 be AMENDED.

17 **36-15-50. Temporary license on completion of apprenticeship--Duration.**

18 Any person who successfully completes the term of apprenticeship pursuant to this  
19 chapter may apply to the ~~commission~~ board for a temporary license ~~which will authorize~~  
20 that authorizes the applicant to perform all the practices of a regularly licensed  
21 cosmetologist or nail technician, as applicable. The temporary license application shall be  
22 accompanied with:

- 23 (1) Evidence satisfactory to the ~~commission~~ board that the applicant possesses the  
24 qualifications required pursuant to § 36-15-15;
- 25 (2) Evidence satisfactory to the ~~commission~~ board that the apprenticeship period has  
26 been completed;
- 27 (3) The fee for a temporary license, as provided in this chapter; and
- 28 (4) The application and fee for the cosmetologist or nail technician examination, as  
29 applicable.

30 A temporary license issued by the ~~commission~~ board is valid until the date of the next  
31 scheduled examination in cosmetology or nail technology, as applicable. If the holder of a



1 temporary license takes the applicable examination at that time, the ~~commission board~~  
2 shall extend the temporary license until the result of the examination is mailed to the  
3 person. If a person is not excused from the examination by the ~~commission board~~ or fails  
4 the examination, the temporary license is invalid and may not be extended or reissued.

5 **Section 64.** That § 36-15-50.1 be AMENDED.

6 **36-15-50.1. Temporary license to school graduate--Duration.**

7 Any person who successfully completes a course of education in an approved and  
8 licensed school in this state, or in any other licensed cosmetology, nail technology, or  
9 esthetics school, as applicable, not located within this state that is shown to the  
10 satisfaction of the ~~commission board~~ to be comparable, may apply to the ~~commission~~  
11 ~~board~~ for a temporary license ~~which will authorize that authorizes~~ the applicant to perform  
12 all the practices of a regularly licensed cosmetologist, nail technician, or esthetician, as  
13 applicable. The application shall be accompanied by:

- 14 (1) Evidence satisfactory to the ~~commission board~~ that the course of education has  
15 been successfully completed;
- 16 (2) The fee for a temporary license as provided in this chapter; and
- 17 (3) The application and fee for a cosmetologist, nail technician, or esthetician  
18 examination, as applicable.

19 A temporary license issued by the ~~commission board~~ is valid until the date of the next  
20 scheduled examination in cosmetology, nail technology, or esthetics, as applicable. If the  
21 holder of a temporary license takes the applicable examination at that time, the  
22 ~~commission board~~ shall extend the temporary license until the result of the examination  
23 is mailed to the person. If a person is not excused from the examination by the ~~commission~~  
24 ~~board~~ or fails the examination, the temporary license is invalid and may not be extended  
25 or reissued.

26 **Section 65.** That § 36-15-51 be AMENDED.

27 **36-15-51. License required to operate salon or booth--Types of licenses--**  
28 **Annual expiration and renewal--Violation as misdemeanor.**

29 No person may operate a salon or booth without a license. Any person who desires  
30 to operate a salon or booth where:

- 31 (1) All of the practices of cosmetology are provided, shall apply to the ~~commission~~  
32 ~~board~~ for a cosmetology salon or booth license, as applicable;

- 1 (2) Only nail technology is practiced, shall apply to the commission board for a nail  
2 salon or booth license, as applicable;
- 3 (3) Only esthetics is practiced, shall apply to the commission board for an esthetics  
4 salon or booth license, as applicable;
- 5 (4) Cosmetology is limited to one or a few of the practices specified in § 36-15-2, shall  
6 apply to the commission board for a limited salon or booth license. The application  
7 for a limited license shall state the practices of cosmetology desired to be provided.

8 The application shall be accompanied by the license fee provided for in this chapter.  
9 Any salon or booth license expires annually on a date set by the commission board in rules  
10 promulgated pursuant to chapter 1-26, and is renewable annually. No person may practice  
11 cosmetology, nail technology, or esthetics beyond the limits specified in the license. A  
12 violation of this section is a Class 2 misdemeanor.

13 **Section 66.** That § 36-15-51.1 be AMENDED.

14 **36-15-51.1. Changing location or ownership of salon or booth--New license**  
15 **required--Temporary permit authorized--Notice to board.**

16 The owner of a salon or booth shall apply to the commission board for a new license  
17 pursuant to § 36-15-51 if:

- 18 (1) A salon or booth address is changed;
- 19 (2) Sole ownership is changed;
- 20 (3) A partnership has a change in any partner; or
- 21 (4) The controlling ownership in a corporation is transferred or a corporation is  
22 reorganized.

23 The application shall be accompanied by the license fee provided for in this  
24 chapter. The commission board may issue a temporary permit to the applicant ~~which~~that  
25 is valid for ninety days. During that time, the commission board shall inspect the premises.  
26 The owner or manager of a salon or booth that changes location or ownership or is closed  
27 shall immediately notify the commission board of that fact.

28 **Section 67.** That § 36-15-55.2 be AMENDED.

29 **36-15-55.2. Refusal, revocation or suspension of license--Grounds.**

30 The commission board may, in compliance with chapter 1-26, either refuse to  
31 issue, revoke, or suspend a license ~~which~~that is required by this chapter on any of the  
32 grounds for disciplinary action provided in this chapter.

1 **Section 68.** That § 36-15-56 be AMENDED.

2 **36-15-56. Grounds for disciplinary action.**

3 The grounds for disciplinary action are:

- 4 (1) Fraud or deception in procuring a license required by this chapter;
- 5 (2) Failure of any person to comply with any of the requirements of this chapter or rules  
6 adopted pursuant to this chapter;
- 7 (3) Publication or use of any untruthful or improper statement or representation, with  
8 a view of deceiving the public, or any patron or customer in connection with the  
9 practice or education in cosmetology;
- 10 (4) Habitual drunkenness or drug addiction affecting the licensee's practice of the  
11 profession, or conviction of a violation of any federal or state law relating to narcotic  
12 drugs;
- 13 (5) Failure to furnish to the ~~commission~~ board, any report or information which is  
14 required by this chapter or rules adopted pursuant to this chapter;
- 15 (6) The employment of any unlicensed person to perform work ~~which~~ that under this  
16 chapter can lawfully be done only by licensed persons;
- 17 (7) Failure to publicly display any license required by this chapter;
- 18 (8) Willfully making any false oath or affirmation whenever any oath or affirmation is  
19 required in this chapter or by rules adopted pursuant to this chapter;
- 20 (9) Conviction of a felony affecting the licensee's practice of the profession, as shown  
21 by a certified copy of the record of the court of conviction;
- 22 (10) Continued practice by persons knowingly having an infectious or contagious  
23 disease; ~~and/or~~
- 24 (11) Practice of any cosmetology services for which the commission requires additional  
25 continuing education when the education has not been completed.

26 **Section 69.** That § 36-15-57 be AMENDED.

27 **36-15-57. Subpoena power of board--Administration of oaths--Depositions.**

28 The ~~Cosmetology Commission~~ board shall have the powers granted by §§ 1-26-  
29 19.1 and 1-26-19.2 at any hearing of any matter over which the ~~commission~~ board has  
30 jurisdiction.

31 **Section 70.** That § 36-15-58 be AMENDED.

1           **36-15-58. Initiation of proceedings—License cancellation, revocation or**  
2           **suspension.**

3           The proceedings for cancellation, revocation, or suspension of a license may be  
4           initiated ~~when if the cosmetology commission board~~ has information that any person may  
5           have been guilty of any misconduct as provided in § 36-15-56, or is guilty of  
6           incompetence, negligence, or unprofessional or dishonorable conduct.

7           **Section 71.** That § 36-15-58.3 be AMENDED.

8           **36-15-58.3. Cancellation, revocation or suspension hearing--Board quorum**  
9           **required.**

10          All proceedings relative to the cancellation, revocation or suspension of a license,  
11          or relative to reissuing a license which has been revoked or suspended shall only be held  
12          when a majority of the members of the ~~commission board~~ are present at such hearings.

13          **Section 72.** That § 36-15-58.4 be AMENDED.

14          **36-15-58.4. Suspend, revoke or cancel--Majority vote required.**

15          The decision of the ~~commission board~~ to suspend, revoke or cancel a license  
16          requires a majority vote of the ~~commission board~~ members.

17          **Section 73.** That § 36-15-58.5 be AMENDED.

18          **36-15-58.5. Reinstatement of suspended or revoked license--Procedure--**  
19          **Conditions.**

20          By majority vote, the ~~commission board~~ may reinstate or reissue a suspended or  
21          revoked license upon:

- 22          (1) Written application establishing compliance with existing licensing requirements; or  
23          (2) Testimony by witnesses.

24          The ~~commission board~~ may impose conditions for the reinstatement of a license. One  
25          of the conditions may provide for an automatic reinstatement of the license after a fixed  
26          period of time.

27          **Section 74.** That § 36-15-59 be AMENDED.

28          **36-15-59. Appeal from board decision.**

29          An appeal may be taken from orders or decisions of the ~~Cosmetology Commission~~  
30          board acting pursuant to this chapter, as provided by chapter 1-26.

1 **Section 75.** That § 36-15-60 be AMENDED.

2 **36-15-60. Certain acts prohibited--Misdemeanor.**

3 No person may:

- 4 (1) Practice cosmetology, nail technology, or esthetics without a license;
- 5 (2) Intentionally make any false oath or affirmation whenever an oath or affirmation is
- 6 required by this chapter or rules promulgated to this chapter;
- 7 (3) Fail to display any license in a conspicuous place in the salon, booth, or school;
- 8 (4) Fail to comply with the plumbing, electrical, physical, or sanitary requirements as
- 9 stated in the rules promulgated by the ~~commission~~ board;
- 10 (5) Charge or receive compensation for teaching an apprentice any of the practices of
- 11 cosmetology;
- 12 (6) Operate a school without a license as provided for in this chapter;
- 13 (7) Employ or allow any unlicensed person to perform work which under this chapter
- 14 may lawfully be done only by licensed persons;
- 15 (8) Operate a salon, booth, or school for any of the practices of cosmetology without
- 16 having first obtained the applicable license as provided in this chapter;
- 17 (9) Practice any cosmetology services for which the ~~commission~~ board requires
- 18 additional continuing education in which the education has not been completed; and
- 19 (10) Do any act prohibited by this chapter.

20 A violation of this section is a Class 2 misdemeanor.

21 **Section 76.** That § 36-15-61 be AMENDED.

22 **36-15-61. Injunction against violations--Legal expenses authorized.**

23 The ~~commission~~ board or any resident of this state may bring an action in circuit

24 court for an injunction to:

- 25 (1) Restrain any person or corporation from the practice of or education in cosmetology
- 26 without a valid license;
- 27 (2) Restrain the operation of any salon or school without a valid license; or
- 28 (3) Restrain the violation of any of the provisions or requirements of this chapter or
- 29 rules adopted pursuant to this chapter.

30 The ~~commission~~ board may employ counsel and expend moneys from its treasury for

31 such purposes.

32 **Section 77.** That § 36-35-1 be AMENDED.

1           **36-35-1. Definitions.**

2           Terms in this chapter mean:

- 3           (1) "Board," the Board of Barbering, Cosmetology, and Massage Therapy;
- 4           (2) "Licensee," a person who meets the qualifications for licensure pursuant to this
- 5           chapter and holds a valid license to practice massage therapy;
- 6           (3) "Massage," the systematic mobilization of the soft tissues of the body through the
- 7           application of hands, feet, or devices for the purposes of therapy, relaxation, or
- 8           education through means which include:
- 9           (a) Pressure, friction, stroking, rocking, kneading, percussion, compression, or
- 10           stretching;
- 11           (b) External application of water, heat, cold, lubricants, or other topical agents;
- 12           or
- 13           (c) The use of devices that mimic or enhance the actions of human hands or feet;
- 14           and
- 15           (4) "Practice of massage therapy," the performance of massage for a fee or other
- 16           compensation or holding oneself out to the public as performing massage.

17   **Section 78.** That § 36-35-9 be AMENDED.

18           **36-35-9. Use of fees.**

19           Any fees collected under this chapter shall be used for the operation of the board

20           and the implementation of this chapter.

21   **Section 79.** That § 36-35-17 be AMENDED.

22           **36-35-17. Application and license fees.**

23           Any applicant for a license under this chapter shall submit a nonrefundable

24           application fee not to exceed one hundred dollars. Any person who has a license issued or

25           renewed by the board shall submit a license fee in an amount not to exceed ~~sixty-five~~

26           thirty-five dollars. Fees shall be set by the board by rule promulgated pursuant to chapter

27           1-26.

28   **Section 80.** That § 1-37-12 be REPEALED.

29           **1-37-12. Board of Barber Examiners transferred.**

30   **Section 81.** That § 1-37-13 be REPEALED.

1           **1-37-13. Cosmetology Commission transferred.**

2   **Section 82.** That § 36-14-2.1 be REPEALED.

3           **36-14-2.1. Lay member of board--Appointment and term of office.**

4   **Section 83.** That § 36-15-3 be REPEALED.

5           **36-15-3. Cosmetology Commission--Appointment and terms of members--**  
6           **Oath of office.**

7   **Section 84.** That § 36-15-4.1 be REPEALED.

8           **36-15-4.1. Lay members of commission--Appointment and terms of office.**

9   **Section 85.** That § 36-15-5 be REPEALED.

10           **36-15-5. Annual election of officers of commission--Meetings--Quorum.**

11   **Section 86.** That § 36-15-5.1 be REPEALED.

12           **36-15-5.1. Commission continued within Department of Labor and**  
13           **Regulation--Records and reports.**

14   **Section 87.** That § 36-15-9 be REPEALED.

15           **36-15-9. Fees paid in advance--Use by commission.**

16   **Section 88.** That § 36-35-2 be REPEALED.

17           **36-35-2. Appointment of board members--Terms--Vacancy.**

18   **Section 89.** That § 36-35-3 be REPEALED.

19           **36-35-3. Resignation of board members--Effective date.**

20   **Section 90.** That § 36-35-4 be REPEALED.

21           **36-35-4. Selection of officers.**

22   **Section 91.** That § 36-35-5 be REPEALED.

- 1           **36-35-5. Meetings of board.**
- 2   **Section 92.** That § 36-35-6 be REPEALED.
- 3           **36-35-6. Quorum--Majority vote.**