Virginia McInerney *Legislative Service Commission*

Sub. H.B. 415

124th General Assembly
(As Passed by the House)

Reps. Hollister, Schmidt, Fedor, White, Schuring, Carmichael, Flowers, Setzer, D. Miller, Carano, Coates, Sferra, Beatty

BILL SUMMARY

- Requires a person who rents booth space at a salon in order to practice a branch of cosmetology to obtain an independent contractor license.
- Adds two additional members to the State Board of Cosmetology and revises the composition of the Board.
- Permits the Board to adopt a continuing education requirement only if the Board determines that a new procedure or product adversely impacts public health and safety if improperly used or applied.
- Increases the educational requirements for a practicing or managing license.
- Permits the Board to establish rules to give credit for instruction that was received more than five years before the date of application for a license.
- Gives the Board the authority to establish a temporary special occasion work permit for individuals not licensed in Ohio to practice or teach a branch of cosmetology for a limited period of time as part of a promotional or instructional program.
- Increases the fee for the re-examination of an applicant for a license who registered for an examination but did not appear for it.
- Prohibits a person at a salon or school of cosmetology from using or possessing a cosmetic product containing an ingredient that the U.S.F.D.A. has banned by regulation, or from using a cosmetic product in a manner that is inconsistent with a regulatory restriction established by the U.S.F.D.A.

- Prohibits a person at a salon or school from using or possessing a liquid nail monomer containing any trace of methyl methacrylate (MMA).

- Enables the Board to impose a fine on or deny, suspend, or revoke the license of a person who violates any of the Board's rules.

- Increases the fine that the Board may levy against a licensee or permittee who has committed a violation of the Cosmetology Law if the person committed more than one violation of the same type.

- Revises the exemption for domestic administration of cosmetology services.

- Makes a temporary pre-examination work permit renewable according to rules adopted by the Board.

- Provides that an inactive license may be restored on the later of (1) the date on which the person submits proof of completion of the continuing education requirement, or (2) the last day of January of the next odd-numbered year following the year in which the license is classified as inactive.

- Gives the Board the authority to issue a temporary work permit to an individual with an inactive license, including an individual with an inactive license issued by another state.

- Permits a school of cosmetology to employ persons not licensed under the Cosmetology Law to teach subjects related to cosmetology under certain conditions.

- Changes the final day of the biennial licensing period to January 31 of each odd-numbered year.

- Revises the definition of the practice of cosmetology, and the definitions of cosmetologist, managing cosmetologist, and cosmetologist instructor.

- Defines the practice of hair design and a hair design salon, and establishes licensing requirements for hair designers, managing hair designers, and hair design instructors.

- Defines the practice of natural hair styling and a natural hair style salon, and establishes licensing requirements for natural hair stylists, managing natural hair stylists, and natural hair style instructors.
- Modifies the definitions of a managing esthetician and an esthetician instructor.
- Revises the definitions of a manicurist, managing manicurist, and manicurist instructor.
- Requires a consumer under the age of 18 to obtain the written consent of the consumer's parent or legal guardian prior to receiving tanning services.
- Creates a definition of a salon, and modifies the definition of a beauty salon.
- Revises the definitions of a school of cosmetology, apprentice instructor, and student.
- Allows a school of cosmetology operated by a public entity to offer competency based credits for coursework.
- Permits the sale of food at salons if the food is sold in a manner that is consistent with rules adopted by the Board.
- Eliminates the definition of glamour photography.

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CONTENT AND OPERATION

Introduction

The bill adopts new section numbers for many Revised Code sections of the Cosmetology Law (Chapter 4713. of the Revised Code), moves many existing law provisions to different sections, repeals existing sections and enacts new sections using the same section number, and changes division lettering within Revised Code sections. In order to avoid confusion, citations to existing sections of law appear in the text in regular script, but citations to Revised Code sections as they appear in the bill are shown in italics.

Independent contractor license

The bill establishes an independent contractor license, which is a type of license that is not found in current law. An independent contractor license is a license to practice a branch of cosmetology at a salon in which the license holder rents booth space *(sec. 4713.01).*

Qualifications for an independent contractor license

In order to qualify for an independent contractor license, an applicant must pay the applicable fee, hold a license to manage the type of salon in which the applicant will practice that branch of cosmetology, and satisfy the conditions for licensure established by rule *(sec. 4713.39).*

Practicing, managing, and instructor licenses

Current law does not define the terms "practicing license," "managing license," or "instructor license." The bill defines a practicing license as a license to practice a branch of cosmetology, a managing license as a license to manage a

salon and the branch of cosmetology practiced at the salon, and an instructor license as a license to teach the theory and practice of a branch of cosmetology at a school of cosmetology *(sec. 4713.01).* The bill adds a provision that requires that each license issued by the State Board of Cosmetology (hereafter, the "Board") specify the branch of cosmetology in which the holder is entitled to practice, manage, or teach *(sec. 4713.55).*

Current law requires every person who holds a license issued by the Board to display it in a conspicuous place in the principal office, place of business, or place of employment of the holder (sec. 4713.16). The bill retains this provision and extends the requirement to all types of licenses created by the bill, and adds that the place of display must also be public, as well as conspicuous *(sec. 4713.56).*

Current law also requires every holder of a certificate of registration to practice massage who practices massage in a salon to display the certificate in a conspicuous place in the room used for massage services (sec. 4713.16). The bill adds that the place of display must be public, as well as conspicuous, and makes persons who provide cosmetic therapy or other professional services in a salon also subject to this requirement *(sec. 4713.56).*

Qualifications for the issuance of a practicing license

Current law requires an applicant for a cosmetologist's license, manicurist's license, esthetician's license, and natural hair stylist license to have the equivalent of an Ohio public school 8th grade education. The bill increases the educational requirement for these fields, and for all practicing licenses created by the bill, to the equivalent of an Ohio public school 10th grade education.

Current law also requires applicants for the four licenses listed above to pass an examination in their respective fields. The bill extends this requirement to applicants for all practicing licenses. (Sec. 4713.04(A), (B), (C), and (D); *Sec. 4713.28(C), (D), and (E).)*

Qualifications for the issuance of a managing license

Current law requires applicants for a managing cosmetologist's license, managing manicurist's license, and managing esthetician's license to have at least the equivalent of an Ohio public school 8th grade education, at least one year of practicing experience in cosmetology or in their respective occupations, or to undergo additional training, and to pass an examination (sec. 4713.04(E), (I), and (K)). The bill increases the educational requirement for these occupations, and all managing licenses, to the equivalent of an Ohio public school 10th grade education, and clarifies that at least 2,000 hours of managing experience is

required for applicants who seek to qualify on the basis of experience. *(Sec. 4713.30.)*

Qualifications for the issuance of an initial instructor's license

Among the requirements established in current law for the issuance of an initial esthetics instructor license or an initial manicurist instructor license is that the applicant must be at least 18 years of age. There is no age requirement under current law for an initial cosmetology instructor license. (Sec. 4713.04(F), (L), and (M).) The bill extends the requirement that an applicant for an initial instructor's license be 18 years of age to all branches of cosmetology *(sec. 4713.31(A))*.

In lieu of satisfying a requirement for additional training, current law allows applicants for initial instructors' licenses in cosmetology, esthetics, and manicuring to have one year of experience in certain areas (sec. 4713.04(F), (K), and (L)). The bill clarifies that an applicant for any initial instructor's license needs at least 2,000 hours of practice in the specified occupation *(sec. 4713.31(E)(1), (F)(1), (G)(1), and (H)(1))*.

Apprentice instructor

Current law defines an "apprentice instructor" to mean any licensee of the State Board of Cosmetology who is engaged in learning or acquiring knowledge of the occupation of an instructor, in any branch of cosmetology in a duly licensed school of cosmetology (sec. 4713.01(K)). The bill adds that the person must hold a practicing license *(sec. 4713.01)*.

Determination of total hours of instruction

When determining the total hours of instruction for the purpose of licensure, current law prohibits the Board from taking into account more than eight hours of instruction per day or instruction received more than five years prior to issuance of the initial license (sec. 4713.04(J)). The bill retains this provision with the modification that credit may not be given for instruction received more than five years prior to the date of application of the license, unless it conforms to certain conditions specified by Board rules *(secs. 4713.08(A) and 4713.32)*.

Biennial licensing period

Current law provides that initial licenses are to expire on January 30 of the next odd-numbered year following the date of issue, and that every license must be renewed by that date (secs. 4713.07 and 4713.11(A)). The bill provides that the biennial licensing period begins on February 1 of an odd-numbered year and ends on January 31 of the next odd-numbered year *(sec. 4713.01)*.

Practice of cosmetology

Current law provides an extensive general definition of the "practice of cosmetology," including, but not limited to, work done for pay, free, or otherwise, by any person, which work is usually performed by hairdressers, cosmetologists, cosmeticians, natural hair stylists, or beauty culturists, whatever their title, in beauty salons; which work is for the embellishment, cleanliness, and beautification of hair, wigs, and postiches, such as arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, weaving, or similar work, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work by the use of manual massage techniques or mechanical or electrically operated apparatus or appliances, or cosmetics, preparations, tonics, antiseptics, creams, or lotions, and of manicuring the nails or application of artificial nails. (Sec. 4713.01(A).) The bill removes this definition and provides simply that the practice of cosmetology means the practice of all branches of cosmetology *(sec. 4713.01)*.

Cosmetologist

Current law defines a "cosmetologist," "cosmetician," "beauty culturist," or "hairdresser" to mean any person who, for pay, free, or otherwise, engages in the practice of cosmetology. The bill removes this definition and provides that a cosmetologist means a person authorized to engage in all branches of cosmetology (sec. 4713.01; *sec. 4713.01)*.

Managing cosmetologist

Current law defines a "managing cosmetologist" to mean a person who has met the qualifications for a managing cosmetologist's license, and has applied for and received a managing cosmetologist's license (secs. 4713.01(I) and 4713.04(E)). The bill removes this definition and provides that a managing cosmetologist is a person authorized to manage a beauty salon and engage in all branches of cosmetology *(sec. 4713.01)*.

Cosmetologist instructor

Current law defines a "cosmetology instructor" to mean any person who has met the qualifications for a managing cosmetologist's license, and has applied for and received an instructor's license (secs. 4713.01(J) and 4713.04(F)). The bill removes this definition and provides that a cosmetology instructor means a person authorized to teach the theory and practice of all branches of cosmetology at a school of cosmetology *(sec. 4713.01)*.

Branch of cosmetology

Current law uses the term "branch of cosmetology" but does not define it. Under the bill, a branch of cosmetology means the practice of any of the following: cosmetology, esthetics, hair design, manicuring, or natural hair styling. *(Sec. 4713.01.)*

Managing esthetician

Current law defines a "managing esthetician" as any person who has met the qualifications for a managing esthetician's license, and has applied for and received a managing esthetician's license (secs. 4713.01(Q) and 4713.04(J)). Under the bill, a managing esthetician means a person authorized to manage an esthetics salon, but no other type of salon, and engage in the practice of esthetics, but no other branch of cosmetology *(sec. 4713.01)*.

Esthetics instructor

Current law defines an "esthetics instructor" as any person who meets the qualifications for licensure as an esthetics instructor, and who has applied for and received an esthetics instructor license (secs. 4713.01(R) and 4713.04(K)). Under the bill, an esthetics instructor is a person who teaches the theory and practice of esthetics, but no other branch of cosmetology, at a school of cosmetology *(sec. 4713.01)*.

The practice of hair design

The bill creates a definition of the "practice of hair design." The term hair design is not used in current law, although certain elements are taken from the definition of the practice of cosmetology in current law. The bill defines "hair design" to mean embellishing or beautifying hair, wigs, or hairpieces by arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, braiding, weaving, or similar work. The practice of hair design includes utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, or locking or braiding of the hair *(sec. 4713.01)*.

Hair designer, managing hair designer, and hair design instructor

The bill establishes and defines the occupations of "hair designer," "managing hair designer," and "hair design instructor," which are terms and occupations that are not found in current law. Hair designer means a person who engages in the practice of hair design but no other branch of cosmetology. Managing hair designer means a person authorized to manage a hair design salon but no other type of salon, and to engage in the practice of hair design but no other

branch of cosmetology. Hair design instructor means a person who teaches the theory and practice of hair design, but no other branch of cosmetology, at a school of cosmetology. *(Sec. 4713.01.)*

Hair designer

The bill provides that an applicant for an initial hair designer license must complete at least 1,200 hours of Board-approved hair designer training in a licensed school of cosmetology, provided that only 1,000 hours of such training is required of a licensed barber *(sec. 4713.28(H))*.

Managing hair designer

The bill provides that an applicant for an initial managing hair designer license must have either of the two following qualifications to receive the license:

(1) at least 2,000 hours of experience as a practicing hair designer in a licensed hair design salon or as a cosmetologist in a licensed beauty salon; or

(2) successful completion, in addition to the hours required for licensure as a hair designer or cosmetologist, of at least 240 hours of Board-approved managing hair designer training and of the managing hair designer examination *(sec. 4713.30(H))*.

The bill permits the Board to administer a separate managing hair designer examination for persons who complete a managing hair designer training course separate from a hair designer training course. The Board also is permitted to combine the managing hair designer examination with hair designer examination for persons who complete a combined 1,400 hour hair designer and managing hair designer training course. *(Sec. 4713.25.)*

Hair design instructor

The bill provides that an applicant for an initial hair design instructor license must hold a managing hair designer or managing cosmetologist license and have either of the two following qualifications:

(1) at least 2,000 hours of experience as a practicing hair designer in a licensed hair design salon or as a cosmetologist in a licensed beauty salon; or

(2) have successfully completed at least 800 hours of Board-approved hair designer instructor's training as an apprentice instructor *(sec. 4713.31(G))*.

A hair design instructor who has previously been licensed as a hair designer or managing hair designer is entitled to the reissuance of a hair designer or

managing hair designer license upon payment of a renewal fee and submission of proof satisfactory to the Board that any applicable continuing education requirements have been completed *(sec. 4713.58(A)(3))*.

Exemption from the Barber Law

Under the current law, licensed cosmetologists who are acting within the scope of their usual and ordinary vocation and profession are exempt from the provisions of the Barber Law (sec. 4709.03). The bill adds licensed hair designers to this exemption.

License to practice barbering

Under current law, a "cosmetologist" who has graduated with at least 1,000 hours of training from a Barber Board-approved barber school in Ohio and who holds a current cosmetology license is permitted to take the barber exam if the cosmetologist is of good moral character, is at least 18 years of age, and has at least an 8th grade education. The bill adds licensed hair designers to this provision. (Sec. 4709.07.)

Manicurist

Under current law, a "manicurist" means any person who, for pay, free, or otherwise, engages only in the occupation of manicuring the nails of any person or the application of artificial or sculptured nails, or both (sec. 4713.01(C)). Under the bill, a manicurist means a person who engages in manicuring but no other branch of cosmetology *(sec. 4713.01)*.

Current law requires an initial applicant for licensure as a manicurist to have received at least 200 hours of instruction in subjects relating to sanitation, manicuring, and application of artificial or sculptured nails in a licensed school of cosmetology. The bill increases the requirement to 300 hours of instruction, and replaces the requirements of instruction in specific subjects with a general requirement of completion of a Board-approved manicurist training course. (Sec. 4713.04(B); *Sec. 4713.28(I).)*

Managing manicurist

Under current law, a "managing manicurist" means any person who has met the qualifications for licensure as a managing manicurist, and has applied for and received a managing manicurist license (secs. 4713.01(O) and 4713.04(H)). The bill revises this definition and provides that a managing manicurist is a person authorized to manage a nail salon, but no other type of salon, and engage in the practice of manicuring, but no other branch of cosmetology *(sec. 4713.01)*.

Managing manicurist--qualifications and examination

Current law permits an applicant for an initial managing manicurist license to complete at least 100 hours of Board-approved curriculum in a licensed school of cosmetology in this state in lieu of an experience requirement (sec. 4713.04(I)). The bill increases the educational requirement to at least 130 hours of Board-approved manicurist training *(sec. 4713.30(I)(2))*.

Current law permits the Board to combine the managing manicurist examination with the manicurist examination for persons who complete 300 hours of a combined managing manicurist and manicurist training course (sec. 4713.06(B)(3)). The bill increases the number of hours of combined training to 430 *(sec. 4713.25)*.

Manicurist instructor

Under current law, a "manicurist instructor" means any person who has met the requirements for licensure as a manicurist instructor, and has applied for and received a manicurist license (sec. 4713.01(P)). The bill revises this definition and provides that a manicurist instructor is a person who teaches the theory and practice of manicuring, but no other branch of cosmetology, at a school of cosmetology *(sec. 4713.01)*.

Practice of natural hair styling

Under existing law, the "practice of natural hair styling" means work done for a fee or other form of compensation, by any person, utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding the hair, and which work does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair (sec. 4713.01(T)). The bill modifies this definition by adding that the practice of natural hair styling also does not include embellishing or beautifying hair by cutting or singeing, except as needed to finish off the end of a braid, or by dressing, pressing, curling, waving, permanent waving, or similar work *(sec. 4713.01)*.

Natural hair stylist

The term "natural hair stylist" is used in current law but is not defined. Under the bill, a natural hair stylist is a person who engages in the practice of natural hair styling but no other branch of cosmetology *(sec. 4713.01)*.

Current law requires applicants for an initial natural hair stylist license to have received instruction in subjects relating to sanitation, scalp care, anatomy, hair styling, communication skills, and laws and rules governing the practice of

cosmetology (sec. 4713.04(D)). The bill removes these specific requirements and replaces them with a general requirement of completion of Board-approved natural hair stylist training at a licensed school of cosmetology *(sec. 4713.28(J))*.

Managing natural hair stylist and natural hair style instructor

The bill creates definitions of a "managing natural hair stylist" and "natural hair style instructor," which are terms that are not found in current law. A managing natural hair stylist is a person authorized to manage a natural hair style salon, but no other type of salon, and engage in the practice of natural hair styling, but no other branch of cosmetology. A natural hair style instructor is a person who teaches the theory and practice of natural hair styling, but no other branch of cosmetology *(sec. 4713.01)*.

Managing natural hair stylist--qualifications and examination

The bill requires an applicant for an initial managing natural hair stylist license to possess either of the following qualifications:

(1) at least 2,000 hours of experience as a natural hair stylist in a licensed natural hair style salon or as a cosmetologist in a licensed beauty salon; or,

(2) at least 150 hours of Board-approved managing natural hair stylist training and has passed an examination conducted by the Board *(sec. 4713.30(J))*.

Under the bill, the Board may administer separate managing natural hair stylist examinations to persons who complete a managing natural hair stylist training course separate from a natural hair stylist training course. The Board may combine the managing natural hair stylist examination for persons who complete a 600 hour combined natural hair stylist and managing natural hair stylist training course. *(Sec. 4713.25.)*

Natural hair style instructor

The bill requires that an applicant for an initial natural hair style instructor license hold a managing natural hair stylist or managing cosmetologist license and possess either of the following qualifications:

(1) at least 2,000 hours of experience as a natural hair stylist in a licensed natural hair style salon or as a cosmetologist in a licensed beauty salon; or,

(2) at least 400 hours of Board-approved managing natural hair style instructor training as an apprentice instructor *(sec. 4713.31(J))*.

The bill provides that a natural hair style instructor who has previously been licensed as a natural hair stylist or a managing natural hair stylist is entitled to the reissuance of a natural hair stylist or managing natural hair stylist license upon payment of a renewal fee and completion of any applicable continuing education requirements *(sec. 4713.58(A)(5))*.

Salon

The bill creates a definition of a "salon," which means a beauty salon, esthetics salon, hair design salon, nail salon, or natural hair style salon *(sec. 4713.01)*.

Management and sale of food at salons

Current law provides that beauty salons, esthetics salons, and nail salons must be under the charge of and immediate supervision of a licensed managing cosmetologist or a person who holds a managing license in the appropriate branch of cosmetology practiced at that type of salon (sec. 4713.14(A) and (B)). The bill extends this provision to all types of salons created by the bill but creates an exception for a salon that is a business establishment engaged primarily in retail sales. Such a salon is required to have a managing cosmetologist or an individual licensed to manage that type of salon in charge of and in immediate supervision of the salon during posted or advertised service hours, if the practice of cosmetology is restricted to those hours *(sec. 4713.41(A))*.

Current law prohibits the sale of food in rooms used as beauty, esthetics, or nail salons (sec. 4713.14(A) and (B)). The bill relaxes this prohibition so that food may be sold if done in a manner that is consistent with rules adopted by the Board *(sec. 4713.41(E))*.

Beauty salon

Current law defines a "beauty salon" to mean any premises, building, or part of a building, in which cosmetology or any branch of cosmetology is practiced, with the exception of a manicurist practicing in a barber shop (sec. 4713.01(F)). The bill modifies this definition by removing the reference to any branch of cosmetology, and providing that the term means any premises, building, or part of a building, in which a person is authorized to engage in all branches of cosmetology *(sec. 4713.01)*.

Esthetics salon

Current law defines an "esthetics salon" as any premises, building, part of a building in which esthetics is performed by person licensed as a cosmetologist or esthetician (sec. 4713.01(N)). The bill modifies this definition by providing that

the term means any premises, building, or part of a building in which a person engages in the practice of esthetics but no other branch of cosmetology *(sec. 4713.01)*.

Hair design salon

Current law does not utilize the term "hair design salon." The bill defines this term to mean any premises, building, or part of a building in which a person engages in the practice of hair design but no other branch of cosmetology *(sec. 4713.01)*.

Natural hair style salon

The bill creates a definition of a "natural hair style salon," which means any premises, building, or part of a building in which a person engages in the practice of natural hair styling but no other branch of cosmetology *(sec. 4713.01)*.

School of cosmetology

Current law defines a "school of cosmetology" to mean any premises, building, or part of a building in which students are instructed in the theories and practices of cosmetology, manicuring, and esthetics (sec. 4713.01(H)). The bill modifies this definition by removing references to specific branches of cosmetology and stating that the student receives instruction in the theories and practices of one or more branches of cosmetology *(sec. 4713.01)*.

Student

Current law defines a "student" as any person who is engaged in learning or acquiring knowledge of the occupation of a cosmetologist, manicurist, or esthetician in a school of cosmetology (sec. 4713.01(G)). The bill modifies this definition to state that a student means a person, other than an apprentice instructor, who is engaged in learning or acquiring knowledge of the practice of a branch of cosmetology at a school of cosmetology *(sec. 4713.01)*.

Board of Cosmetology

Under current law, the State Board of Cosmetology consists of seven members appointed by the Governor with the advice and consent of the Senate. Four of the members are graduate licensed cosmetologists, three of whom are actively engaged in the management of a beauty salon at the time of appointment. The remaining three members are a regularly licensed physician, an owner of a licensed school of cosmetology, and an owner of at least five licensed beauty salons. *(Sec. 4713.02(A).)*

The bill increases the number of Board members to nine and revises the Board's composition as follows:

- one member must hold a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license;

- two members must hold current, valid managing cosmetologist licenses and be actively engaged in managing beauty salons;

- one member must hold a current, valid independent contractor license or be the owner or manager of a licensed salon in which at least one person holding a current, valid independent contractor license practices a branch of cosmetology;

- one member, chosen from three individuals nominated by the Superintendent of Public Instruction, must represent individuals who teach the theory and practice of a branch of cosmetology at a vocational school;

- one owner of at least five licensed salons;

- one person who is either an advanced practice nurse approved by the Board of Nursing, a certified nurse practitioner or clinical nurse specialist holding a certificate of authority from the Board of Nursing, or a physician authorized by the State Medical Board to practice medicine and surgery or osteopathic medicine and surgery;

- one person representing the general public.

In addition, the bill retains the current law provision that requires one member to be an owner of a licensed school of cosmetology.

The terms of office of the member who is an independent contractor or owner of a salon that utilizes an independent contractor, and of the person who represents individuals who teach a branch of cosmetology at a vocational school, are staggered with the initial term of those two members being three and four years respectively. The bill retains the specification in current law that members serve a five-year term of office. *(Sec. 4713.02.)*

The bill requires the Governor to make the new appointments to the Board within 60 days after the effective date of the bill. In addition, the Governor, must determine within 30 days after the bill's effective date which of the three current members of the Board who are licensed cosmetologists actively engaged in

managing a salon must be removed due to the expiration of the member's office. (Sections 3 and 4.)

Duties of the board of cosmetology

Current law requires the board to keep a record containing the name and known place of business, and the date and number of license of each licensee (sec. 4713.02(D)(6)). The bill modifies this requirement by requiring the board to keep a record of the last known address of each licensee rather than the licensee's place of business *(sec. 4713.07(E)(2))*.

Reciprocal licensure of a person from another state or country

Current law permits the Board to grant a license to a person licensed or registered in another state, country, or territory of the United States, or the District of Columbia, without an examination, unless the Board sees fit to require an examination (sec. 4713.09). The bill provides that the applicant must satisfy conditions specified in the Board's rules in order for the Board to issue a license without an examination *(sec. 4713.34(A)(3))*.

Temporary special occasion work permit

The bill gives the Board the authority to create a temporary special occasion work permit. Current law does not authorize this type of permit. Under the bill, the Board may issue a temporary special occasion work permit to a person who satisfies all of the following conditions:

(1) the person has been licensed or registered in another state or country to practice a branch of cosmetology or teach the theory and practice of a branch of cosmetology for at least five years;

(2) the person is a recognized expert in the practice or teaching of the branch of cosmetology the person practices or teaches;

(3) the person practices that branch of cosmetology or teaches the theory and practice of that branch of cosmetology in this state as part of a promotional or instructional program for no more than the amount of time a temporary special occasion work permit is effective;

(4) the person satisfies all other conditions for a temporary special occasion work permit established by the Board's rules;

(5) the person pays the fee established by the Board's rules.

The bill allows a person issued a temporary special occasion work permit to practice the branch of cosmetology the person practices in another state or country, or teach the theory and practice of the branch of cosmetology the person teaches in another state or country, until the expiration date of the permit. The Board must specify by rule the period of time a temporary special occasion work permit is valid. *(Sec. 4713.37.)*

Fees

Current law establishes a fee of $21 for a re-examination for licensure (sec. 4713.10(B)). This fee is applicable both to persons who apply to take the examination but fail to appear for it, and to persons who take but do not pass it (sec. 4713.05). The bill revises current law so that a person who does not appear for an examination is charged a fee of $40 to apply for a re-examination. Persons who take but do not pass the examination continue to be charged a fee of $21 to apply for a re-examination *(Sec. 4713.10(C) and (D).)*

Current law requires that an applicant for the issuance or renewal of a cosmetology, manicurist, or esthetics license, or a managing or instructor's license in these branches of cosmetology, pay a fee of $30 (sec. 4713.10(C), (D), and (H)). The bill provides that applicants for the issuance or renewal of a practicing, managing, or instructor license in all branches of cosmetology must pay a $30 fee *(sec. 4713.10(E) and (G)).*

Existing law provides that the fee for the inspection and issuance of a beauty salon, nail salon, or esthetics salon license is $60 (sec. 4713.01(F)). The bill specifies that the $60 fee for the issuance of a license is applicable to all types of salons *(sec. 4713.10(I)).*

The fee for the renewal of a beauty salon license, nail salon license, or esthetics salon license is $50 under current law (sec. 4713.10(G)). The bill specifies that all types of salons are subject to a $50 fee for license renewal *(sec. 4713.10(J)).*

Prohibitions

Cosmetic products

The bill adds a provision, not found in current law, concerning regulations issued by the U.S. Food and Drug Administration (FDA) for cosmetic products. Under the bill, a person at a salon or school of cosmetology may not use or possess a cosmetic product containing an ingredient that the FDA has banned by regulation. Moreover, a person may not use a cosmetic product in a manner inconsistent with a regulatory restriction established by the FDA *(sec.*

4713.14(N)). The bill also adds a provision, not found in current law, that allows an inspector employed by the Board to take a sample of a product used or sold in a salon or school of cosmetology for the purpose of examining the sample, or causing an examination of the sample to be made, to determine whether these provisions have been violated *(sec. 4713.141)*.

Methyl Methacrylate (MMA)

The bill adds a prohibition against the use or possession of a liquid nail monomer containing any trace of methyl methacrylate (MMH) in a salon or school of cosmetology *(sec. 4713.14(N)(3))*.

Other Prohibitions

The bill adds a prohibition against the practice of cosmetology at a salon in which the person rents booth space without current, valid independent contractor license. *(Sec. 4713.14(I).)*

Current law prohibits a person from aiding or abetting another in obtaining a license fraudulently, or in falsely pretending to be licensed (sec. 4713.20(A)(5)(b) and (c)). The bill extends the prohibition against fraud to the person who applies for the license or permit, and adds that a person may not aid or abet another in fraudulently obtaining a permit or falsely pretending to hold a *permit (sec. 4713.14(A) and (B)(2) and (3))*.

Current law prohibits any person from practicing, managing, or instructing in cosmetology, manicuring, or esthetics, or employing individuals to practice in those fields, or practicing natural hair styling without a license (sec. 4713.20(A)(2) and (3)). The bill revises these prohibitions to provide the following:

(1) no person may practice any branch of cosmetology without a license, and no person may employ another to practice any branch of cosmetology, except that a person may practice a branch of cosmetology with a current, valid temporary pre-examination work permit, special occasion work permit, or temporary work permit;

(2) no person may manage a salon without a current, valid license to manage that type of salon;

(3) no person may teach the theory or practice of cosmetology at a school of cosmetology without an instructor's license or temporary special occasion work permit, unless the person is an apprentice instructor or meets other special conditions applicable to schools of cosmetology. *(Sec. 4713.14(C), (D), (E), and (F).)*

Practice of massage therapy, cosmetic therapy, or other professions in a salon

Existing law does not allow the practice of massage in a beauty salon or nail salon unless the person holds a valid certificate issued by the State Medical Board (sec. 4713.20(A)(6)). The bill removes references to nail and beauty salons and provides that the prohibition applies to all types of salons. Also, the bill adds that a person may not provide cosmetic therapy without a certificate from the State Medical Board, or provide any other professional service without a license or certificate issued by the appropriate Ohio regulatory board.

Current law exempts certain professions from regulation under the Cosmetology Law, such as, doctors, dentists, and nurses; military medical personnel when engaged in the performance of their official duties; barbers acting their usual and ordinary vocation; licensed funeral directors, embalmers, and apprentices; persons who engage in the retail sale, cleaning, or beautification of wigs and hairpieces; hospital and nursing home volunteers who do not use chemical products that would pose a health problem to the patient; and, nurse aides and other hospital employees who render cosmetology services as part of patient care and do not charge patients directly on a fee for service basis (sec. 4713.12). The bill retains these exemptions except when these occupations are practiced in a salon, in which case the practice of the profession must be permitted in a salon by the Board's rules. *(Secs. 4713.17(J) and 4713.42.)*

Existing law prohibits a person from violating any of the sanitary rules for the regulation of the practice of cosmetology (sec. 4713.20(A)(5)(d)). The bill expands the prohibition to include any rule adopted by the Board *(sec. 4713.14(A)(1)).*

Under current law, no owner, manager, or person in charge of a beauty salon, nail salon, esthetics salon, or school of cosmetology may permit any person to sleep in, or use for residential purposes, any room used wholly or in part as a beauty salon, nail salon, esthetics salon, or school of cosmetology (sec. 4713.21). The bill modifies this provision so that it applies only to a person while that person is in charge of a salon or school of cosmetology *(sec. 4713.14(N)).*

Glamour photography

Under current law, "glamour photography" is defined as the combination of a photograhic service or product with the delivery of a cosmetology service advertised or sold to the public (sec. 4713.01(S)). The bill eliminates this definition but continues to utilize the term in the Cosmetology Law. Therefore, it appears that, under the bill, the term has its ordinary meaning.

Current law prohibits a person from engaging in the advertisement or operation of a glamour photography service unless properly licensed by the Board (sec. 4713.20(A)(7)). The bill modifies this provision to require licensure for the advertisement or operation of a glamour photography service only if a branch of cosmetology is practiced, and specifies that this service must take place at a location specified by the Board's rules. The part of the service that is a branch of cosmetology must be performed by a person who holds a valid license or special occasion work permit. *(Secs. 4713.14(F) and 4713.16(D).)*

Tanning facilities

Current law provides that no person may own or operate any tanning facilities that are offered to the public for a fee or other compensation unless the person holds a valid permit issued by the board (sec. 4713.25(D)). The bill revises this provision so that it applies only to the operation, and not the ownership, of a tanning facility *(sec. 4713.14(P)).*

The bill also adds several provisions to current law. The bill requires the Board to furnish a copy of the standards the Board has adopted by rule for installing and operating a tanning facility to each person to whom the Board has issued a permit to operate a tanning facility. The person is required to post the standards in a public and conspicuous place. The bill also requires a consumer who is a minor to obtain written consent from the consumer's parent or legal guardian prior to receiving tanning services. *(Secs. 4713.08(A)(16)(f) and 4713.082.)*

Exemptions for domestic or emergency service

Current law permits the provision of cosmetic services without compensation in cases of emergency or domestic (home) administration (sec. 4713.12). The bill removes the exemption for emergency service, and modifies the exemption for domestic administration to apply only to a circumstance in which a person provides free services at home for a family member who resides in the same household as the person *(sec. 4713.16(A)).*

Exemption for certain retail sales at a salon

Current law permits the retailing of cosmetics, preparations, tonics, antiseptics, creams, lotions, wigs, postiches, and other items related to the practice of cosmetology, including clothing, in a beauty salon or esthetics salon. The sale of cosmetics, creams, lotions, clothing, and other items related to manicuring is permitted at a nail salon. (Sec. 4713.14(A) and (B).) The bill modifies this provision to allow the retailing of these and other items at a salon if they pose no risk of creating unsanitary conditions at the salon *(sec. 4713.16(C)).*

Temporary pre-examination work permit

Current law provides for the issuance of a non-renewable temporary pre-examination work permit to applicants to take the examination for licensure if the applicant has not previously failed the examination (sec. 4713.04(H)). The bill provides that the temporary pre-examination work permit is renewable according to rules adopted by the Board *(sec. 4713.22(B)).*

Requirements for schools of cosmetology

Current law requires a licensed school of cosmetology to maintain a school term of not less than 1500 hours for the majority of the practices of cosmetology and not less than 600 hours of instruction and practical training in the field of esthetics, and maintain a course of practical training and technical instruction equal to the requirements for examination for a cosmetology license or an esthetician license (sec. 4713.15(A)). The bill removes the requirements that a school of cosmetology maintain a school term of not less than 1500 hours for the majority of practices of cosmetology and not less than 600 hours for esthetics. The bill retains the requirement in current law that the course of instruction equal the requirements for an examination for licensure, and extends it to all branches of cosmetology that are taught at the school. *(Sec. 4713.44(A).)*

Current law requires a school of cosmetology to keep a daily record of the attendance of each student (sec. 4713.15(D)). The bill limits this provision to schools that offer clock hours for the purpose of satisfying minimum hours of training and instruction. It also clarifies that both public and private schools may offer either clock or credit hours, however, only publicly operated schools may offer competency-based credits. *(Secs. 4713.44(E) and 4713.45(A)(1).)*

Current law provides that a school of cosmetology may employ persons not licensed as instructors to teach subjects related to cosmetology, provided that a licensed cosmetology instructor is present (sec. 4713.15(C)). The bill retains this provision but adds three specific exceptions under which a person not licensed to teach cosmetology may teach without a licensed instructor present:

(1) the person holds a teacher's certificate or educator license issued by the State Board of Education;

(2) the person holds a bachelor's degree in the subject the person teaches at the school;

(3) the person is also employed by a university or college to teach the subject the person teaches at the school *(sec. 4713.45(B)).*

Continuing education requirements

Current law permits the Board to establish a continuing education requirement for any license issued under the Cosmetology Law. If the Board establishes a continuing education requirement, the Board must ensure that a sufficient number of programs are available at such reasonable prices so that a licensee who so desires may meet the requirement at a cost of not more than $50, unless the Board establishes a higher cost by rule, provided that the higher cost may not exceed $75. (Sec. 4713.111(B) and (D); *sec. 4713.59*.) The bill removes limits on fees and the requirement that the Board ensure program availability.

Approval of a continuing education program

Under current law, the Board may approve a continuing education program if it accomplishes one of the following purposes:

(1) enhances the professional competency of the affected licensees;

(2) protects the public; or

(3) educates the affected licensees in the application of the laws and rules regulating the practice of cosmetology (sec. 4713.111(E); *sec. 4713.59*).

In addition, after reviewing reported violations of the Cosmetology Law and the Board's rules, the Board has the authority to develop a continuing education program focused on certain sections of the Cosmetology Law and the Board's administrative rules, designed to correct violations (sec. 4713.111(G); *sec. 4713.59*).

The bill removes the authority of the Board to approve continuing education programs that accomplish the purposes specifically stated in (1) through (3) above. Under the bill, the Board may approve a continuing education program only for the purpose of protecting public health and safety. In order to adopt a continuing education requirement, the Board must determine that a new procedure or product adversely impacts public health and safety if it is improperly used or applied. Courses and training offered as part of a continuing education program must address the proper use and administration of the new procedure or product. (*Secs. 4713.09 and 4713.62*.)

The bill retains the limitation found in current law that a continuing education requirement may not exceed eight hours over a biennial licensing period, but removes the specification that hours completed in excess of the eight-hour limit may not be applied to the next biennial licensing period (sec. 4713.111(C); *sec. 4713.59*).

Notification of licensees of applicable continuing education requirements

The bill also modifies the procedures used by the Board in notifying licensees of relevant continuing education requirements and ensuring compliance with the requirement. Under current law, unchanged by the bill, the Board must include a notice in an application for license renewal that specifies the continuing education requirement that applies to the next biennial licensing period. (Sec. 4713.111(B).)

The bill adds an additional procedure that the Board must use if the Board adopts a new continuing education requirement that applies to the same biennial licensing period in which the requirement is adopted. In this situation, the Board must send a notice to all affected licensees informing them of the types of courses and the number of hours that must be completed. Each affected licensee then must complete the requirement within one year from the date on which the notice is sent by the Board. Upon completion of the requirement, the licensee must provide proof of such completion to the Board. If the licensee has not completed a continuing education requirement at the time of license renewal, but is still within the one-year time period allowed for completion, the licensee must provide, as part of the application for license renewal, proof of registration for applicable continuing education courses that satisfy the requirement. *(Sec. 4713.59(B).)*

Fee limits and availability of continuing education courses

Current law requires a person who desires to offer a continuing education program to apply to the Board for approval of the program and the price that will be charged for attending the program. The Board must encourage applicants for approval to charge the applicable reasonable price established under the Board's rules. The Board is permitted to approve the program even if the price for attending the program exceeds the applicable reasonable price. (Sec. 4713.111(E).) The bill removes the requirements that applicant apply for the approval of the price charged for attending the program and that the Board establish a reasonable price by rule.

Current law requires that the applicant who wishes to offer the continuing education program must be an employee, officer, or director of a nonprofit professional association, college or university, vocational school, postsecondary proprietary school of cosmetology licensed by the Board, or manufacturer of supplies or equipment used in the practice of cosmetology (sec. 4713.111(E)). The bill clarifies this requirement so that the Board's approval is based on the affiliation of the person operating the program, and not the affiliation of the applicant. The bill also adds a licensed salon to the list of organizations with which the operator may be affiliated. *(Sec. 4713.62(B).)*

Inactive license

If the Board adopts a continuing education requirement, current law permits the Board to develop a procedure whereby a licensee who is not currently engaged in the practice of cosmetology, but desires to be so engaged in the future, may apply to the Board to have the licensee's license classified as inactive. Current law provides that the Board may not restore a license to active status until the licensee submits proof to the Board that the continuing education requirement, as established by the Board, has been completed. The bill prohibits the Board from establishing a continuing education requirement for the restoration of a license to active status that would exceed the cumulative number of hours that the applicant would have been required to complete had the person retained an active license. (Sec. 4713.11(D); s*ec. 4713.08(A)(17)*.)

Temporary work permit for a licensee with an inactive license

The bill modifies the procedure for the restoration of an inactive license by providing that an inactive license may not be restored until the later of (1) the date on which the person submits proof of completion of the continuing education requirement, or, (2) the last day of January of the next odd-numbered year following the year the license is classified inactive *(sec. 4713.61)*. In addition, the bill permits the Board to adopt rules that specify the conditions and method for granting a temporary work permit to a person with an inactive license, including a person licensed in another state. This authority does not exist in current law. *(Secs. 4713.08(A)(17)(b) and (B)(2); sec. 471.061(C).)*

Expired license

Current law provides that every license which has not been renewed in any odd-numbered year by the 30th day of January and for which the continuing education requirement has not been waived or extended shall be considered expired (sec. 4713.11(C)). The bill changes the final day of the biennial licensing period to January 31 and adds that a practicing, managing, or instructor license that has not been renewed for any reason other than because it has been revoked, suspended, or classified inactive is considered to be expired *(sec. 4713.63)*.

Criteria for the denial, suspension, or revocation of a license or permit

Under current law, one of the reasons the Board may deny, revoke, or suspend a license or permit, or impose a fine, is for the failure of a person to comply with the sanitary rules adopted by the Board or by the Department of Health for the regulation of nail salons, beauty salons, esthetics salons, schools of cosmetology, or the practice of cosmetology (sec. 4713.17(A)(2)). The bill adds to this prohibition by permitting the Board to deny, suspend, or revoke a license or

permit, or impose a fine, for a violation of any of the rules adopted under the Cosmetology Law *(sec. 4713.64(A)(1))*.

Current law sets a maximum limit of $100 per violation for a fine levied on a person who has committed a violation of the Cosmetology Law (sec. 4713.17(A)). The bill modifies the amount of the fine. If the violator has not previously been fined for that offense, the fine is $100. If the violator has been fined for the same offense once before, the fine may not exceed $500. If the violator has been fined for the same offense two or more times before, then the fine may not exceed $1000 *(sec. 4713.64(B))*.

Board to furnish copy of sanitary rules

Current law requires the Board to furnish a copy of all sanitary rules adopted by the Board to each person licensed to conduct a beauty salon, esthetics salon, or school of cosmetology, and to each operator, manicurist, and person engaged in the practice of massage (sec. 4713.02(C)(4)). The bill modifies this requirement by mandating that the Board furnish a copy of sanitary rules to each person issued a practicing, managing, or instructor's license, and to each person providing cosmetic therapy or other professional service permitted in a salon *(sec. 4713.081)*.

Transmission of court conviction for drug offense to the Board

Under current law, if a licensee and permit holder under the Cosmetology Law has been convicted of a drug offense, the court is required to transmit a certified copy of the judgment entry of conviction to the Board. The bill extends this provision to cover all new licenses established under the bill, but not the temporary special occasion work permit. (Sec. 2925.01; sec. 2925.38, not in the bill).

HISTORY

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