

1973 Senate Bill 265

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**CHAPTER 295, Laws of 1973**

AN ACT to repeal 159.02 (8) (a), 159.08 (2) (a) and (d), (3) and (5), 159.10 (1) and 159.12 (1) (a); to renumber and amend 159.10 (2); to amend 159.01 (2) and (11) (a), 159.02 (1), (3), (7) and (8) (d), 159.03 (1) and (4), 159.05 (2), 159.06 (2), 159.08 (1), (2) (b), (2a), (4) (a), (4a), (6), (7), (8) and (9), 159.09 (1), (2) and (5), 159.11 (2) and (3) (intro.), (a) to (d) and (f) to (i), 159.12 (1) (c), (2) and (3), 159.13 and 159.15; to repeal and recreate 159.14; and to create 159.01 (intro.) and (14) and 159.08 (6) (c) and (6m) of the statutes, relating to various changes in the cosmetology law, granting rule-making authority and increasing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 159.01 (intro.) of the statutes is created to read:

159.01 (intro.) In this chapter:

SECTION 2. 159.01 (2) of the statutes is amended to read:

159.01 (2) "Cosmetologist" ~~is any means a person who, for compensation, either directly or indirectly or in the expectation thereof practices cosmetology while holding a current license.~~ The holder of a manager's, beauty operator's, ~~or instructor's or electrolysis's~~ license shall have the right and privilege to place the initials "R. C." immediately following his name to designate him as a registered cosmetologist.

SECTION 3. 159.01 (11) (a) of the statutes is amended to read:

159.01 (11) (a) Persons authorized under the laws of this state to practice medicine and surgery and the branches thereof, ~~chiropracists~~ podiatrists, masseurs, hospital attendants, embalmers, nurses and student nurses.

SECTION 4. 159.01 (14) of the statutes is created to read:

159.01 (14) "Training hour" means 60 clock minutes of instruction, except that breaks of not more than a total of 30 minutes in any one day may be allowed as training time by rule of the department.

SECTION 5. 159.02 (1), (3), (7) and (8) (d) of the statutes are amended to read:

159.02 (1) No person, ~~firm or corporation shall~~ may operate a school for the purpose of teaching cosmetology for compensation unless a proper annual certificate of registration has been obtained from the department.

(3) No school teaching cosmetology shall be granted a certificate of registration unless it requires as a prerequisite ~~to admission, completion, as shown by certificate or affidavit, of the 10th grade or an equivalent education as determined by the extension division of the university of Wisconsin, except that after January 1, 1971, a 12th grade education or its equivalent as determined by the extension division of the university of Wisconsin or having reached the age of 18, is required, and unless it requires as a prerequisite~~ to graduation a course of instruction of not less than 1,500 training hours to be completed within a period of not less than 8 months' instruction of at least 9 months or an equivalent period if credit is given for prior related training. Such instruction shall not more than exceed 8 hours in any one day. Said instruction shall be given only between the hours of 8 a.m. and 6 p.m. on weekdays. Such The course of instruction shall include subjects prescribed by the department.

(7) The ~~annual~~ biennial renewal fee for a certificate of registration for a school to teach cosmetology shall be not less than \$200 \$400 for all schools holding a certificate of registration. Applicants for a new certificate of registration shall accompany their application with a fee of \$600 \$1,200. ~~Said~~ The application fee shall include the fee for the first certificate of registration ~~provided said if the application be is granted.~~ The annual biennial fee for a certificate of registration shall be paid on or before November 30, ~~annually~~ biennially; after that date an additional fee of \$50 shall be paid.

(8) (d) Who, as shown by certificate or affidavit, has completed the ~~10th grade, or has an equivalent education as determined by the extension division of the university of Wisconsin, except that after January 1, 1971, proof of a 12th grade education or its equivalent as determined by the extension division of the university of Wisconsin, or having~~ has reached the age of 18, ~~is required~~ or who is engaged in a vocational education program which uses the cooperative educational method or similar program approved by the department of public instruction; and

SECTION 6. 159.02 (8) (a) of the statutes is repealed.

SECTION 7. 159.03 (1) and (4) of the statutes is amended to read:

159.03 (1) The department shall enforce this chapter and shall prescribe and enforce rules ~~and regulations~~ governing beauty and electrolysis salons, and public and private schools teaching cosmetology and for the examining and licensing of managers, operators, manicurists, electrolysisists and instructors and the registration of apprentices and students, and shall make and enforce rules governing sanitary and hygienic conditions surrounding the practice of cosmetology and the conduct and operation of beauty and electrolysis salons and schools of cosmetology.

(4) The department may on its own or in cooperation with vocational, technical and adult education schools conduct educational meetings, seminars, lectures or demonstrations open to those licensed or who hold permits under this chapter for the purpose of promoting the standards of the practice of cosmetology in this state. Qualified lecturers or demonstrators may be employed for this purpose outside the classified service.

SECTION 8. 159.05 (2) of the statutes is amended to read:

159.05 (2) The department shall appoint, under the classified service, field inspectors who shall have been engaged in the practice of cosmetology in this state as licensed cosmetologists for the last 3 years immediately preceding their appointment. Such field inspectors shall devote their time to inspecting beauty and electrolysis salons and schools of cosmetology and in the performance of such other duties as are assigned by the department in connection with this chapter, and may enter any beauty and electrolysis salon or school of cosmetology during reasonable business hours for the purpose of inspection. In addition, the department shall may appoint, under the classified service, such investigators as are required, whose qualifications shall be established jointly by the department and the director of personnel, to carry out investigations as assigned by the department. Such investigations shall be initiated only on the basis of a request or directive signed by the state health officer, a department field inspector or upon a verified complaint of a citizen. Investigators shall not initiate investigations except in the manner provided in this subsection.

SECTION 9. 159.06 (2) of the statutes is amended to read:

159.06 (2) The examination of applicants for manager's, operator's, manicurist's, instructor's and electrolysisist's licenses shall include ~~a written examination and such other tests as the department~~ by rule deems fit.

SECTION 10. 159.08 (1), (2) (b), (2a), (4) (a), (4a) and (6), (7), (8) and (9) of the statutes are amended to read:

159.08 (1) All applications for licenses under this chapter shall be filed with the department. No license shall may be issued unless the applicant presents proof that he is of good moral character, in good physical and mental health, and has completed the ~~10th grade or has an equivalent education as determined by the extension division of the university of Wisconsin, except that after January 1, 1971, proof of a 12th grade education~~ or its equivalent as determined by the extension division of the university of Wisconsin or having has reached the age of 18, ~~is required~~. All applications for examination shall be on file in the office of the department at least 3 weeks prior to the examination. Failure to have the application on file within the required time shall may necessitate postponement of the applicant's appearance to the next regular examination. All applications shall expire and be canceled after a period of one year if

the applicant fails to appear for examination within such period. All fees for original licenses except cosmetology school certificates shall be prorated on the basis of one-twenty-fourth of the fee for each month remaining in the license period.

(2) (b) Who has practiced cosmetology 4,000 hours in a period of at least 2 years under an operator's license in this state.

(2a) The fee to be paid by an applicant for an examination to determine his fitness to receive a manager's license shall be \$20. If a license ~~be~~ is issued the fee for said license shall be ~~\$10~~ \$20.

(4) (a) Who has successfully completed ~~2 years as a registered apprentice under the supervision of a managing cosmetologist, an apprenticeship as prescribed by s. 159.12,~~ or who has ~~completed~~ graduated from the course prescribed by ~~section s. 159.02~~ in a registered school of cosmetology.

(4a) The fee to be paid by an applicant for an examination to determine his fitness to receive an operator's license shall be \$15. If a license ~~be~~ is issued the fee for said license shall be ~~\$6~~ \$12.

(6) Any cosmetologist or electrologist registered or licensed under the laws of another state or territory of the United States or of a foreign country or province, who can provide evidence satisfactory to the department that he has met requirements substantially comparable to the requirements of this state may be licensed as follows:

(a) As an operator upon satisfactorily passing an examination conducted by the department to determine his fitness to practice as an operator or upon providing evidence satisfactory to the department of having practiced as an operator for ~~2 years~~ at least 4,000 hours during a 6-year period immediately prior to the application for license in this state.

(b) As a manager upon satisfactorily passing an examination conducted by the department to determine his fitness to practice as a manager or upon providing evidence satisfactory to the department of having practiced as a manager for ~~4 years~~ at least 8,000 hours during a 6-year period immediately prior to application for license in this state and satisfactorily passing an examination on the law and rules governing cosmetology in this state.

(7) Applicants for a manicurist's license shall be at least 18 years of age; shall have completed a course of instruction of ~~not less than~~ at least 200 hours in not more than 3 months under the supervision of a licensed instructor in a school of cosmetology or under the supervision of a licensed manager in a beauty salon. No license shall ~~may~~ be issued to an applicant unless he has successfully passed an examination conducted by the department to determine his fitness to practice as a manicurist. The fee to be paid by an applicant to take the manicurist's examination shall be \$10. If a license ~~be~~ is issued, the fee for the license shall be ~~\$6~~ \$12.

(8) The department may grant a temporary permit to practice as an operator ~~or~~ manicurist, manager or instructor without examination ~~provided that if~~ the applicant meets all the other requirements of this state for licensure ~~as an operator or manicurist~~

and has graduated from a registered school of cosmetology in this state; or is fulfilling his reciprocity requirements under sub. (6); or is otherwise eligible for licensure under sub. (6) (a). ~~In addition, the department may grant a temporary permit to practice as a manager to any person who has been duly licensed as an operator under this chapter for at least 2 years and has practiced under such license within this state for such a period of time. The department may also grant a temporary instructor's permit to one who is qualified for the examination and who is to be considered a replacement of another instructor. The~~ Each temporary permit shall be valid from the date of issue until the next regular examination conducted by the department and results are sent out but this period shall not exceed for not more than 4 months. No more than 3 such temporary permits shall be issued to any one applicant, ~~but not more than 2 such permits~~ for any one license. The fee for each temporary permit is \$10 payable at the time that the application is submitted and this fee is in addition to all other fees required under this section, except that the first operator's permit issued to graduates of schools of cosmetology of this state shall be without charge.

(9) Applicants for a junior instructor's permit shall be high school graduates, or have an equivalent education as determined by the extension division of the university of Wisconsin, have had at least one year of full-time experience as a cosmetologist and shall complete a minimum of 500 hours of instruction and supervised practice in teaching methods; or shall be high school graduates, or have an equivalent education as determined by the extension division of the university of Wisconsin, licensed as a cosmetologist and shall complete a minimum of 1,000 hours of instruction and supervised practice in teaching methods in accordance with rules established by the department. The fee for a junior instructor's permit shall be \$10. The permit shall be issued for a one-year period beginning with the date of issuance and may be renewed for one additional year upon application and payment of the fee of \$10. Applicants for an instructor's license shall be high school graduates, or have an equivalent education as determined by the extension division of the university of Wisconsin, have had at least 3 years' experience as a cosmetologist and have been licensed as a managing cosmetologist at least one year, or have completed the junior instructor course or an equivalent training as determined by the department, and shall pass a written such examination and such other tests as the department deems fit. The fee to be paid by an applicant to take the instructor's examination shall be \$20. If a license is issued, the fee for said license is \$10 ~~\$20. A duly licensed instructor who is actively engaged as such and who has previously been licensed as a manager under this chapter will be eligible for renewal of such manager's license without further examination upon submitting an application accompanied by the required fee~~ All persons holding instructor's licenses shall within each 3-year period provide evidence of having completed a minimum of 50 hours of in-service training designed to contribute to their professional growth and development as an instructor. The holder of an instructor's license shall have the rights allowed those holding a manager's license.

SECTION 11. 159.08 (2) (a) and (d), (3) and (5) of the statutes are repealed.

SECTION 12. 159.08 (6) (c) and (6m) of the statutes are created to read:

159.08 (6) (c) As an electrologist upon satisfactorily passing an examination conducted by the department to determine his fitness to practice as an electrologist, or upon providing evidence of at least 2,000 hours of experience as a practicing electrologist in another state. Credit may be granted on the basis of not more than 100 hours for each month of experience.

(6m) No license to practice that branch of cosmetology, involving the use of the electric needle for the removal of superfluous hair, may be issued unless special application therefor is made to the department showing that such applicant:

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- (a) Is of good moral character and temperate habits;
- (b) Is in good physical and mental condition;
- (c) As shown by certificate or affidavit, has completed the 12th grade or its equivalent as determined by the extension division of the university of Wisconsin, or has reached the age of 18;
- (d) Has completed a course of training of at least 350 hours over a period of at least 10 consecutive weeks in a licensed school of cosmetology that teaches electrology and under the supervision of a licensed instructor who holds a current electrologist license, or in a school of electrology under the supervision of a licensed electrologist, or is licensed as a cosmetologist and provides evidence of 100 hours of training in at least 3 consecutive weeks in a school of electrology or school of cosmetology that trains electrologists, or serves as an electrologist trainee for at least 8 consecutive weeks of at least 35 hours per week in a licensed beauty or electrolysis salon under the supervision of a licensed electrologist.
- (e) Has satisfactorily passed an examination conducted by the department to determine his fitness to practice as an electrologist. The fee to be paid by an applicant to take the electrologist examination is \$20. If a license is issued, the fee for said license is \$20.
- (f) This section shall not apply to those persons licensed in this state as electrologists or eligible for renewal thereof as of the effective date of this subsection (1973).

SECTION 13. 159.09 (1), (2) and (5) of the statutes are amended to read:

159.09 (1) No person, ~~association, firm or corporation shall~~ may operate a beauty or electrolysis salon unless such salon ~~shall be first~~ is licensed by the department. Such licenses shall be renewed ~~annually~~ biennially and shall designate the particular premises licensed.

(2) Before any such license is issued the department shall require sworn proof of ownership of the beauty or electrolysis salon business in such form as it may prescribe, and the owner shall pay the required fee. Such licenses and renewals shall expire on November 30 of the ~~year the same are issued~~ odd-numbered years and the ~~said~~ licenses shall not be transferable. Changes of ownership of any beauty or electrolysis salon shall be reported to the department by the manager of such salon within 5 days after such change of ownership.

(5) The fee for a beauty or electrolysis salon license shall be ~~\$20~~ \$40. This fee is to apply to all such salon licenses, including transfers of ownership.

SECTION 14. 159.10 (1) of the statutes is repealed.

SECTION 15. 159.10 (2) of the statutes is renumbered 159.10 and amended to read:

**159.10 Persons formerly licensed.** Any person who held a Wisconsin license as a manager, operator, instructor, electrolysis, or manicurist and who failed to renew such license ~~within 2 years following on or before~~ the date of its expiration may renew the license ~~only~~ after passing such examinations as may be required by the department, ~~or by providing evidence of at least 8 hours of in-service training for each year in which the license was not renewed and by paying such fees as would have been paid had the license been renewed each year in addition to one late fee. The fee shall not exceed 5 times the biennial license fee for any renewal.~~

SECTION 16. 159.11 (2) and (3) (intro.), (a) to (d) and (f) to (i) of the statutes are amended to read:

159.11 (2) No license shall ~~may~~ be for a longer period than ~~one year~~ 2 years. All licenses shall expire on November 30 ~~of the odd-numbered years~~. Apprentices' permits shall expire at the end of ~~2~~ 3 years from the date of issue.

(3) (intro.) All applications for the renewal of licenses as a manager, operator, manicurist, itinerant cosmetologist, electrolysis or instructor shall be made biennially on or before November 30 accompanied with the proper fee therefor.

(a) The renewal fee for a manager's license shall be ~~\$10~~ \$20 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$10 shall be paid.

(b) The renewal fee for an itinerant's license shall be ~~\$20~~ \$40 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$10 shall be paid.

(c) The renewal fee for an operator's license shall be ~~\$6~~ \$12 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$6 shall be paid.

(d) The renewal fee for a manicurist's license shall be ~~\$6~~ \$12 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$6 shall be paid.

(f) ~~No~~ The fee for a student's permit shall be \$5.

(g) The renewal fee for a beauty or electrolysis salon license shall be ~~\$20~~ \$40 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$20 shall be paid.

(h) The renewal fee for an instructor's license shall be ~~\$10~~ \$20 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$20 shall be paid.

(i) The renewal fee for an electrolysis's license shall be ~~\$10~~ \$20 if the application is made on or before November 30 ~~annually~~ biennially; after that date an additional fee of \$20 shall be paid.

SECTION 17. 159.12 (1) (a) of the statutes is repealed.

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SECTION 18. 159.12 (1) (c), (2) and (3) of the statutes are amended to read:

159.12 (1) (c) Who has shown by affidavit or certificate that he has completed the ~~10th grade or has an equivalent education as determined by the university of Wisconsin extension division, except that after January 1, 1971, proof of a 12th grade education~~ or its equivalent as determined by the extension division of the university of Wisconsin or having ~~has~~ reached the age of 18, is required.

(2) Apprentices must practice for at least 4,000 hours in a period of not less than 2 years under the personal supervision and direction of a licensed manager or an equivalent period if credit is given for prior related training before they ~~shall be~~ are eligible to make application to take the examination for operator's license. Apprentices shall be supervised and given instruction by a manager or his qualified designee in all branches of practical work and in the subjects required to be taught in schools of cosmetology as prescribed by the department. The department may terminate an apprenticeship where there is evidence that the requirements of the department are not being met. No apprentice or operator ~~shall may~~ practice cosmetology unless under the supervision and direction of a licensed manager ~~and cannot, except that the manager may designate a temporary replacement who meets the requirements of s. 159.08 (2) (b) and is approved under rules of the department.~~ No apprentice or operator may be the owner, manager, director, lessee or have any financial interest in a beauty salon in which he is employed.

(3) All apprentices regardless of age shall be indentured and shall be governed by s. 106.01 and apprenticeship rules ~~and regulations~~ of the department of industry, labor and human relations and the department. ~~Subsections (1), (2) and (3) shall not apply to any person who began his apprenticeship before September 16, 1939. Such apprenticeship shall be governed by the law applicable when the permit was issued and shall be completed by July, 1940.~~

SECTION 19. 159.13 of the statutes is amended to read:

**159.13 Practice.** (1) No person ~~shall may~~ engage in the practice of cosmetology unless he holds a license issued by the department. No cosmetology license is required for personal care type cosmetology services performed in hospitals or licensed nursing homes under the supervision and direction of a person responsible for patient care.

(2) Licenses shall be issued only to such persons who ~~are possessed of~~ possess the requisite skill ~~and knowledge~~ as cosmetologists. Cosmetologists shall have sufficient knowledge concerning the common diseases of the face and scalp to avoid aggravation and spread of disease in the practice of their profession. ~~No license to practice that branch of cosmetology, involving the use of the electric needle for the removal of superfluous hair, shall be issued unless special application therefor is made to the department showing that such applicant has successfully completed a course of training in such branch of cosmetology, and has passed an examination to the satisfaction of the department. The fee to be paid by an applicant to take the electrolysis examination is \$20. If a license is issued, the fee for said license is \$10. Managing cosmetologists, electrolysis, instructors, manicurists and itinerant cosmetologists must shall~~ notify the department of change of address within 5 days thereof.

SECTION 20. 159.14 of the statutes is repealed and recreated to read:

**159.14 Investigations, hearings, suspensions, nonrenewals and revocations.** (1) The department may make investigations or conduct hearings to determine whether there is probable cause to believe a violation of this chapter or any rule adopted under this chapter exists.



(2) Upon a finding that probable cause exists, the department shall give the holder of the certificate, license or permit written notice of the specific statute or rule alleged to be violated. The department by rule may establish time limits within which any violation of the chapter shall be corrected. The party receiving the notice may demand a hearing within time limits specified by the department for correction of any alleged violation.

(3) Upon failure to correct the alleged violation or to demand a hearing the department may suspend a certificate, license or permit for a period not to exceed 60 days and a copy of the notice of the suspension shall be served upon the person by personal service or by certified mail to his last-known business address. The person so served shall file his answer within 10 days after receipt of such notice.

(4) Upon receipt of a timely request, the department shall set the matter for hearing as promptly as possible and within 60 days after the date of request for hearing. Any party may appear at the hearing in person or by his attorney.

(5) The department may revoke, suspend or refuse to renew, in accordance with the severity of the violation, any certificate, license or permit issued under this chapter if it finds the holder of such certificate, license or permit has:

(a) Made a material misstatement in the application for certification, license or permit or the renewal thereof;

(b) Failed to correct or take substantial steps approved by the department to correct an alleged violation of any valid sanitary or other rule of the department within the proper time limit following notification by the department of such violation;

(c) Been convicted of a crime which in the judgment of the department may be detrimental to the welfare of persons affected by this chapter;

(d) Continued practice while knowingly having an infectious, contagious or communicable disease;

(e) Advertised in a manner which significantly misleads persons affected by this chapter;

(f) Advertised, practiced or attempted to practice under another's name or another's trade name;

(g) Been an habitual drunkard or been addicted to the use of habit forming drugs;

or

(h) Intentionally violated this chapter or any rule adopted thereunder.

(6) No order by the department revoking or notifying of its intention not to renew a certificate, license or permit shall be made unless the procedures provided for contested cases in ch. 227 have been followed.

SECTION 21. 159.15 of the statutes is amended to read:

**159.15 Penalties.** Any person, ~~association, partnership, firm or corporation that shall who~~ without a license ~~practice or permit practices~~ cosmetology either as a manager, operator, apprentice, student, itinerant cosmetologist, manicurist, electrolysis or instructor or any person who ~~shall employ~~ employs an unlicensed manager, operator, manicurist, apprentice, electrolysis or instructor or ~~shall violate violates~~ or ~~shall aid aids~~ or ~~abet abets~~ any person in violating ~~any provision of this chapter or any rule or regulation made~~ adopted pursuant thereto or ~~shall obtain obtains~~ a license fraudulently, or ~~shall falsely pretend pretends~~ to be licensed, shall be ~~punished by a fine of fined~~ not less than ~~\$10~~ \$100 nor more than ~~\$100~~ \$1,000, or ~~by imprisonment in the county jail imprisoned~~ for not less than 10 nor more than 90 days, or ~~by both such fine and imprisonment.~~

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