



Board Meeting Minutes January 8, 2018

The Kansas Board of Cosmetology held a Board meeting on Monday, January 8, 2018 at 9:30 a.m. at the Board office at 714 S.W. Jackson Street, Suite 100, Topeka, Kansas. The Board Secretary recorded minutes.

Board Members Present:

David Yocum, Chair
Christine Burgardt, Member
Kimberley Mancuso, Member
Ashley Rangel, Member
Kelly Robbins, Member
Katy Skepnek, Member

Staff Present:

Chiquita Cogg, Executive Director
Ms. Gloeckner, Assistant Director
Aubrie Pryer, Compliance Supervisor
Lindsey Bowes, Board Secretary
Darla Ray, Licensing

Members of the Public:

Genelle Hughes

Board Legal Counsel Present:

Athena Andaya, General Counsel

Public Comment

Genelle Hughes requested the Board reconsider and approve her to test for her Instructor's license with the current hours she received prior to the policy change.

Call to Order

David Yocum, Chair, called the meeting to Order at 9:43 a.m.

Approval of Agenda (Additions/Deletions/Changes)

Mr. Yocum requested the removal of agenda item, Charitable Event Permit/ Summary of State Responses, and the addition of two new items, Fraud and Cosmetology Curriculum Update to the agenda.

Motion and second to approve the additional items and the agenda made by Burgardt and Robbins, respectively. Motion carried.

Minutes of November 13, 2017

Motion and second to approve the minutes for November 13, 2017 made by Burgardt and Robbins, respectively. Motion carried.

Corrected 2018 KBOC Board Meeting Dates

Lindsey Bowes, Board Secretary, provided the Board with an updated list of the 2018 KBOC Board Meeting dates.

KBOC Strategic Plan Review

Ms. Coggs requested the item continue to be on the agenda for all Board meetings. The Board reviewed and discussed the Strategic Plan for the Board.

Ms. Coggs also informed the Board she would like to hire a part-time employee who will be primarily responsible for the update of the Kansas statutes & regulations, as they pertain to the agency.

Janey McCarthy Resignation Follow-Up

Ms. Coggs notified the Board the Governor's office has confirmed receipt and acceptance of Janey McCarthy's resignation.

Executive Session

Tina Burgardt, Member, made the following motion, "In order to protect the privacy of the party involved, I move that the Board recess into executive session to discuss an individual employee's performance pursuant to the non-elected personnel exception in the Kansas Open Meetings Act. The Board will reconvene the open meeting in this same location in 10 minutes at 10:25 a.m." The motion was seconded by Kelly Robbins, Member, and was carried unanimously.

Called to Order

Mr. Yocum called the meeting back to order at 10:27 a.m. No Motions were made after the executive session.

MO Board Teaching

Ms. Gloeckner requested the Board approve Missouri Board of Cosmetology and Barber Examiners as a Continuing Education Provider for Cosmetology Profession Instructors.

Motion and second to approve Missouri Board of Cosmetology and Barber Examiners as a Continuing Education Provider for Cosmetology Profession Instructors made by Mancuso and Robbins, respectively. Motion carried.

KDADS MOU

Mr. Yocum informed the Board about the meeting held with the Kansas Department for Aging and Disability Services (KDADS).

Athena Andaya, Legal Counsel, informed the Board she has yet to receive a response from KDADS Chief Counsel, Kimberly Lynch, but has the MOU drafted.

Mr. Yocum informed the Board he will follow up with and present the MOU draft to Ms. Lynch.

CE for Body Art / Body Art CE List Update

Ms. Gloeckner informed the Board, based on a request received to remove the nursing courses from the CE list for Body Art by David Tucker during the November 13, 2017 Board meeting-

Removing the courses would limit the courses available to meet the credits required for CE for Body Art. Ms. Gloeckner further explained the nursing courses are necessary and relevant to Body Art, as it covers infection control and blood borne pathogens. However, she understands the appearance of the program being in a nursing format how the Body Art community would feel it's not relevant. Ms. Gloeckner indicated she will continue to explore other possible alternative courses for CE.

Ms. Gloeckner indicated she will draft an e-mail for Mr. Yocum to review, following up with Mr. Tucker's request.

Instructor Permit Policy

Ms. Gloeckner requested the Board review and update the Instructor Permit policy.

Mr. Yocum volunteered to draft a Kansas regulation that would help support the Kansas statute 65-1903(k)(1) for Instructor-In-Training permits. Mr. Yocum indicated he would bring the draft to the next scheduled Board meeting in February.

Mr. Yocum recommended the Board continue to use the January 2008 Instructor Permit policy when processing Instructor-In-Training permits and delegating the authority to office personal to grant and authorize received hours for the Instructor-In-Training program.

Motion and second to approve made by Robbins and Burgardt, respectively. Motion carried.

Instructor Hours Review: Genelle Hughes & Ngoc Phan

The Board has granted authority to office personal to grant and authorize received hours for the Instructor-In-Training program. Therefore, Genelle Hughes and Ngoc Phan will be referred for testing to complete their applications.

Kim Tran Out of State Application

Aubrie Pryer, Compliance Supervisor, informed the Board Kim Tran has recently applied for Kansas licensure. However, the Board has received notice that two states have proof of fraudulent activity for Ms. Tran, regarding fraudulent required documents. However, neither state will pursue disciplinary action and have since granted licensure to Ms. Tran. Since action has not been taken against Ms. Tran in either state, she is using reciprocity to apply in the State of Kansas.

Ms. Andaya informed the Board that pursuant to K.S.A. 65-1908(a)(5), Ms. Tran has not committed fraud in the State of Kansas and has the required hours and documents that would allow her to apply under reciprocity. Therefore, the application needs to be processed according to policy.

Recess

Motion and second to approve recess break until 11:24 a.m. made by Robbins and Rangel, respectively. Motion carried.

Called to Order

Mr. Yocum called the meeting back to order at 11:24 a.m.

K.S.A. 65-1903(j)

Mr. Yocum suggested the Board review K.S.A. 65-1903(j) for possible statute change in the future.

K.S.A. 65-1903(j), Any instructor's license may be renewed by an applicant within one month after the date of expiration of the applicant's last license upon submission of proof, satisfactory to the board, of the applicants current hours and qualifications to renew practice as an instructor and payment of the applicable nonrefundable renewal fee and delinquent fee prescribed in K.S.A. 65-1904, and amendments thereto. Any applicant whose instructor's license has expired for more than one month may obtain a license in the same manner and on payment of the same nonrefundable fees as provided for an applicant for an original license.

Reciprocity Statute SB 345

Ms. Coggs informed the Board a previously approved draft for Senate Bill 345 is ready to be presented to the Legislature.

Ms. Coggs also requested the Board approve the below definition of Reciprocity.

Acceptance of a practitioner applicant for licensure from outside the state or jurisdiction based on documented prior record of training and/or experience in work hours from another state or jurisdiction without additional testing with the exception of state law exams.

Motion to include the submitted definition of Reciprocity to be included in the language of SB 345 made by Robbins and Burgardt, respectively. Motion carried.

Proposed Statute Change K.S.A. 74-2703

Ms. Coggs requested the Board approve the recommended change to K.S.A. 74-2703 Meetings of board; examination of applicants to read as follows:

K.S.A. 74-2703. Meetings of board. It shall be the duty of such board to meet at least twice a year, and at such times and places as it may deem advisable, ~~and shall at such times hold examinations of such applicants as shall have applied for licensure.~~

Ergometrics Monthly Report for November 2017

Ms. Coggs informed the Board the Ergometrics Monthly report is for informational purposes only.

KBOC Cash Balance Reports for November & December 2017

Ms. Coggs informed the Board the KBOC Cash Balance Reports for November & December 2017 is for informational purposes only.

Fraud

Tina Burgardt, Member, informed the Board of the high number of complex cases that involve fraud.

Cosmetology Curriculum Update

Mr. Yocum informed the Board of the current updates being made to the Cosmetology Curriculum.

Reimbursement for Hearing Follow-Up

Ms. Andaya provided the Board with examples of other state agencies on how they handle the funding for Hearings that fall under the Kansas Administrative Procedure Act.

Ms. Andaya volunteered to draft a general statute that will give the Board the authority to impose the Hearing charge to the Respondent only when the Administrative Judge rules in the Boards favor.

Motion and second to approve Ms. Andaya to draft the general statute made by Burgardt and Robbins, respectively. Motion carried.

Motion and second to delegate the authority to Mr. Yocum to review and approve the draft of the general statute on the Board's behalf made by Burgardt and Robbins, respectively. Motion carried.

Adjournment

Motion and second to adjourn the meeting at 12:15 p.m. made by Robbins and Rangel, respectively. Motion carried.

Call to Order

Motion and second to reconvene the meeting at 12:18 p.m. made by Robbins and Burgardt, respectively. Motion carried.

State of Kansas Traveling Policy

Ms. Coggs and Ms. Gloeckner informed the Board of a State of Kansas Traveling Policy that is going to be enforced. The Traveling Policy covers state employees, including Board Members.

Adjournment

Motion and second to adjourn the meeting at 12:24 p.m. made by Mancuso and Robbins, respectively. Motion carried.

MINUTES OF MEETING
Kansas Board of Cosmetology

January 11, 2016

The Kansas Board of Cosmetology held a Board meeting on Monday, January 11, 2016 at 9:30 a.m. at the Board office at 714 S.W. Jackson Street, Suite 100, Topeka, Kansas. Minutes were recorded by Ms. Gloeckner.

Board Members Present:

David Yocum, Chair
Roger Holmes, Vice Chair
Matthew Goss, Member
Glenda Chappell, Member
Tina Burgardt, Member
Kathryn Skepnek, Member
Janey McCarthy, Member

Staff Present:

Chiquita Coggs, Executive Director
Laurel Lowrie, Director of Enforcement
Ms. Gloeckner, Administrative Officer
LeAnna Hickman, Director of Licensing
Aubrie Pryer, Board Secretary

Board Legal Counsel Present:

Athena Andaya, General Counsel

Public Comment

The following KS Body Piercers spoke to the Board about dermal piercing in KS: Janis Bishop, Jon Dahl, John Fitzgerald, Simon Karnes, Chris Norris, and Jessica Schmutz.

Call to Order

Mr. Yocum, Chair, called the meeting to order at 9:53 a.m.

Agenda Addition/Deletions

Motion to add Chair and Vice Chair selection for 2016 (Burgardt/Chappell). Motion passed unanimously.

Approval of the prior Board minutes

Motion to approve the December 14th and 21st Board meeting minutes (Goss/Burgardt).

Director's Report

Ms. Coggs reported to the Board that the Agency is fully staffed and explained the different role changes with certain positions within the Agency. She also provided an update to the Board on the progress of the MOU with the Board of Barbering.

Ms. Lowrie reviewed the language of the Board's proposed legislation with the Board.

Motion to approve the language as presented (2693, 2695, 2697) (Burgardt/McCarthy). Motion passed unanimously.

Recess

Motion to recess until 10:45 a.m. (Burgardt/Chappell). Motion passed unanimously.

Call to Order

Mr. Yocum, Chair, called the meeting back to order 10:50 a.m.

Dermal Piercing

The Board discussed dermal piercing(s) and all of the challenges surrounding the subject.

Motion to establish a body art subcommittee comprised as Mr. Yocum, Chair, and Mr. Goss, Member (Chappell/Burgardt). Motion passed unanimously.

Mr. Yocum, Chair, directed staff to keep "Dermal Piercings" on the Board agenda until challenges surrounding the piercing have been resolved.

Late Fee

The Board staff presented a late fee request from a licensee.

Motion that the Board will not waive late fees (Holmes/Burgardt). Motion passed unanimously.

Executive Session

Mr. Yocum, Chair, directed staff to table this agenda item to the February agenda.

Recess

Motion to recess for 30 minutes (Holmes/Chappell). Motion passed unanimously.

Call to Order

Mr. Yocum, Chair called the meeting back to order 12:32 p.m.

Cosmetology Fine Schedule

Ms. Lowrie presented the Board with a draft fine schedule for review.

Ms. Andaya raised questions concerning the appropriate process for updating the fine schedule.

Mr. Yocum, Chair, directed staff to table this agenda item to the February agenda and requested that Ms. Andaya research how to properly update the fine schedule.

Board Chair and Vice Chair Selection for 2016

Mr. Holmes, Vice Chair, nominated Mr. Yocum, Chair, to be reappointed as the Chair of the Board for 2016.

Mr. Yocum, Chair, accepted the nomination.

Mr. Yocum, Chair, nominated Mr. Holmes, Vice Chair, to be reappointed as the Vice Chair of the Board for 2016.

Mr. Holmes, Vice Chair, accepted the nomination.

Motion to reappoint Mr. Yocum, Chair, and Mr. Holmes, Vice Chair, as the Chair and Vice Chair of the Board for 2016 (Burgardt/McCarthy). Motion passed unanimously.

Mr. Yocum, Chair, directed staff to include the selection of the 2016 disciplinary panel on the February agenda.

Employee Grievance Procedure

Mr. Yocum, Chair, provided the Board members with a proposed employee grievance procedure for Board approval.

The following corrections were requested:

Page one: Change the requirement from the agency posting the procedure on the official bulletin board to providing the procedure to employee's annually.

Page three: Change "emergency meeting" to "special meeting" in two places.

Page seven: Provide the option of marking whether the manager is satisfied or not satisfied above the Manager's Signature field.

Page five: Change "appeared" to "appealed".

Pages three & seven: Keep "Board" remove "(Committee?)".

Motion to approve the Employee Grievance Procedure with the stated corrections (Goss/Chappell). Motion passed unanimously.

KDADS (Kansas Aging and Disability Services)-Facility Licensure and Inspections
KDADS has agreed that the salons in facilities they regulate must be licensed by the KBOC (Kansas Board of Cosmetology). KDADS has offered to conduct the required inspections for the licensure of those salons on behalf of the KBOC.

Motion to respond to KDADS that KBOC will use KBOC inspectors to inspect salons in KDADS facilities (Chappell/Goss). Motion passed unanimously.

Adjournment

Motion to adjourn the meeting 1:54 p.m. (Burgardt/Chappell). Motion passed unanimously.

February 12, 2019

Melissa Dinsmore, Executive Director
Chisholm Place
1859 N. Webb Road
Wichita, KS 67206
melissadinsmore@mac.com

RE: Cosmetology Facility License

Dear Ms. Dinsmore:

On January 9, 2019, you sent an email to the Kansas Board of Cosmetology (Board) requesting clarification on whether your salon within the assisted living community is required to have a cosmetology facility license in order to operate. You stated that the cosmetologist who provides hair services at the facility has a current practitioner's license. You also stated that the Kansas Department on Aging and Disability Services (KDADS) and the City of Wichita advised you that you do not need a cosmetology facility license if the hair care is just for residents of the assisted living community.

With this letter, the Board asserts jurisdiction to require licensure of facilities where cosmetology¹ is practiced. Therefore, the answer to your question is yes, your salon is required to have a cosmetology facility license.

Kansas law requires a person, who owns or operates a salon where cosmetology, esthetics, nail technology or electrology is practiced, to hold a valid establishment license issued by the Kansas Board of Cosmetology.² A "person" is defined as any individual, corporation, partnership, association or other entity.³ None of the exceptions to the requirement that a person must hold a facility license applies to your factual scenario.⁴ We note that failure to obtain a facility license when required by law is a violation and, in addition to any other penalties imposed by law, the Board, in accordance with the Kansas Administrative Procedure Act, may issue a cease and desist order against such individual or may assess such individual a fine of not to exceed \$1,500, or may issue such order and assess such fine. In determining the amount of fine to be assessed, the board may consider the following factors: (1) Willfulness of the violation, (2) repetitions of the violation and (3) risk of harm to the public caused by the violation.

It appears that you were given K.S.A. 39-938 as a statute that purportedly exempts a salon from the licensure requirement or Board oversight so long as the services are only provided to the residents. K.S.A. 39-938 is the subject of an Attorney General Opinion on the question of whether

¹ See K.S.A. 65-1901(d).

² K.S.A. 65-1902(a)(10).

³ K.S.A. 65-1901(i).

⁴ K.S.A. 65-1902(b).

a salon located in an adult care home is required to be licensed by the Board.⁵ The changes in this statute since the 1974 Attorney General Opinion was written do not affect the legal analysis, therefore, the Board continues to rely on the opinion to conclude there is no question that the Board is empowered to license cosmetology establishments, wherever located. Further, the Attorney General Opinion makes clear that, although the *Board's* regulations do not apply to the cosmetology establishment, the regulations of the Department of Health and Environment regarding sanitation standards do apply and can be enforced by the Board. You may access the opinion at this link: <http://ksag.washburnlaw.edu/opinions/1974/1974-353.pdf>.

We point out that Attorney General Opinion No. 74-353 also addresses the question regarding the restriction of cosmetology services to residents. The opinion concludes the Board would not be able to enforce such a restriction.

We trust this information provides clarity on your question.

Sincerely,



David Yocum, Chairperson
Kansas Board of Cosmetology

Cc: Patty Brown, Interim Commissioner
Kansas Department of Aging and Disability Services
Survey, Certification and Credentialing Commission
New England Building
503 S. Kansas Ave.
Topeka, KS 66603-3404

⁵ Attorney General Opinion No. 74-353.

Date 7-21-16

Susan Andrews, Chief Counsel
Kansas Department for Aging and Disability Services
New England Building
503 S. Kansas Ave.
Topeka, KS 66603-3404

RE: Licensure of Cosmetology Facilities

Dear Ms. Andrews:

Since last summer, we have had conversations about the licensure of cosmetology establishments in adult care homes. What was very clear in our conversations is that both agencies are passionate about our missions and both agencies wish to come to an understanding regarding this issue.

We agree that K.S.A. 39-939 provides:

39-938

Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary for aging and disability services and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. *The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes.* (Emphasis added.)

We also agree that Attorney General Opinion 1974-353 addresses our very issue. In pertinent part, it states:

The direction of the proviso to K.S.A. 39-938 is relatively unambiguous:

That the administrative rules and regulations of the state board of cosmetology and of the board of barber examiners shall not apply to adult care homes.

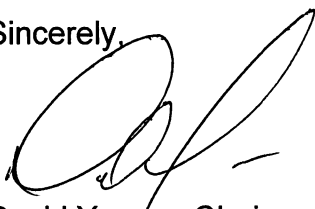
In our view, this proviso excepts any facility or service on the licensed premises of an adult care home from the administrative rules and regulations of the State Board of Cosmetology. The Board is free to

continue to license beauty shops on such premises, if consistent with the laws and rules and regulations of the agency responsible for licensing such homes. It is not free, however, to enforce its own rules and regulations in such beauty shops located on the licensed premises of an adult care home, although it must continue to enforce the sanitary rules and regulations of the Department of Health and Environment in such shops.

Having established our agreement that cosmetology establishments in adult care homes must be licensed by the KBOC, the KBOC wishes to clarify that we believe our statutory framework requires KBOC to conduct the inspection or employ and train the inspector to accomplish the required and necessary sanitation inspection.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Yocum', with a large, stylized loop at the beginning and a horizontal line at the end.

David Yocum, Chairperson
Kansas Board of Cosmetology

Subject

Copy to

*State Board
Cosmetology*



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

November 6, 1974

Opinion No. 74- 353

Mr. Henri Fournier
Executive Director
State Board of Cosmetology
630 Kansas Avenue
Topeka, Kansas 66603

Dear Mr. Fournier:

You inquire concerning the licensure of beauty shops within hospitals, nursing homes and rest homes.

K.S.A. 39-938 states thus:

"Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the state board of health and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents: *Provided, That the administrative rules and regulations of the state board of cosmetology shall not apply to adult care homes.*" [Emphasis supplied.]

You advise that at the present time, the State Board of Cosmetology has licensed many beauty shops within nursing homes and care homes. In the past, privileges were granted for a licensed beauty shop in such places to serve patients and residents, staff and visitors. If a care home requested a beauty shop license, and complied with the rules and regulations pertaining to beauty shops, a license was issued and the shop inspected regularly. Since the issuance of Opinion no. 70-65-2 by Attorney General Kent Frizzel, in 1970, you advise that the Board has permitted a licensed cosmetologist to go to any hospital, nursing home or rest home, and to provide hair care services to patients and residents only.

Mr. Henri Fournier
November 6, 1974
page two

The opinion of Attorney General Frizzel to which you refer expressly sets out only three conclusions: first, that because K.S.A. 65-1904(a) permits a licensed beauty shop to be conducted on "premises" only, a mobile home or similar portable unit could not be licensed as a beauty shop; secondly, that cosmetology laws relating generally to "beautifying processes on persons" have no application to services performed on dead bodies at mortuaries, and therefore, cosmetologists may legally perform services on decedents at mortuaries; thirdly, that licensed nurses may perform the services of a cosmetologist in hospitals.

For some inscrutable reason, this opinion was thought to inhibit licensure of beauty shops on the premises of hospitals and nursing homes. The opinion does not deal, even tangentially, with this subject, and the inferences drawn therefrom are totally unsupported by its express conclusion.

Nonetheless, the Legislature responded to this apparently contrived controversy in 1972 by adding the underscored proviso to K.S.A. 39-738, supra. Licensure of beauty shops is governed by K.S.A. 65-1904a, which provides in pertinent part thus:

"Any licensed cosmetologist or person desiring to establish a beauty shop shall make application, on a form provided, to the state board of cosmetology, accompanied by a shop license fee of fifteen dollars (\$15). Upon the filing of such application, the board shall inspect the equipment as to safety and sanitary condition of the premises and if said equipment and sanitary condition of the premises are found to comply with the sanitary regulations of the state board of health and the regulations of the state board of cosmetology, the board shall issue a certificate of registration...."

Under this statute, the Board remains empowered to license beauty shops, wherever located. Under K.S.A. 39-738, only its administrative rules and regulations are inapplicable to adult care homes, and presumably, to all facilities located on premises which are licensed as part of an adult care home. Thus, the Board is placed in the dilemma of being required to license beauty shops, even those located in adult care homes, but unable to enforce its own rules and regulations in such licensed shops. The Board remains obliged, of course, to

Mr. Henri Fournier
November 6, 1974
page three

inspect the equipment as to safety, and the sanitary condition of the premises, to determine if they comply with sanitary regulations of the State Board of Health, and its successor, the Department of Health and Environment. The Board is, by virtue of K.S.A. 39-738, however, unable to enforce its own administrative rules and regulations on such licensed shops, when located in or on the licensed premises of an adult care home, as that term is defined by K.S.A. 39-923.

The direction of the proviso to K.S.A. 39-938 is relatively unambiguous:


"That the administrative rules and regulations of the state board of cosmetology and of the board of barber examiners shall not apply to adult care homes."

In our view, this proviso excepts any facility or service on the *licensed premises* of an adult care home from the administrative rules and regulations of the State Board of Cosmetology. The Board is free to continue to license beauty shops on such premises, if consistent with the laws and rules and regulations of the agency responsible for licensing such homes. It is not free, however, to enforce its own rules and regulations in such beauty shops located on the *licensed premises* of an adult care home, although it must continue to enforce the sanitary rules and regulations of the Department of Health and Environment in such shops.

You inquire, secondly, whether a licensed beauty shop located in an adult care center may care for the hair of nurses and other staff and visitors, in addition to providing such services to patients and residents. There is no statutory basis for such a restriction, and by virtue of the proviso of K.S.A. 39-738, the Board of Cosmetology is not free to enforce such a restriction in such shops.

This is an obviously undesirable situation. The Board of Cosmetology is placed in the position of being required to license certain beauty shops in which it is not free to enforce its administrative rules and regulations. The matter deserves consideration with a view to remedial legislation.

Yours very truly,


VERN MILLER
Attorney General

VM:JRM:tp

HOUSE BILL No. 2161

By Committee on Health and Human Services

1-27

1 AN ACT concerning the Kansas state board of cosmetology; relating to
2 powers, duties and functions thereof; changing the name of the board to
3 the Kansas board of cosmetology, body art and tanning; creating new
4 categories of licenses issued thereby; extending the board's
5 enforcement authority to non-licensees; amending K.S.A. 65-1,148, 65-
6 1812, 65-1901, 65-1902, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-
7 1906, 65-1907, 65-1908, 65-1909, 65-1912, 65-1920, 65-1940, 65-
8 1941, 65-1947, 65-2872, 74-2701, 74-2702, 74-2703, 74-2704, 75-
9 3036 and 75-3717 and K.S.A. 2020 Supp. 39-938 and repealing the
10 existing sections; also repealing K.S.A. 74-2705.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. The name of the Kansas state board of cosmetology is
14 hereby changed to the Kansas board of cosmetology, body art and tanning.
15 All properties, moneys, appropriations, rights and authorities now vested
16 in the Kansas state board of cosmetology shall be vested in the Kansas
17 board of cosmetology, body art and tanning. Whenever the title of the
18 Kansas state board of cosmetology, or words of like effect, is referred to or
19 designated by any statute, contract or other document, such reference or
20 designation shall be deemed to apply to the Kansas board of cosmetology,
21 body art and tanning.

22 New Sec. 2. (a) For all professions regulated by the Kansas board of
23 cosmetology, body art and tanning, any action by the board in any
24 administrative proceeding under article 19 of chapter 65 of the Kansas
25 Statutes Annotated, and amendments thereto, shall be conducted in
26 accordance with the Kansas administrative procedure act and reviewable
27 in accordance with the Kansas judicial review act. Judicial review shall be
28 taken if the petitioner files with the clerk of the reviewing court a bond
29 with a sufficient surety, conditioned on the payment of all assessed costs, if
30 the decision of the board is sustained. If appellate review of the district
31 court's decision is sought in accordance with K.S.A. 77-623, and
32 amendments thereto, then the board shall not be required to give a bond on
33 such review.

34 (b) For all professions regulated by the board, if the board's order in
35 any administrative proceeding under article 19 of chapter 65 of the Kansas
36 Statutes Annotated, and amendments thereto, is adverse to the applicant,

1 apprentice or licensee, then the costs incurred by the board in conducting
2 any investigation or proceeding under the Kansas administrative procedure
3 act may be assessed against the parties to the proceeding in such
4 proportion as the board may determine upon consideration of all relevant
5 circumstances, including the nature of the proceeding and the level of
6 participation by the parties. If the board is not the prevailing party in any
7 such action, then such costs shall be paid from the cosmetology fee fund.

8 (c) The board shall include any assessment of costs incurred as part
9 of a final order rendered in a proceeding, and the order shall include
10 findings and conclusions in support of the assessment of costs.

11 (d) For purposes of this section, "costs incurred" includes, but is not
12 limited to:

13 (1) Presiding officer fees and expenses, only if the board has
14 designated or retained the services of an independent contractor or the
15 office of administrative hearings to perform presiding officer functions;

16 (2) costs of preparing any transcripts;

17 (3) reasonable investigative costs;

18 (4) witness fees and expenses; and

19 (5) mileage, travel expenses and subsistence allowances of board
20 employees and fees and expenses of agents of the board who provide
21 services under K.S.A. 74-2702, and amendments thereto.

22 (e) All moneys collected by the board following or arising from board
23 proceedings shall be remitted to the state treasurer in accordance with
24 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall deposit the entire amount into the state
26 treasury to the credit of the cosmetology fee fund.

27 (f) This section shall be a part of and supplemental to article 19 of
28 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

29 New Sec. 3. (a) Any person may apply to the Kansas board of
30 cosmetology, body art and tanning for a charitable event permit. Any such
31 application shall be on a form and in a manner approved by the board and
32 accompanied by the fee established under K.S.A. 65-1904 or 65-1950, and
33 amendments thereto.

34 (b) The board may grant a charitable event permit for any event at
35 any location in the state of Kansas where persons licensed by the board to
36 practice any profession regulated under article 19 of chapter 65 of the
37 Kansas Statutes Annotated, and amendments thereto, will provide services
38 authorized under article 19 of chapter 65 of the Kansas Statutes Annotated,
39 and amendments thereto, at no cost to consumers. Any charitable event
40 permit granted under this section shall expire not later than 30 days after
41 issuance by the board.

42 (c) The board shall adopt rules and regulations as necessary to
43 implement and administer this section.

1 (d) This section shall be a part of and supplemental to article 19 of
2 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

3 New Sec. 4. (a) Any person may apply to the Kansas board of
4 cosmetology, body art and tanning for a demonstration permit. Any such
5 application shall be on a form and in a manner approved by the board and
6 accompanied by the fee established under K.S.A. 65-1904 or 65-1950, and
7 amendments thereto.

8 (b) (1) The board may grant a demonstration permit to a person to
9 provide services authorized under article 19 of chapter 65 of the Kansas
10 Statutes Annotated, and amendments thereto, at a state or national
11 convention, or as a guest artist at an establishment licensed by the Kansas
12 board of cosmetology, body art and tanning, if such person is licensed to
13 practice such profession regulated under article 19 of chapter 65 of the
14 Kansas Statutes Annotated, and amendments thereto, in another state or
15 jurisdiction, and such license has not been revoked, suspended or
16 conditioned from the practice of such profession.

17 (2) If an application for a demonstration permit is submitted by a
18 citizen of a foreign country who has not been issued a social security
19 number and who has not been licensed by any other state, the board shall
20 not require the applicant to submit a social security number and shall
21 instead accept a valid visa or passport identification number.

22 (3) Any demonstration permit issued under this section shall expire
23 not later than 14 days after issuance of the board.

24 (c) The board shall adopt rules and regulations as necessary to
25 implement and administer this section.

26 (d) This section shall be a part of and supplemental to article 19 of
27 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

28 New Sec. 5. (a) Any person who is licensed by the Kansas board of
29 cosmetology, body art and tanning under the provisions of article 19 of
30 chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
31 shall notify the board within 30 days after any change of the person's
32 permanent address.

33 (b) This section shall be a part of and supplemental to article 19 of
34 chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

35 Sec. 6. K.S.A. 2020 Supp. 39-938 is hereby amended to read as
36 follows: 39-938. Adult care homes shall comply with all the lawfully
37 established requirements and rules and regulations of the secretary for
38 aging and disability services and the state fire marshal, and any other
39 agency of government so far as pertinent and applicable to adult care
40 homes, their buildings, operators, staffs, facilities, maintenance, operation,
41 conduct, and the care and treatment of residents. The administrative rules
42 and regulations of the ~~state~~ Kansas board of cosmetology, *body art and*
43 *tanning* and of the Kansas board of barbering shall not apply to adult care

1 homes.

2 Sec. 7. K.S.A. 65-1,148 is hereby amended to read as follows: 65-
3 1,148. (a) As used in this section, "sanitation standards" means standards
4 for personal and environmental sanitation and for the prevention of
5 infectious and contagious diseases.

6 (b) The secretary of health and environment shall adopt rules and
7 regulations establishing sanitation standards for professions, shops, salons,
8 facilities, clinics, schools and colleges regulated by the ~~state~~ *Kansas* board
9 of ~~barber examiners~~ *barbering* or the ~~state~~ *Kansas* board of cosmetology,
10 *body art and tanning*.

11 Sec. 8. K.S.A. 65-1812 is hereby amended to read as follows: 65-
12 1812. (a) Any person shall be qualified to receive a license to practice
13 barbering if such person:

14 (1) Is at least 16 years of age and of good moral character and
15 temperate habits;

16 (2) has graduated from a high school accredited by the appropriate
17 accrediting agency or has otherwise obtained the equivalent of a high
18 school education;

19 (3) is a graduate of a barber school or barber college approved by the
20 board or has satisfactorily completed the barber course at an institution
21 under the control of the secretary of corrections or the disciplinary
22 barracks at Fort Leavenworth or has been certified in a related industry,
23 such as barbering in any branch of the United States military service, and
24 has completed a course of study in a licensed Kansas barber college or
25 barber school as prescribed by the board under K.S.A. 65-1810(e), and
26 amendments thereto, or has been a cosmetologist licensed by the Kansas
27 board of cosmetology, *body art and tanning* and has completed a course of
28 study in a licensed Kansas barber college or barber school as prescribed by
29 the board under K.S.A. 65-1810(e), and amendments thereto; and

30 (4) has paid an examination fee and has passed the examination
31 conducted by the board to determine the fitness of such person to practice
32 barbering.

33 (b) Any person who fails to pass an examination conducted by the
34 board to determine such person's fitness to practice barbering shall be
35 entitled to take the next examination conducted by the board.

36 (c) The board may issue a temporary license to practice barbering to
37 any person who has graduated from an approved barber school or barber
38 college and who makes application to take the next examination for
39 licensure to practice barbering. Such license shall be effective only until
40 the results of the examination are announced. No more than three
41 temporary licenses shall be issued to any one person.

42 Sec. 9. K.S.A. 65-1901 is hereby amended to read as follows: 65-
43 1901. As used in K.S.A. 65-1901 through 65-1912, and amendments

1 thereto, and section 3, and amendments thereto:

2 (a) "Apprentice" means any person engaged in learning the practice
3 of cosmetology, nail technology, esthetics or electrology in a school of
4 cosmetology, nail technology, esthetics or electrology licensed by the
5 board, except until such time as an electrology school is established in this
6 state apprenticing of electrology will be subject to approval by the board in
7 a clinic or establishment.

8 (b) "Board" means the ~~state~~ Kansas board of cosmetology, *body art*
9 *and tanning*.

10 (c) "*Charitable event*" means an event conducted for a charitable
11 *purpose, whether indoors or outdoors, that is held at a specified time and*
12 *location where services are provided by licensed practitioners at no cost*
13 *to recipients, as a charity to recipients, or charitable causes approved by*
14 *the board.*

15 (d) "*Charitable purpose*" means any purpose that promotes, or
16 *purports to promote, directly or indirectly, the well-being, in general or*
17 *limited to certain activities, endeavors or projects, of the public at large,*
18 *any number of persons or any humane purpose.*

19 (e) "Cosmetologist" means any person, other than a manicurist or
20 esthetician, who practices the profession of cosmetology for
21 compensation.

22 ~~(d)~~(f) (1) "Cosmetology" means the profession of:

23 (A) Arranging, dressing, permanently curling, curling, waving,
24 cleansing, temporarily or permanently coloring, bleaching, relaxing,
25 conditioning or cutting the hair;

26 (B) cleansing, stimulating or performing any other noninvasive
27 beautifying process on any skin surface by means of hands or mechanical
28 or electrical appliances, other than electric needles, provided for esthetic
29 rather than medical purposes;

30 (C) temporary hair removal from the face or any part of the body by
31 use of the hands or mechanical or electrical appliances other than electric
32 needles;

33 (D) using cosmetic preparations, antiseptics, lotions, creams or other
34 preparations in performing any of the practices described in ~~paragraphs~~
35 *subparagraphs (A), (B) and (C) of this subsection (d)(1); or*

36 (E) manicuring, pedicuring or sculpturing nails.

37 (2) "Cosmetology" ~~shall~~ *does* not include a service that results in
38 tension on hair strands or roots by twisting, wrapping, weaving, extending,
39 locking, or braiding by hand or mechanical device so long as the service
40 does not include the application of dyes, reactive chemicals or other
41 preparations to alter the color of the hair or to straighten, curl or alter the
42 structure of the hair and so long as the requirements of K.S.A. 65-1928,
43 and amendments thereto, are met. Nothing in this paragraph shall be

1 construed to preclude a licensed cosmetologist from performing the
 2 service described in this paragraph.

3 ~~(e)~~(g) "*Electrologist*" means any person who, for compensation,
 4 removes hair from, or destroys hair on, the human body for beautification
 5 by use of an electric needle only.

6 (h) "*Esthetician*" means any person who, for compensation practices
 7 the profession of cosmetology only to the following extent:

8 (1) Eyebrow and eyelash services, cleansing, stimulating or
 9 performing any other noninvasive beautifying process on any skin surface
 10 by means of hands or mechanical or electrical appliances, other than
 11 electric needles, provided for esthetic rather than medical purposes;

12 (2) temporary hair removal from the face or any part of the body by
 13 use of the hands or mechanical or electrical appliances other than electric
 14 needles; or

15 (3) using cosmetic preparations, antiseptics, lotions, creams or other
 16 preparations in performing any of the practices described in this
 17 subsection.

18 (i) "*Instructor-in-training*" means a person who is a licensed
 19 cosmetologist and who has met the board's training requirements for
 20 obtaining an instructor-in-training permit.

21 ~~(f)~~(j) "*Manicurist*" means any person who, for compensation practices
 22 the profession of cosmetology only to the extent of:

23 (1) Nail technology;

24 (2) cleansing, stimulating or performing similar work on the arms,
 25 hands or ankles and feet by means of hands or mechanical or electrical
 26 appliances, other than electric needles; or

27 (3) using cosmetic preparations, antiseptics, lotions, creams or other
 28 preparations in performing any practice described in ~~subsection (f)~~
 29 *paragraph (2)*.

30 ~~(g)~~(k) "*Nail technology*" means manicuring, pedicuring and
 31 sculpturing nails.

32 ~~(h)~~ "*Electrologist*" means any person who, for compensation removes
 33 hair from, or destroys hair on, the human body for beautification by use of
 34 an electric needle only.

35 ~~(i)~~(l) "*Person*" means any individual, corporation, partnership,
 36 association or other entity.

37 ~~(j)~~ "*Instructor-in-training*" means a person who is a licensed
 38 cosmetologist and has met the board's training requirements for obtaining
 39 an instructor-in-training permit.

40 ~~(k)~~(m) "*Physician*" means a person licensed to practice medicine and
 41 surgery by the state board of healing arts.

42 (n) "*Reciprocity*" means the acceptance of a practitioner applicant
 43 for licensure from outside the state or jurisdiction based on a documented

1 *prior record of training or experience in work hours from another state or*
2 *jurisdiction without additional testing, except for an examination required*
3 *by the board relating to Kansas laws governing practice in the state of*
4 *Kansas.*

5 Sec. 10. K.S.A. 65-1902 is hereby amended to read as follows: 65-
6 1902. (a) Except as provided in subsection (b), no person shall:

7 (1) Engage in practice of cosmetology, esthetics, nail technology or
8 electrolylogy unless the person holds a valid license, issued by the board, to
9 engage in that practice;

10 (2) engage in the practice of tattooing, cosmetic tattooing or body
11 piercing unless the person holds a valid license, issued by the board, to
12 engage in such practice;

13 (3) teach cosmetology in a licensed school unless the person holds a
14 valid cosmetology instructor's license issued by the board;

15 (4) conduct a school for teaching nail technology unless the person
16 holds a valid license, issued by the board, to conduct the school;

17 (5) teach nail technology in a licensed school unless the person holds
18 a valid cosmetology or manicuring instructor's license issued by the board;

19 (6) conduct a school for teaching electrolylogy unless the person holds
20 a valid license, issued by the board, to conduct the school;

21 (7) teach electrolylogy in a licensed school or clinic unless the person
22 holds a valid electrolylogy instructor's license issued by the board;

23 (8) conduct a school for teaching esthetics unless the person holds a
24 valid license, issued by the board, to conduct the school;

25 (9) teach esthetics in a licensed school unless the person holds a valid
26 cosmetology or esthetics instructor's license issued by the board;

27 (10) own or operate a school, salon or clinic where cosmetology,
28 esthetics, nail technology or electrolylogy is taught or practiced unless the
29 person holds a valid school, salon or clinic license issued by the board;

30 (11) teach or practice cosmetology, esthetics, nail technology or
31 electrolylogy in a school, salon or clinic unless the owner or operator of the
32 school, salon or clinic holds a valid school, salon or clinic license issued
33 by the board;~~or~~

34 (12) provide a service constituting the practice of cosmetology, nail
35 technology, esthetics or electrolylogy by use of a medical device registered
36 with the federal food and drug administration, or as defined in federal or
37 state law ~~which~~ *that* may be distributed only upon the order of a physician.
38 This act does not prohibit a *Kansas* board of cosmetology, *body art and*
39 *tanning* licensee from providing services using a medical device upon the
40 order and under the supervision of a physician and in a location
41 maintained by the physician; *or*

42 (13) *employ a person or allow any person to engage in any activity*
43 *for which a license is required by article 19 of chapter 65 of the Kansas*

1 *Statutes Annotated, and amendments thereto, unless the individual holds a*
 2 *current valid license issued to the individual.*

3 (b) The provisions of this act shall not apply to:

4 (1) Any person licensed as a barber or apprentice barber;

5 (2) any person licensed to practice medicine and surgery, chiropractic,
 6 optometry, nursing or dentistry, while engaged in that practice;

7 (3) any person who is a licensed physical therapist or certified
 8 physical therapist assistant while engaged in that practice; or

9 (4) any teacher while engaged in instructing elementary or secondary
 10 school students in the proper care of their own persons.

11 (c) A person holding a license as a cosmetology technician on the day
 12 immediately preceding the effective date of this act shall continue to be a
 13 licensed cosmetology technician and perform the functions of a
 14 cosmetology technician, as such term was defined immediately prior to the
 15 effective date of this act, and may renew such license subject to the
 16 payment of fees and other conditions and limitations on the renewal of
 17 licenses under article 19 of chapter 65 of the Kansas Statutes Annotated,
 18 ~~and acts amendatory of the provisions thereof~~ *amendments thereto.*

19 (d) If the board determines that an individual has violated subsection
 20 (a), in addition to any other penalties imposed by law, the board, in
 21 accordance with the Kansas administrative procedure act, may issue a
 22 cease and desist order against such individual or may assess such
 23 individual a fine of not to exceed \$1,500, or may issue such order and
 24 assess such fine. In determining the amount of fine to be assessed, the
 25 board may consider the following factors:

26 (1) Willfulness of the violation;;

27 (2) repetitions of the violation; and

28 (3) risk of harm to the public caused by the violation.

29 (e) A violation of subsection (a) ~~of this section~~ is a class ~~C~~ A
 30 misdemeanor.

31 Sec. 11. K.S.A. 65-1904 is hereby amended to read as follows: 65-
 32 1904. (a) Unless revoked for cause, all licenses of cosmetologists,
 33 cosmetology technicians, estheticians, electrologists and manicurists
 34 issued or renewed by the board shall expire on the expiration dates
 35 established by rules and regulations adopted by the board under this
 36 section. Subject to the other provisions of this subsection, each such
 37 license shall be renewable on a biennial basis upon the filing of a renewal
 38 application prior to the expiration of the license, payment of the
 39 nonrefundable license renewal fee established under this section and the
 40 filing of a successfully completed written renewal examination prescribed
 41 by the board under this subsection. For renewal applications, the board
 42 shall prescribe a written renewal examination for each classification of
 43 licensee under this subsection that will test the applicant's understanding of

1 the laws relating to the practice for which the applicant holds a license,
 2 will test the applicant's understanding of health and sanitation matters
 3 relating to the practice for which the applicant holds a license and will test
 4 the understanding of the applicant about safety matters relating to the
 5 practice for which the applicant holds a license. The board shall fix the
 6 score for the successful completion of a written renewal examination. At
 7 least 30 days prior to the expiration of a license, the board shall provide to
 8 the licensee notice of the date of expiration of the license.

9 (b) (1) Any cosmetologist's, cosmetology technician's, esthetician's,
 10 electrologist's or manicurist's license may be renewed by the applicant
 11 within six months after the date of expiration of the applicant's last license
 12 upon submission of proof, satisfactory to the board, of the applicant's
 13 qualifications to practice as a cosmetologist, cosmetology technician,
 14 esthetician, electrologist or manicurist, successfully completing the
 15 renewal exam and payment of the applicable nonrefundable renewal fee
 16 and delinquent fee prescribed pursuant to this section.

17 (2) Any applicant whose license as a cosmetologist, cosmetology
 18 technician, esthetician, electrologist or manicurist has been expired for
 19 more than six months may obtain reinstatement of such license upon
 20 application to the board, upon filing with the board a successfully
 21 completed written renewal examination and upon payment of the
 22 applicable nonrefundable ~~delinquent renewal fee and a nonrefundable~~
 23 ~~renewal penalty fee of \$100~~ *reinstatement fee*.

24 (c) Any applicant for a license other than a renewal license shall
 25 make a verified application to the board on such forms as the board may
 26 require and, upon payment of the ~~license application fee and the~~
 27 ~~examination fee, shall be examined by the board or the board's appointees~~
 28 *applicable fee* and shall be issued a license, if found to be duly qualified to
 29 practice the profession of cosmetologist, esthetician, electrologist or
 30 manicurist.

31 (d) The board is hereby authorized to adopt rules and regulations
 32 fixing the amount of nonrefundable fees for the following items and to
 33 charge and collect the amounts so fixed, subject to the following
 34 limitations:

35	Cosmetologist license application fee, for two years—	
36	not more than.....	\$60\$80
37	Cosmetologist license renewal fee.....	60
38	Delinquent cosmetologist renewal fee.....	25
39	Cosmetology technician license renewal fee, for two	
40	years—not more than	60
41	Delinquent cosmetology technician renewal fee.....	25
42	Electrologist license application fee, for two years—not	
43	more than	6080

1 Electrologist license renewal fee.....60
 2 Delinquent electrologist renewal fee.....25
 3 Manicurist license application fee, for two years—not
 4 more than~~60~~80
 5 Manicurist license renewal fee.....60
 6 Delinquent manicurist renewal fee.....25
 7 Esthetician license application fee, for two years—not
 8 more than.....~~60~~80
 9 Esthetician license renewal fee60
 10 Delinquent esthetician renewal fee.....25
 11 Any apprentice license application fee—not more than.....~~15~~35
 12 *Delinquent apprentice application fee—not more than*.....50
 13 New school license application fee.....150
 14 School license renewal fee—not more than.....~~75~~95
 15 Delinquent school license fee—not more than.....50
 16 New cosmetology services salon or electrology clinic
 17 license application fee—not more than.....100
 18 Cosmetology services salon or electrology clinic license
 19 renewal fee—not more than~~50~~70
 20 Delinquent cosmetology services salon or electrology
 21 clinic renewal fee.....30
 22 Cosmetologist's examination—not more than.....~~75~~100
 23 Electrologist's examination—not more than.....~~75~~100
 24 Manicurist's examination—not more than.....~~75~~100
 25 Esthetician examination—not more than.....~~75~~100
 26 Instructor's examination—not more than.....~~75~~100
 27 Reciprocity application fee—not more than.....75
 28 Senior status license fee.....~~30~~50
 29 Verification of licensure.....~~20~~50
 30 Any duplicate of license.....~~25~~45
 31 Instructor's license application fee, for two years—not
 32 more than.....100
 33 Renewal of instructor's license fee.....75
 34 Delinquent instructor's renewal fee—not more than.....75
 35 Temporary permit fee.....~~15~~35
 36 Statutes and regulations book.....5
 37 Instructor-in-training permit.....50
 38 *Reinstatement fee*.....125
 39 *Charitable event permit—not more than*.....70
 40 *Demonstration permit—not more than*.....150

41 (e) Whenever the board determines that the total amount of revenue
 42 derived from the fees collected pursuant to this section is insufficient to
 43 carry out the purposes for which the fees are collected, the board may

1 amend its rules and regulations to increase the amount of the fee, except
2 that the amount of the fee for any item shall not exceed the maximum
3 amount authorized by this subsection. Whenever the amount of fees
4 collected pursuant to this section provides revenue in excess of the amount
5 necessary to carry out the purposes for which such fees are collected, it
6 shall be the duty of the board to decrease the amount of the fee for one or
7 more of the items listed in this subsection by amending the rules and
8 regulations ~~which~~ *that* fix the fees.

9 (f) Any person who has held a license issued by the board for at least
10 10 years and is 60 years or more of age and not regularly engaged in
11 cosmetology practice in Kansas shall be entitled to a senior status license
12 upon application and payment of the one-time senior status license fee.
13 The holder of the senior status license shall not be required to renew the
14 license and shall not be entitled to practice cosmetology.

15 (g) Any person who failed to obtain a renewal license while in the
16 armed forces of the United States shall be entitled to a renewal license
17 upon filing application, paying the nonrefundable renewal fee for the
18 current year during which the person has been discharged and successfully
19 completing the renewal exam.

20 Sec. 12. K.S.A. 65-1904a is hereby amended to read as follows: 65-
21 1904a. (a) Any ~~licensed cosmetologist, esthetician, electrologist,~~
22 ~~manicurist, licensee~~ or person desiring to establish a salon or clinic shall
23 make application, on a form provided, to the Kansas ~~state~~ board of
24 cosmetology, *body art and tanning*, accompanied by the new salon or
25 clinic license fee established under K.S.A. 65-1904, and amendments
26 thereto. Upon filing of the application, the board shall inspect the
27 equipment as to safety and sanitary condition of the premises and if the
28 equipment and premises are found to comply with the rules and
29 regulations of the secretary of health and environment and the rules and
30 regulations of the Kansas ~~state~~ board of cosmetology, *body art and*
31 *tanning*, the board shall issue a new salon or clinic license.

32 (b) Nothing herein contained shall be construed as preventing any
33 ~~licensed cosmetologist, manicurist, esthetician or electrologist licensee~~
34 from practicing in the field for which licensed in such licensee's private
35 home or residence if the home or residence complies with rules and
36 regulations of the secretary and the ~~state~~ board.

37 (c) A ~~licensed cosmetologist, manicurist, esthetician or electrologist~~
38 ~~licensee~~ may provide services in the field in which licensed in a place
39 other than the licensed salon or clinic or a private home or residence of the
40 ~~licensed cosmetologist, manicurist, esthetician or electrologist licensee~~ if
41 *the place complies with rules and regulations of the secretary and the*
42 *board.* ~~Excluding services provided by a licensed cosmetologist,~~
43 ~~manicurist, esthetician or electrologist in a health care facility, hospital or~~

1 nursing home or in the residence of a person requiring home care arising
 2 from physical or mental disabilities; In order to provide such services, such
 3 licensed cosmetologist, manicurist, esthetician or electrologist licensee
 4 shall be employed in a salon or clinic or in the licensed cosmetologist's,
 5 manicurist's, esthetician's or electrologist's licensee's private home or
 6 residence for at least 51% of the total hours per week employed; and shall
 7 attest by affidavit that such cosmetology, manicuring, esthetics or
 8 electrology services shall be provided only in the residence or office of the
 9 person receiving services. *Services provided by a licensee in a healthcare*
 10 *facility, hospital or nursing home or in the residence of a person requiring*
 11 *home care arising from a physical or mental disability shall not require*
 12 *the licensee to be employed in a salon or clinic or in the licensee's private*
 13 *home or residence for at least 51% of the total hours per week employed*
 14 *and shall not require an attestation by affidavit that such services shall be*
 15 *provided only in the residence or office of the person receiving services.*

16 (e)(d) Licensed salons and clinics may be reinspected in accordance
 17 with a schedule determined by the board by rules and regulations or upon a
 18 complaint made to the board that such salon or clinic is not being
 19 maintained in compliance with rules and regulations of the board. The
 20 license shall expire one year from the last day of the month of its issuance.
 21 Any such license may be renewed upon application accompanied by the
 22 salon or clinic license renewal fee made to the board prior to the expiration
 23 date of the license. Any license may be renewed by the applicant within 60
 24 days after the date of expiration of the last license upon payment of the
 25 annual renewal fee plus the delinquent renewal fee.

26 (d)(e) On or after July 1, 2014, Salon and clinic renewal application
 27 fees will be prorated to reflect an expiration date one year from the last
 28 day of the month of the initial issuance of the license.

29 (f) As used in this section, "licensee" means a cosmetologist,
 30 esthetician, electrologist or manicurist licensed by the Kansas board of
 31 cosmetology, body art and tanning.

32 Sec. 13. K.S.A. 65-1904b is hereby amended to read as follows: 65-
 33 1904b. (a) Upon application to the Kansas state board of cosmetology,
 34 body art and tanning on a form provided for application for a
 35 cosmetologist, esthetician, manicurist or electrologist license,
 36 accompanied by the application fee, a person practicing as a
 37 cosmetologist, esthetician, manicurist or electrologist under the laws of
 38 another state or jurisdiction shall be granted a license entitling the person
 39 to practice in this state if:

40 (1) The person is not less than 17 years of age and a graduate of an
 41 accredited high school, or equivalent thereof, or the person has held a
 42 current license in another state or jurisdiction in the area of practice in
 43 which the person seeks a license for not less than 10 years prior to the date

1 of application;

2 (2) the person submits to the board verification of date of birth; and

3 (3) the person holds a current license in another state in the area of
4 practice in which the person seeks a license and meets at least one of the
5 following criteria:

6 (A) The person passes a written and, *if required by the board*, a
7 practical examination administered by the board relating to the area of
8 practice in which the person seeks a license; ~~or~~

9 (B) the person has the number of hours of training required for
10 licensure in this state and passes the written examination administered for
11 license renewal under ~~subsection (a) of~~ K.S.A. 65-1904(a), and
12 amendments thereto;

13 (C) *the person has held a current license in good standing for five or*
14 *more consecutive years and passes the written examination administered*
15 *for license renewal in accordance with K.S.A. 65-1904(a), and*
16 *amendments thereto; or*

17 (D) *the person's license was issued by a state approved by the board*
18 *in rules and regulations, and the person passes the written examination*
19 *administered for license renewal in accordance with K.S.A. 65-1904(a),*
20 *and amendments thereto.*

21 (b) The renewal of a license issued pursuant to this section shall be in
22 the manner provided in K.S.A. 65-1904, and amendments thereto.

23 Sec. 14. K.S.A. 65-1905 is hereby amended to read as follows: 65-
24 1905. (a) All examinations held or conducted by the board shall be in
25 accordance with rules and regulations adopted by the board. The
26 examinations shall include a written test administered at the completion of
27 1,000 hours of training. If the applicant has attended a licensed school
28 electing to base the course of instruction and practice on credit hours as
29 provided in K.S.A. 65-1903, and amendments thereto, the written test shall
30 be administered at the completion of the credit hours ~~which~~ *that* are the
31 equivalent of 1,000 clock hours under the formula for conversion used by
32 the licensed school. A practical test may be administered prior to licensure.
33 Examinations to qualify for an instructor's license shall be limited to
34 written tests.

35 (b) Each applicant for licensure by examination shall:

36 (1) Be at least 17 years of age;

37 (2) be a graduate of an accredited high school, or equivalent thereof.
38 The provisions of this paragraph shall not apply to any applicant who was
39 at least 25 years of age and licensed as an apprentice on May 21, 1998;

40 (3) submit to the board verification of date of birth; and

41 (4) have served as an apprentice for the period of time provided by
42 K.S.A. 65-1912, and amendments thereto.

43 (c) (1) Any person making application who possesses the necessary

1 qualifications to take an examination provided herein *and who is*
2 *scheduled to take an examination*, upon application and payment of the
3 nonrefundable temporary permit fee, may be issued a temporary permit by
4 the board to practice cosmetology ~~until the next regular examination~~
5 ~~conducted by the board.~~

6 (2) *Any temporary permit issued under this subsection shall expire*
7 *six weeks after the originally scheduled examination date or if the person*
8 *fails the examination.*

9 Sec. 15. K.S.A. 65-1906 is hereby amended to read as follows: 65-
10 1906. (a) Each licensed cosmetologist, cosmetology technician,
11 esthetician, manicurist, electrologist and instructor shall display such
12 person's license in a conspicuous place in the salon, clinic or school where
13 the holder thereof is employed or working.

14 (b) *Each licensed school and electrology school, clinic and*
15 *establishment shall display each apprentice's license in a conspicuous*
16 *location in the school, clinic or establishment.*

17 (c) Each holder of a salon, clinic or school license shall display the
18 license and most recent inspection report and the sanitation standards
19 prescribed by the secretary of health and environment pursuant to K.S.A.
20 65-1,148, and amendments thereto, in a conspicuous place in the salon,
21 clinic or school.

22 Sec. 16. K.S.A. 65-1907 is hereby amended to read as follows: 65-
23 1907. (a) Except as provided in subsection (b), the chairperson, with the
24 approval of the board, shall employ inspectors to inspect schools, salons
25 and clinics and the inspectors shall perform all of the inspection duties of
26 the board, as required by this act, rules and regulations of the board and
27 sanitation standards adopted by the secretary of health and environment
28 pursuant to K.S.A. 65-1,148, and amendments thereto. The board shall
29 provide training to the inspectors to enable the inspectors to provide
30 current information to school, salon and clinic personnel regarding
31 requirements of applicable statutes and rules and regulations. It shall be
32 the duty of the board to determine the number of hours and practice work
33 required of students in each subject of cosmetology, nail technology,
34 esthetics and electrology taught in a licensed school.

35 (b) The chairperson of the *Kansas* board of cosmetology, *body art*
36 *and tanning*, with the approval of the board, may enter into an agreement
37 with the chairperson of the *Kansas* board of barbering as to which board's
38 inspectors shall inspect a dual-licensed salon and barber shop. Such
39 designated inspectors shall perform all of the inspection duties of both
40 boards, as required by the applicable statutes and rules and regulations of
41 both boards and the sanitation standards adopted by the secretary of health
42 and environment pursuant to K.S.A. 65-1,148, and amendments thereto.
43 Such designated inspectors shall be trained by both boards as required by

1 the applicable statutes and rules and regulations of both boards.

2 Sec. 17. K.S.A. 65-1908 is hereby amended to read as follows: 65-
3 1908. (a) The board, in accordance with the provisions of the Kansas
4 administrative procedure act, may refuse to issue or renew a license, or
5 revoke, suspend, censure, limit or condition a license for any of the
6 following reasons:

7 (1) Failure to comply with the sanitation standards prescribed by the
8 secretary of health and environment pursuant to K.S.A. 65-1,148, and
9 amendments thereto;

10 (2) failure to comply with any provision of this act, with the rules and
11 regulations of the board of cosmetology or with any order issued by the
12 board;

13 (3) *the person* has become a danger to the public by reason of alcohol
14 or drug abuse;

15 (4) conviction of a felony unless the applicant or licensee is able to
16 demonstrate to the board's satisfaction that such person has been
17 sufficiently rehabilitated to warrant the public trust;

18 (5) ~~the obtaining of, or the attempt~~ *attempting* to obtain, a license by
19 fraudulent misrepresentation or bribery;

20 (6) advertising by means of false or knowingly deceptive matter or
21 statement;

22 (7) failure to display the annual license or inspection report as
23 provided for in this act;

24 (8) gross negligence or unprofessional conduct as defined by rules
25 and regulations of the board; or

26 (9) *the person* has had a license revoked, suspended or limited, or has
27 had other disciplinary action taken, or an application for a license denied,
28 by the proper regulatory authority of *Kansas*, another state, territory, *the*
29 District of Columbia or another country, a certified copy of the record of
30 the action of the other jurisdiction being conclusive evidence thereof.

31 (b) The board may order the remedying of any violations of rules and
32 regulations of the board or any provision of this act, and the board may
33 issue a cease and desist order upon board determination that the holder of a
34 license or any person has violated any order of the board, any rules and
35 regulations of the board or any provision of this act.

36 (c) Inspectors employed by the board shall have such powers as the
37 board may prescribe by rules and regulations to make inspections,
38 investigations; and inquiries, except that a permanent order for closing any
39 establishment licensed by the board shall be issued only by the board.

40 (d) In addition to the board's authority to refuse licensure or impose
41 discipline pursuant to subsection (a), the board shall have the authority to
42 assess a fine ~~not in excess of~~ *to exceed* \$1,000 against a ~~licensee~~ *person* for
43 each of the reasons specified in subsection (a). Such fine may be assessed

1 in lieu of or in addition to such discipline.

2 Sec. 18. K.S.A. 65-1909 is hereby amended to read as follows: 65-
3 1909. (a) No person shall:

4 (1) Employ an individual or allow any individual to engage in any
5 activity for which a license is required pursuant to K.S.A. 65-1902, and
6 amendments thereto, unless such individual holds a currently valid license
7 issued to such individual;

8 (2) violate any order or ruling of the—state *Kansas* board of
9 cosmetology, *body art and tanning*;

10 (3) fail or refuse to comply with rules and regulations prescribed by
11 the board or applicable sanitation standards adopted by the secretary of
12 health and environment pursuant to K.S.A. 65-1,148, and amendments
13 thereto; or

14 (4) violate any of the provisions of article 19 of chapter 65 of *the*
15 *Kansas Statutes Annotated, and amendments thereto.*

16 (b) Violation of subsection (a) is a misdemeanor punishable by a fine
17 of not less than \$10 nor more than \$100, or by imprisonment in the county
18 jail for not less than 10 days nor more than 90 days, or by both such fine
19 and imprisonment.

20 (c) The board may bring an action in its own name in a court of
21 competent jurisdiction to enjoin any person from practicing or teaching
22 cosmetology, esthetics, nail technology or electrology or from operating a
23 salon, clinic or school where such courses are taught without a currently
24 valid license. In any civil action brought under this section, it shall be
25 presumed that irreparable damage will occur where the board alleges and
26 proves a person committed a violation of such licensing laws. In addition
27 to issuing an order for injunctive relief, the court also may assess a fine of
28 not to exceed \$1,500 against such person.

29 Sec. 19. K.S.A. 65-1912 is hereby amended to read as follows: 65-
30 1912. (a) ~~Any person desiring to practice as an apprentice shall be required~~
31 ~~to pay to the board the fee required pursuant to K.S.A. 65-1904, and~~
32 ~~amendments thereto, and obtain an apprentice license from the board.~~
33 ~~Application for an apprentice license allowing a person to practice in a~~
34 ~~licensed school shall be submitted to the board not more than 15 days after~~
35 ~~the person's enrollment in the school. Any school licensed by the board~~
36 ~~enrolling a student to practice as an apprentice shall be required to pay to~~
37 ~~the board the fee required under K.S.A. 65-1904, and amendments thereto,~~
38 ~~and obtain an apprentice license from the board for the student.~~
39 ~~Application for an apprentice license allowing a student to practice in a~~
40 ~~licensed school shall be submitted to the board by the school not more~~
41 ~~than 15 days after the student's enrollment in the school. The school shall~~
42 ~~pay to the board a delinquent fee required under K.S.A. 65-1904, and~~
43 ~~amendments thereto, for apprentice applications submitted to the board~~

1 *more than 15 days after the student's enrollment in the school.*

2 (b) (1) An applicant for examination and licensure as a cosmetologist
3 shall be required to have practiced as an apprentice in a licensed school for
4 not less than 1,500 clock hours or, if the applicant has attended a licensed
5 school electing to base the course of instruction and practice on credit
6 hours as provided in K.S.A. 65-1903, and amendments thereto, the
7 applicant shall have practiced as an apprentice for not less than those
8 credit hours ~~which~~ *that* are the equivalent of 1,500 clock hours under the
9 formula for conversion used by the licensed school.

10 (2) (A) Before July 1, 2009, an applicant for examination and
11 licensure as an esthetician shall be required to have practiced as an
12 apprentice in a licensed school for not less than 650 clock hours or, if the
13 applicant has attended a licensed school electing to base the course of
14 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
15 amendments thereto, the applicant shall have practiced as an apprentice for
16 not less than those credit hours ~~which~~ *that* are the equivalent of 650 clock
17 hours under the formula for conversion used by the licensed school.

18 (B) On and after July 1, 2009, an applicant for examination and
19 licensure as an esthetician shall be required to have practiced as an
20 apprentice in a licensed school for not less than 1,000 clock hours, or, if
21 the applicant has attended a licensed school electing to base the course of
22 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
23 amendments thereto, the applicant shall have practiced as an apprentice for
24 not less than those credit hours ~~which~~ *that* are the equivalent of 1,000
25 clock hours under the formula for conversion used by the licensed school.

26 (3) An applicant for examination and licensure as a manicurist shall
27 be required to have practiced as an apprentice in a licensed school of
28 cosmetology or nail technology for not less than 350 clock hours or, if the
29 applicant has attended a licensed school electing to base the course of
30 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
31 amendments thereto, the applicant shall have practiced as an apprentice for
32 not less than those credit hours ~~which~~ *that* are the equivalent of 350 clock
33 hours under the formula for conversion used by the licensed school.

34 (4) An applicant for examination and licensure as an electrologist
35 shall be required to have practiced as an apprentice: (A) In a licensed
36 school of cosmetology or electrology for not less than 500 clock hours or,
37 if the applicant has attended a licensed school electing to base the course
38 of instruction and practice on credit hours as provided in K.S.A. 65-1903,
39 and amendments thereto, the applicant shall have practiced as an
40 apprentice for not less than those credit hours ~~which~~ *that* are the equivalent
41 of 500 clock hours under the formula for conversion used by the licensed
42 school; or (B) in a licensed clinic or establishment for not less than 1,000
43 clock hours of training. The duration of practice as an apprentice in a clinic

1 or establishment must be in the clinic or establishment ~~in which~~ *where*
2 practice was commenced, except that the board may permit, upon written
3 application and for good cause, the transfer of the apprentice to another
4 clinic or establishment for completion of the term of apprenticeship. Any
5 licensed cosmetologist who is practicing electrology in a licensed clinic or
6 establishment on July 1, 1987, may apply for and be issued an
7 electrologist's license without examination.

8 (c) No apprentice shall make any charge for the apprentice's services,
9 but a licensed school of cosmetology, electrology or nail technology or a
10 proprietor of a licensed clinic or establishment ~~in which~~ *where* an
11 apprentice of electrology practices may charge for services of the
12 apprentice.

13 (d) For purposes of subsection (b), a person is not required to have
14 practiced as an apprentice continuously or without interruption in
15 obtaining the required number of hours.

16 Sec. 20. K.S.A. 65-1920 is hereby amended to read as follows: 65-
17 1920. (a) As used in this act:

18 (1) "Authorized agent" means an employee of the ~~state~~ *Kansas* board
19 of cosmetology, *body art and tanning* designated by the board to enforce
20 this act.

21 (2) "Board" means the ~~state~~ *Kansas* board of cosmetology, *body art*
22 *and tanning*.

23 (3) "Phototherapy device" means equipment that emits ultraviolet
24 radiation that is used in the treatment of disease or other medical use.

25 (4) "Tanning device" means equipment that emits electromagnetic
26 radiation with wavelengths in the air that is used for tanning of human skin
27 and includes any accompanying items incidental to operation of the
28 tanning device.

29 (5) "Tanning facility" means any facility, whether independent or part
30 of a salon, health spa or any other facility, which provides access to
31 tanning devices but shall not include private residences if access to tanning
32 devices is provided without charge.

33 (b) This act does not apply to use of a phototherapy device by or
34 under supervision of a person licensed to practice medicine and surgery.

35 Sec. 21. K.S.A. 65-1940 is hereby amended to read as follows: 65-
36 1940. As used in this act, unless the context otherwise requires:

37 (a) "Board" means the ~~Kansas-state~~ board of cosmetology, *body art*
38 *and tanning* or its designee.

39 (b) "Director" means the executive director of the board.

40 (c) "Department" means the department of health and environment.

41 (d) "Secretary" means the secretary of health and environment.

42 (e) "Tattoo artist" and "cosmetic tattoo artist" mean a person who
43 practices tattooing or cosmetic tattooing or both pursuant to this act.

1 (f) "Body piercer" means a person engaged in the practice of body
2 piercing pursuant to this act.

3 (g) "Body piercing" means puncturing the skin of a person by aid of
4 needles designed or used to puncture the skin for the purpose of inserting
5 removable jewelry through the human body, except puncturing the external
6 part of the human earlobe shall not be included in this definition. This act
7 shall not be construed to authorize a licensed body piercer to implant or
8 embed foreign objects into the human body or otherwise to engage in the
9 practice of medicine and surgery.

10 (h) "Physician" means a person licensed to practice medicine and
11 surgery by the state board of healing arts.

12 (i) "Tattooing" means the process by which the skin is marked or
13 colored by insertion of nontoxic dyes or pigments by use of a needle into
14 or under the subcutaneous portion of the skin so as to form indelible marks
15 for cosmetic or figurative purposes.

16 (j) "Tattoo establishment" means any room or space or any part
17 thereof where tattooing is practiced or where the business of tattooing is
18 conducted.

19 (k) "Body piercing establishment" means any room space, or any part
20 thereof, where body piercing is practiced or where the business of body
21 piercing is conducted.

22 (l) "Cosmetic tattooing" means the process by which the skin is
23 marked or colored by insertion of nontoxic dyes or pigments into or under
24 the subcutaneous portion of the skin, by use of a needle, so as to form
25 indelible marks for cosmetic or figurative purposes.

26 (m) "Cosmetic tattooing establishment" means any room, space, or
27 any part thereof, where cosmetic tattooing is practiced or where the
28 business of cosmetic tattooing is conducted.

29 (n) "Court appointed guardian" means one who is appointed by a
30 court and has legal authority and duty to care for another person,
31 especially because of the other's infancy, incapacity or disability.

32 (o) "Needle" means a sharp, pointed implement used for the purpose
33 of tattooing, cosmetic tattooing or body piercing. The term "needle" does
34 not include any implements or objects altered to be used as needles.

35 (p) "Trainer" means a licensed individual who guides another in
36 tattooing, cosmetic tattooing or body piercing.

37 (q) "Apprentice" means any person licensed by the board to engage in
38 learning the practice of tattooing, cosmetic tattooing or body piercing.

39 Sec. 22. K.S.A. 65-1941 is hereby amended to read as follows: 65-
40 1941. (a) No person, including a tattoo artist, cosmetic tattoo artist or body
41 piercer, shall perform tattooing, cosmetic tattooing or body piercing on
42 another person, display a sign or in any other way advertise or purport to
43 be a tattoo artist, cosmetic tattoo artist or body piercer unless that person

1 holds a valid license issued by the board. This act does not prevent or
2 affect the use of tattooing, cosmetic tattooing or body piercing by a
3 physician, a person under the control and supervision of a physician, a
4 licensed dentist, a person under the control and supervision of a licensed
5 dentist; *or* an individual performing tattooing, cosmetic tattooing or body
6 piercing solely on such individual's body.

7 (b) Violation of subsection (a) is a class A nonperson misdemeanor.

8 (c) The board may bring an action to enjoin any person required to be
9 licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto,
10 from practicing body piercing, tattooing or cosmetic tattooing if such
11 person does not hold a currently valid license authorizing the person to
12 engage in such practice. The board may bring an action to enjoin any
13 person from operating an establishment required to be licensed under
14 K.S.A. 65-1940 through 65-1954, and amendments thereto, if such person
15 does not hold a currently valid establishment license.

16 (d) The board may order the remedying of any violations of rules and
17 regulations of the board or any provision of this act, and the board may
18 issue a cease and desist order upon board determination that ~~the holder of a~~
19 ~~license~~ *a person* has violated any order of the board, any rules and
20 regulations of the board or any provision of K.S.A. 65-1940 through 65-
21 1954, and amendments thereto.

22 Sec. 23. K.S.A. 65-1947 is hereby amended to read as follows: 65-
23 1947. (a) The board may revoke, censure, limit-~~or~~, condition, suspend,
24 refuse to issue or renew any license issued under this act; or assess a fine,
25 not to exceed \$1,000 per violation, on any person or licensee upon proof
26 that a person or licensee *has*:

27 (1) ~~Has~~ Been convicted of a violation under K.S.A. 65-1942, and
28 amendments thereto;

29 (2) ~~has~~ been convicted of any felony offense in this or any other state
30 and fails to demonstrate, to the board's satisfaction, that such person or
31 licensee has been sufficiently rehabilitated to warrant the public's trust.
32 The board may make recommendations to an applicant as to what
33 constitutes proof of rehabilitation;

34 (3) ~~has~~ misrepresented, misstated or failed to disclose personal
35 qualifications or other information necessary to practice tattooing,
36 cosmetic tattooing or body piercing in any communication to the board;

37 (4) ~~has~~ used, caused or promoted the use of any advertising matter,
38 promotional literature, warranty, label, insignia or any other representation,
39 however disseminated or published, that is false, misleading or deceptive;

40 (5) ~~has~~ deceived the public by acting in a manner as to mislead clients
41 as to the person's professional status;

42 (6) ~~has~~ employed directly or indirectly any suspended or unlicensed
43 person to perform any tattooing, cosmetic tattooing or body piercing

1 covered by this act;

2 (7) ~~has~~ obtained or attempted to obtain a license through fraud,
 3 bribery, deceit, misrepresentation, or other misconduct;

4 (8) ~~has~~ practiced tattooing, cosmetic tattooing or body piercing under
 5 a false, misleading or deceptive name;

6 (9) ~~has~~ failed, if a licensed tattoo artist, cosmetic tattoo artist or body
 7 piercer, to maintain a business address and telephone number at which the
 8 licensee may be reached during business hours;

9 (10) ~~has~~ failed, if a nonpracticing tattoo artist, cosmetic tattoo artist or
 10 body piercer, to provide the board with a home address and telephone
 11 number;

12 (11) ~~has~~ failed to properly and reasonably accept responsibility for
 13 the actions of employees;

14 (12) ~~has~~ practiced tattooing, cosmetic tattooing or body piercing with
 15 a mental or physical illness that affects ability to perform or endangers the
 16 public;

17 (13) ~~has~~ demonstrated gross incompetence in performing tattooing,
 18 cosmetic tattooing or body piercing;

19 (14) ~~has~~ become a danger to the public by reason of alcohol or drug
 20 abuse; ~~or~~

21 (15) ~~has violated~~ *failed to comply with* any of the provisions of this
 22 act ~~or~~, rules and regulations adopted by the board pursuant to this act *or*
 23 *any order issued by the board; or*

24 (16) *had a license revoked, suspended or limited, or has had other*
 25 *disciplinary action taken, or an application for a license denied, by the*
 26 *proper regulatory authority of Kansas, another state, territory, the District*
 27 *of Columbia or another country, a certified copy of the record of the*
 28 *action of the other jurisdiction being conclusive evidence thereof.*

29 Sec. 24. K.S.A. 65-2872 is hereby amended to read as follows: 65-
 30 2872. The practice of the healing arts shall not be construed to include the
 31 following persons:

32 (a) Persons rendering gratuitous services in the case of an emergency.

33 (b) Persons gratuitously administering ordinary household remedies.

34 (c) The members of any church practicing their religious tenets
 35 provided they shall not be exempt from complying with all public health
 36 regulations of the state.

37 (d) Students while in actual classroom attendance in an accredited
 38 healing arts school who after completing one year's study treat diseases
 39 under the supervision of a licensed instructor.

40 (e) Students upon the completion of at least three years study in an
 41 accredited healing arts school and who, as a part of their academic
 42 requirements for a degree, serve a preceptorship not to exceed 180 days
 43 under the supervision of a licensed practitioner.

1 (f) Persons who massage for the purpose of relaxation, muscle
2 conditioning, or figure improvement, provided no drugs are used and such
3 persons do not hold themselves out to be physicians or healers.

4 (g) Persons whose professional services are performed under the
5 supervision or by order of or referral from a practitioner who is licensed
6 under this act.

7 (h) Persons in the general fields of psychology, education and social
8 work, dealing with the social, psychological and moral well-being of
9 individuals or groups, or both, provided they do not use drugs and do not
10 hold themselves out to be the physicians, surgeons, osteopathic physicians
11 or chiropractors.

12 (i) Practitioners of the healing arts in the United States army, navy, air
13 force, public health service, and coast guard or other military service when
14 acting in the line of duty in this state.

15 (j) Practitioners of the healing arts licensed in another state when and
16 while incidentally called into this state in consultation with practitioners
17 licensed in this state.

18 (k) Dentists practicing their professions, when licensed and practicing
19 in accordance with the provisions of article 14 of chapter 65 of the Kansas
20 Statutes Annotated, and amendments thereto, and any interpretation
21 thereof by the supreme court of this state.

22 (l) Optometrists practicing their professions, when licensed and
23 practicing under and in accordance with the provisions of article 15 of
24 chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
25 any interpretation thereof by the supreme court of this state.

26 (m) Nurses practicing their profession when licensed and practicing
27 under and in accordance with the provisions of article 11 of chapter 65 of
28 the Kansas Statutes Annotated, and amendments thereto, and any
29 interpretation thereof by the supreme court of this state.

30 (n) Podiatrists practicing their profession, when licensed and
31 practicing under and in accordance with the provisions of article 20 of
32 chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
33 any interpretation thereof by the supreme court of this state.

34 (o) Every act or practice falling in the field of the healing arts, not
35 specifically excepted herein, shall constitute the practice thereof.

36 (p) Pharmacists practicing their profession, when licensed and
37 practicing under and in accordance with the provisions of article 16 of
38 chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and
39 any interpretation thereof by the supreme court of this state.

40 (q) A dentist licensed in accordance with the provisions of article 14
41 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
42 who administers general and local anesthetics to facilitate medical
43 procedures conducted by a person licensed to practice medicine and

1 surgery if such dentist is certified by the board of healing arts under K.S.A.
2 65-2899, and amendments thereto, to administer such general and local
3 anesthetics.

4 (r) Practitioners of the healing arts duly licensed under the laws of
5 another state who do not open an office or maintain or appoint a place to
6 regularly meet patients or to receive calls within this state, but who order
7 services which are performed in this state in accordance with rules and
8 regulations of the board. The board shall adopt rules and regulations
9 identifying circumstances in which professional services may be
10 performed in this state based upon an order by a practitioner of the healing
11 arts licensed under the laws of another state.

12 (s) Acupuncturists, when licensed and practicing in accordance with
13 K.S.A. 65-7601 through 65-7624, and amendments thereto, rules and
14 regulations adopted [pursuant] thereto, and interpretations thereof by the
15 supreme court of this state.

16 (t) Persons licensed by the ~~state~~ *Kansas* board of cosmetology, *body*
17 *art and tanning* practicing their professions, when licensed and practicing
18 under and in accordance with the provisions of article 19 of chapter 65 of
19 the Kansas Statutes Annotated, and amendments thereto, and any
20 interpretation thereof by the supreme court of this state.

21 Sec. 25. K.S.A. 74-2701 is hereby amended to read as follows: 74-
22 2701. (a) There is hereby created the ~~Kansas-state~~ board of cosmetology,
23 *body art and tanning*, the members of which shall be appointed by the
24 governor, to regulate the practice of the profession of cosmetology in
25 Kansas. Not more than four members shall be of the same political party.
26 Three members shall be licensed under the provisions of K.S.A. 65-1901
27 through 65-1912, and amendments thereto, at least two of whom shall be
28 licensed cosmetologists; one member shall be a licensed permanent color
29 technician and tattoo artist or a licensed body piercer; one member shall be
30 an owner and licensed operator of a tanning facility; one member shall be
31 a person who holds a valid school license issued by the board or a person
32 who is engaged in the day-to-day operation of a school licensed by the
33 board; and two members shall represent the general public interest. If none
34 of the licensed cosmetologist members of the board is an African-
35 American, at least one member representing the general public interest
36 shall be an African-American. No manufacturer, wholesaler or retailer of
37 cosmetic supplies or equipment used by the profession of cosmetology, or
38 any representative of such manufacturer, wholesaler or retailer, shall
39 become a member of the board.

40 (b) Members of the board serving prior to the effective date of this act
41 may be reappointed as provided in this section. Of the members first
42 appointed to the board on and after the effective date of this act, two
43 members shall be appointed for terms of one year, two members shall be

1 appointed for terms of two years and three members shall be appointed for
2 terms of three years. Thereafter each member of the board shall be
3 appointed for a term of three years, and until a successor is appointed and
4 qualifies. The board shall annually select a chairperson from its
5 membership.

6 (c) The governor shall appoint an executive director who shall serve
7 at the pleasure of the governor. The executive director shall also be the
8 treasurer of the board and shall keep a record of the proceedings and
9 perform such other duties as the board shall direct.

10 (d) When a vacancy occurs by death or resignation, appointees to the
11 board shall have the prescribed qualifications. All vacancies in the board
12 shall be filled by the governor for the unexpired terms. The members of
13 the board shall take the oath of office prescribed for public officers before
14 entering upon the discharge of their duties.

15 Sec. 26. K.S.A. 74-2702 is hereby amended to read as follows: 74-
16 2702. (a) The Kansas~~state~~ board of cosmetology, *body art and tanning*
17 shall meet immediately after appointment and determine policies of the
18 board and conduct any business that may be before such board, and said
19 officers thereafter shall meet as required by law, at times designated by the
20 board and shall also meet on the call of the chairman. The executive
21 director shall not be entitled to vote at such meetings. Said board shall
22 keep a record of its proceedings and a register of the names of applicants
23 for licenses, showing whether the licenses were granted or refused. Said
24 board shall have a seal, and each of said members of said board shall have
25 the authority and be empowered, for all purposes and duties of said board
26 in connection therewith, to administer oaths. The chairman, with the
27 approval of the board, shall have the power to appoint inspectors who shall
28 perform all of the inspection duties of the board and may employ such
29 additional help as may in ~~his or her~~ *the inspector's* judgment be necessary
30 to properly carry out the provisions of this act.

31 ~~(b) All employees appointed as herein authorized, except the~~
32 ~~executive director, shall be within the classified service of the Kansas civil~~
33 ~~service act. The executive director shall be within the unclassified service~~
34 ~~of the Kansas civil service act and shall receive an annual salary to be~~
35 ~~fixed by the board, with the approval of the state finance council.~~
36 Members of the ~~state~~ *Kansas* board of cosmetology, *body art and tanning*
37 attending meetings of such board, or attending a subcommittee meeting
38 thereof authorized by such board, shall be paid compensation, subsistence
39 allowances, mileage and other expenses as provided in K.S.A. 75-3223,
40 *and amendments thereto.*

41 Sec. 27. K.S.A. 74-2703 is hereby amended to read as follows: 74-
42 2703. It shall be the duty of ~~such~~ *the Kansas* board of cosmetology, *body*
43 *art and tanning* to meet at least twice each year, and at such times and

1 places as it may deem advisable, ~~and shall at such times hold examinations~~
2 ~~of such applicants as shall have applied for licensure.~~

3 Sec. 28. K.S.A. 74-2704 is hereby amended to read as follows: 74-
4 2704. All fees and payments required to be paid by applicants for
5 examinations or licenses, shall be paid to the executive director of the
6 Kansas-state board of cosmetology, *body art and tanning* or the board's
7 designee. The executive director, or the board's designee, shall remit all
8 moneys received from fees, charges or penalties to the state treasurer in
9 accordance with the provisions of K.S.A. 75-4215, and amendments
10 thereto. Upon receipt of each such remittance, the state treasurer shall
11 deposit the entire amount in the state treasury. Ten percent of each such
12 deposit shall be credited to the state general fund and the balance shall be
13 credited to the cosmetology fee fund. All expenditures from such fund
14 shall be made in accordance with appropriation acts upon warrants of the
15 director of accounts and reports issued pursuant to vouchers approved by
16 the executive director or by a person or persons designated by the board.

17 Sec. 29. K.S.A. 75-3036 is hereby amended to read as follows: 75-
18 3036. (a) The state general fund is exclusively defined as the fund into
19 which shall be placed all public moneys and revenue coming into the state
20 treasury not specifically authorized by the constitution or by statute to be
21 placed in a separate fund, and not given or paid over to the state treasurer
22 in trust for a particular purpose, which unallocated public moneys and
23 revenue shall constitute the general fund of the state. Moneys received or
24 to be used under constitutional or statutory provisions or under the terms
25 of a gift or payment for a particular and specific purpose are to be kept as
26 separate funds and shall not be placed in the general fund or ever become a
27 part of it.

28 (b) The following funds shall be used for the purposes set forth in the
29 statutes concerning such funds and for no other governmental purposes. It
30 is the intent of the legislature that the following funds and the moneys
31 deposited in such funds shall remain intact and inviolate for the purposes
32 set forth in the statutes concerning such funds: Board of accountancy fee
33 fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special
34 litigation reserve fund of the board of accountancy; bank commissioner fee
35 fund, K.S.A. 9-1703, 16a-2-302 and 75-1308, and amendments thereto,
36 bank investigation fund, K.S.A. 9-1111b, and amendments thereto,
37 consumer education settlement fund and litigation expense fund of the
38 state bank commissioner; securities act fee fund and investor education
39 and protection fund, K.S.A. 17-12a601, and amendments thereto, of the
40 office of the securities commissioner of Kansas; credit union fee fund,
41 K.S.A. 17-2236, and amendments thereto, of the state department of credit
42 unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto,
43 and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of

1 the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and
2 amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and
3 amendments thereto, of the state fire marshal; food service inspection
4 reimbursement fund, K.S.A. 36-512, and amendments thereto, of the
5 Kansas department of agriculture; wage claims assignment fee fund,
6 K.S.A. 44-324, and amendments thereto, and workmen's compensation fee
7 fund, K.S.A. 74-715, and amendments thereto, of the department of labor;
8 veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of
9 the state board of veterinary examiners; mined-land reclamation fund,
10 K.S.A. 49-420, and amendments thereto, of the department of health and
11 environment; conservation fee fund and well plugging assurance fund,
12 K.S.A. 55-155, 55-176, 55-609, 55-711 and 55-901, and amendments
13 thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and
14 amendments thereto, and public service regulation fund, K.S.A. 66-1503,
15 and amendments thereto, of the state corporation commission; land survey
16 fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical
17 society; real estate recovery revolving fund, K.S.A. 58-3074, and
18 amendments thereto, of the Kansas real estate commission; appraiser fee
19 fund, K.S.A. 58-4107, and amendments thereto, and appraisal
20 management companies fee fund of the real estate appraisal board;
21 amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and
22 amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and
23 amendments thereto, of the state board of mortuary arts; board of
24 barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the
25 Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-
26 2704, and amendments thereto, of the Kansas-state board of cosmetology,
27 *body art and tanning*; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-
28 2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments
29 thereto, and medical records maintenance trust fund, of the state board of
30 healing arts; other state fees fund, K.S.A. 65-4024b, and amendments
31 thereto, of the Kansas department for aging and disability services; board
32 of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board
33 of nursing; dental board fee fund, K.S.A. 74-1405, and amendments
34 thereto, and special litigation reserve fund, of the Kansas dental board;
35 optometry fee fund, K.S.A. 74-1503, and amendments thereto, and
36 optometry litigation fund, of the board of examiners in optometry; state
37 board of pharmacy fee fund, K.S.A. 74-1609, and amendments thereto,
38 and state board of pharmacy litigation fund, of the state board of
39 pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto,
40 of the abstracters' board of examiners; athletic fee fund, K.S.A. 74-50,188,
41 and amendments thereto, of the department of commerce; hearing
42 instrument board fee fund, K.S.A. 74-5805, and amendments thereto, and
43 hearing instrument litigation fund of the Kansas board of examiners in

1 fitting and dispensing of hearing instruments; commission on disability
2 concerns fee fund, K.S.A. 74-6708, and amendments thereto, of the
3 governor's department; technical professions fee fund, K.S.A. 74-7009,
4 and amendments thereto, and special litigation reserve fund of the state
5 board of technical professions; behavioral sciences regulatory board fee
6 fund, K.S.A. 74-7506, and amendments thereto, of the behavioral sciences
7 regulatory board; governmental ethics commission fee fund, K.S.A. 25-
8 4119e, and amendments thereto, of the governmental ethics commission;
9 emergency medical services board operating fund, K.S.A. 75-1514, and
10 amendments thereto, of the emergency medical services board; fire service
11 training program fund, K.S.A. 75-1514, and amendments thereto, of the
12 university of Kansas; uniform commercial code fee fund, K.S.A. 75-448,
13 and amendments thereto, of the secretary of state; prairie spirit rails-to-
14 trails fee fund of the Kansas department of wildlife, parks and tourism;
15 water marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the
16 Kansas water office; insurance department service regulation fund, K.S.A.
17 40-112, and amendments thereto, of the insurance department; state fair
18 special cash fund, K.S.A. 2-220, and amendments thereto, of the state fair
19 board; scrap metal theft reduction fee fund, K.S.A. 2020 Supp. 50-6,109a,
20 and amendments thereto; and any other fund in which fees are deposited
21 for licensing, regulating or certifying a person, profession, commodity or
22 product.

23 (c) If moneys received pursuant to statutory provisions for a specific
24 purpose by a fee agency are proposed to be transferred to the state general
25 fund or a special revenue fund to be expended for general government
26 services and purposes in the governor's budget report submitted pursuant
27 to K.S.A. 75-3721, and amendments thereto, or any introduced house or
28 senate bill, the person or business entity who paid such moneys within the
29 preceding 24-month period shall be notified by the fee agency within 30
30 days of such submission or introduction:

31 (1) By electronic means, if the fee agency has an electronic address
32 on record for such person or business entity. If no such electronic address
33 is available, the fee agency shall send written notice by first class mail; or

34 (2) any agency that receives fees from a tax, fee, charge or levy paid
35 to the commissioner of insurance shall post the notification required by
36 this subsection on such agency's website.

37 (d) Any such moneys which are wrongfully or by mistake placed in
38 the general fund shall constitute a proper charge against such general fund.
39 All legislative appropriations which do not designate a specific fund from
40 which they are to be paid shall be considered to be proper charges against
41 the general fund of the state. All revenues received by the state of Kansas
42 or any department, board, commission, or institution of the state of
43 Kansas, and required to be paid into the state treasury shall be placed in

1 and become a part of the state general fund, except as otherwise provided
2 by law.

3 (e) The provisions of this section shall not apply to the 10% credited
4 to the state general fund to reimburse the state general fund for accounting,
5 auditing, budgeting, legal, payroll, personnel and purchasing services, and
6 any and all other state governmental services, as provided in K.S.A. 75-
7 3170a, and amendments thereto.

8 (f) Beginning on January 8, 2018, the director of the budget shall
9 prepare a report listing the unencumbered balance of each fund in
10 subsection (b) on June 30 of the previous fiscal year and January 1 of the
11 current fiscal year. Such report shall be delivered to the secretary of the
12 senate and the chief clerk of the house of representatives on or before the
13 first day of the regular legislative session each year.

14 (g) As used in this section, "fee agency" ~~shall include~~ *includes* the
15 state agencies specified in K.S.A. 75-3717(f), and amendments thereto,
16 and any other state agency that collects fees for licensing, regulating or
17 certifying a person, profession, commodity or product.

18 Sec. 30. K.S.A. 75-3717 is hereby amended to read as follows: 75-
19 3717. (a) As provided in this section, each state agency, not later than
20 October 1 of each year, shall file with the division of the budget its budget
21 estimates for the next fiscal year, and all amendments and revisions
22 thereof, except that, in lieu of such annual filing, each agency listed in
23 subsection (f), not later than October 1, 2000, and every two years
24 thereafter, shall file budget estimates for the next fiscal year and for the
25 ensuing fiscal year thereafter. Each agency listed in subsection (f) may file
26 adjustments to such agency's budget that was approved by the legislature
27 during a prior fiscal year. All such budget estimates shall be in the form
28 provided by the director of the budget. Each agency's budget estimates
29 shall include:

30 (1) A full explanation of the agency's request for any appropriations
31 for the expansion of present services or the addition of new activities,
32 including an estimate of the anticipated expenditures for the next fiscal
33 year and for each of the three ensuing fiscal years which would be required
34 to support each expansion of present services or addition of new services
35 as requested by the state agency;

36 (2) a listing of all programs of the agency that provide services for
37 children and their families and the following information regarding each
38 such program: Of the amount of the agency's request for appropriations to
39 fund the program, that amount which will be spent on services for children
40 or families with children and the number of children or families with
41 children who are served by the program; and

42 (3) a listing of the sources and amounts of all federal funds received
43 or budgeted for by a state agency for the purpose of homeland security or

1 for the purpose of sustaining, enhancing or improving the safety and
2 security of the state, the amount of such funds budgeted for expenditure on
3 administrative cost and the amount of such funds budgeted for expenditure
4 on aid to each unit of local government.

5 (b) At the same time as each state agency submits to the division of
6 the budget a copy of its budget estimate, and all amendments and revisions
7 thereof, each such state agency shall submit a copy of such estimate, and
8 all amendments and revisions thereof, directly to the legislative research
9 department for legislative use.

10 (c) The director of the budget shall require the agencies to submit a
11 sufficient number of copies of their budget estimates, and all amendments
12 and revisions thereof, to the director's office to satisfy the requirements of
13 such office and one additional copy for legislative use which shall be
14 retained in the division of the budget until the budget of the governor is
15 submitted to the legislature. On or before the day that such budget is
16 submitted to the legislature such legislative use copy, posted to reflect the
17 governor's budget recommendations, shall be submitted to the legislative
18 research department for use by the ways and means committee of the
19 senate and the committee on appropriations of the house of
20 representatives. Following presentation of the governor's budget report to
21 the legislature, the legislative research department may request and shall
22 receive detailed information from the division of the budget on the
23 governor's budget recommendations.

24 (d) The director of the budget may prepare budget estimates for any
25 state agency failing to file a request.

26 (e) As used in this section, "services for children and their families"
27 includes, but is not limited to, any of the following services, whether
28 provided directly or made accessible through subsidies or other payments:

29 (1) Financial support for children and families with children or
30 enforcement of the obligation to support a child or a family with one or
31 more children;

32 (2) prenatal care, health care for children or immunizations for
33 children;

34 (3) mental health or retardation services for children;

35 (4) nutrition for children or families with children or nutritional
36 counseling or supplements for pregnant or nursing women;

37 (5) child care, early childhood education or parenting education;

38 (6) licensure or regulation of child care or early childhood education
39 programs;

40 (7) treatment, counseling or other services to preserve families;

41 (8) care, treatment, placement or adoption of children without
42 functioning families;

43 (9) services to prevent child abuse and to treat and protect child abuse

1 victims;

2 (10) services for children who are pregnant, substance abusers or
3 otherwise involved in ~~high-risk~~ *high-risk* behavior;

4 (11) services related to court proceedings involving children; and

5 (12) youth employment services.

6 (f) On a biennial basis, the following state agencies shall file budget
7 estimates under the provisions of subsection (a): Abstracters' board of
8 examiners, behavioral sciences regulatory board, board of accountancy,
9 board of examiners in optometry, board of nursing, consumer credit
10 commissioner, Kansas board of barbering, Kansas board of examiners in
11 fitting and dispensing of hearing aids, Kansas dental board, Kansas real
12 estate commission, Kansas ~~state~~ board of cosmetology, *body art and*
13 *tanning*, office of the securities commissioner of Kansas, real estate
14 appraisal board, state bank commissioner, state board of healing arts, state
15 board of mortuary arts, state board of pharmacy, state board of technical
16 professions, state board of veterinary examiners, governmental ethics
17 commission, state department of credit unions, and Kansas home
18 inspectors registration board.

19 Sec. 31. K.S.A. 65-1,148, 65-1812, 65-1901, 65-1902, 65-1904, 65-
20 1904a, 65-1904b, 65-1905, 65-1906, 65-1907, 65-1908, 65-1909, 65-1912,
21 65-1920, 65-1940, 65-1941, 65-1947, 65-2872, 74-2701, 74-2702, 74-
22 2703, 74-2704, 74-2705, 75-3036 and 75-3717 and K.S.A. 2020 Supp. 39-
23 938 are hereby repealed.

24 Sec. 32. This act shall take effect and be in force from and after its
25 publication in the statute book.

39-938. Compliance with requirements and rules and regulations; exceptions. Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary for aging and disability services and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes.

History: L. 1961, ch. 231, § 16; L. 1972, ch. 171, § 13; L. 1975, ch. 462, § 45; L. 1990, ch. 225, § 23; L. 2003, ch. 149, § 8; L. 2014, ch. 115, § 131; July 1.

65-1904a. Salon or clinic license; application and fee; inspection and reinspection; practice in private residence; renewal; practice outside salon, clinic or private residence. (a) Any licensed cosmetologist, esthetician, electrologist, manicurist, or person desiring to establish a salon or clinic shall make application, on a form provided, to the Kansas state board of cosmetology, accompanied by the new salon or clinic license fee established under K.S.A. [65-1904](#), and amendments thereto. Upon filing of the application, the board shall inspect the equipment as to safety and sanitary condition of the premises and if the equipment and premises are found to comply with the rules and regulations of the secretary of health and environment and the rules and regulations of the Kansas state board of cosmetology, the board shall issue a new salon or clinic license.

(b) Nothing herein contained shall be construed as preventing any licensed cosmetologist, manicurist, esthetician or electrologist from practicing in the field for which licensed in such licensee's private home or residence if the home or residence complies with rules and regulations of the secretary and the state board. A licensed cosmetologist, manicurist, esthetician or electrologist may provide services in the field in which licensed in a place other than the licensed salon or clinic or a private home or residence of the licensed cosmetologist, manicurist, esthetician or electrologist. Excluding services provided by a licensed cosmetologist, manicurist, esthetician or electrologist in a health care facility, hospital or nursing home or in the residence of a person requiring home care arising from physical or mental disabilities, in order to provide such services, such licensed cosmetologist, manicurist, esthetician or electrologist shall be employed in a salon or clinic or in the licensed cosmetologist's, manicurist's, esthetician's or electrologist's private home or residence for at least 51% of the total hours per week employed; and shall attest by affidavit that such cosmetology, manicuring, esthetics or electrology services shall be provided only in the residence or office of the person receiving services.

(c) Licensed salons and clinics may be reinspected in accordance with a schedule determined by the board by rules and regulations or upon a complaint made to the board that such salon or clinic is not being maintained in compliance with rules and regulations of the board. The license shall expire one year from the last day of the month of its issuance. Any such license may be renewed upon application accompanied by the salon or clinic license renewal fee made to the board prior to the expiration date of the license. Any license may be renewed by the applicant within 60 days after the date of expiration of the last license upon payment of the annual renewal fee plus the delinquent renewal fee.

(d) On or after July 1, 2014, salon and clinic renewal application fees will be prorated to reflect an expiration date one year from the last day of the month of the initial issuance of the license.

History: L. 1943, ch. 222, § 5; L. 1945, ch. 253, § 2; L. 1949, ch. 334, § 3; L. 1963, ch. 317, § 3; L. 1970, ch. 256, § 4; L. 1975, ch. 322, § 5; L. 1987, ch. 238, § 5; L. 1998, ch. 160, § 5; L. 2000, ch. 109, § 3; L. 2002, ch. 187, § 5; L. 2014, ch. 130, § 2; July 1.



Wesley Towers
RETIREMENT COMMUNITY
"Our People Make the Difference"

January 25, 2019

Kansas Board of Cosmetology
714 SW Jackson St, Ste 100
Topeka, KS 66603

RE: Wesley Towers, Inc-HCC
3711 Asbury Dr
Hutchinson, KS 67502-2358
Cosmetology Establishment #004-99091

To Whom This May Concern,

Wesley Towers, Inc-HCC intends to delicense the cosmetology establishment at 3711 Asbury Drive in Hutchinson, KS with license number 004-99091, effective on February 28, 2019. This salon is a dedicated space and service that exists to meet Kansas nursing home physical environment regulations, specifically the requirement found in K.A.R. 26-40-302-(g)(4)(A). This salon will only be used for residents at Wesley Towers, not intended for public use. Please reference the Kansas Board of Cosmetology regulation K.A.R. 69-6-3.

Sincerely,

Mark Mains,

Wesley Towers President/CEO

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BOARD OF COSMETOLOGY

700 Monterey Place - Hutchinson, Kansas 67502
620/663-9175 - Fax 620/663-2961

69-6-3 Care of invalids.

A cosmetologist, apprentice or manicurist license shall be used only in a licensed beauty shop except that a licensed cosmetologist may perform cosmetology service in a licensed hospital, nursing home, rest home or at an invalid's home.

(Authorized by K.S.A. 1977 Supp. 65-1904a; effective Jan. 1, 1966; amended May 1, 1978.) 69-6-5 Display of

[Back to Top](#)

69-6-5 Display of sign.

Each establishment shall display a sign, conspicuously posted as provided by the board, stating that any complaints concerning the establishment or its practitioners may be directed to the board. The sign shall include the current address and phone number of the board.

(Authorized by K.S.A. 74-2702a, as amended by L. 1995, Ch. 119, Sec. 3; implementing K.S.A. 65-1903; as amended by L. 1995, Ch. 20, Sec. 3; and 65-1904a; effective Jan. 1, 1966; amended Dec. 28, 1992; amended March 22, 1996.)

[Back to Top](#)

69-6-7 Establishment closing.

When any establishment is permanently closed, the holder of the establishment license shall notify the board in writing, and surrender the establishment license within 10 days of closing.

(Authorized by K.S.A. 74-2702a, as amended by L. 1995, Ch. 19, Sec. 3; implementing K.S.A. 65-1904a; effective Jan. 1, 1966; amended March 22, 1996.)

[Back to Top](#)

69-11-1 Fees.

The following fees shall be charged:

Cosmetologist examination fee.....	\$75.00
Cosmetologist license application fee.....	60.00
Cosmetologist license renewal fee.....	50.00
Delinquent cosmetologist renewal fee.....	25.00
Cosmetology technician license renewal fee.....	45.00
Delinquent cosmetology technician renewal fee	25.00
Electrologist examination fee	75.00
Electrologist license application fee.....	60.00
Electrologist license renewal fee.....	50.00
Delinquent electrologist renewal fee.....	25.00
Manicurist examination fee.....	75.00
Manicurist license application fee.....	60.00
Manicurist license renewal fee.....	50.00
Delinquent manicurist renewal fee.....	25.00
Esthetician examination fee.....	75.00
Esthetician license application fee.....	60.00
Esthetician license renewal fee.....	50.00
Delinquent esthetician renewal fee.....	25.00
Instructor-in-training permit fee.....	15.00
Instructor examination fee.....	75.00
Instructor license application fee.....	75.00
Instructor license renewal fee.....	50.00
Delinquent instructor renewal fee.....	25.00
Any apprentice license application fee.....	15.00
New school license application fee.....	150.00
School license renewal fee.....	75.00
Delinquent school license fee	30.00
New salon or clinic application fee.....	60.00
Salon or clinic renewal fee.....	50.00
Delinquent salon or clinic renewal fee	30.00
Reciprocity application fee.....	75.00
Verification of licensure fee	20.00
Fee for a duplicate of any license	25.00
Temporary permit fee	15.00

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BOARD OF COSMETOLOGY

(Authorized by K.S.A. 2012 Supp. 65-1904 and K.S.A. 74-2702a; implementing K.S.A. 2012 Supp. 65-1904; effective, E-76-44, Sept. 5, 1975; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1981; amended May 1, 1982; amended, T-83-21, July 21, 1982;

Q & A: Nursing Home Salons

By Rachel Monger - November 27, 2018



Q&A or Questions and answers on black block with blurred background

Question: If a nursing home has a “salon” that only serves residents, and services are performed by a licensed stylist they contract with – does the “salon” have to be licensed by the Kansas board of cosmetology?

Answer: No. While a nursing home may have a room marked as a salon, barber shop or beauty parlor, it is not a space that serves the public or meets any other traditional definition of a salon. In fact, it is a dedicated space and service that exists to meet the state’s nursing home physical environment regulations, specifically the requirement found in K.A.R. 26-40-302(g)(4)(A).

In general, the Board of Cosmetology requires a licensed cosmetologist to operate out of a licensed salon. However, the Board of Cosmetology waives that requirement for a licensed cosmetologist who provides services in a hospital, nursing home, rest home or at an invalid’s home. This Board of Cosmetology regulation is found at K.A.R. 69-6-3

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FEB 01 2019

BOARD OF COSMETOLOGY

Rachel Monger

Believe it or not, Rachel is actually in her mid-30s! She may look fresh out of college, but her resume and contributions to LeadingAge Kansas are that of someone much older. A Licensed Kansas attorney since 2005 and a Licensed Adult Care Home Administrator since 2014, Rachel is a legislative and lobbying powerhouse for the association. She’s passionate about elder justice issues and has spent her career advocating for the best quality of life and care for older citizens. If you have questions, seek guidance, or just need a sympathetic ear for all things regulatory or legislative, Rachel’s there for you.

From: Melissa Dinsmore <melissadinsmore@mac.com>
Sent: Thursday, February 7, 2019 1:38 PM
To: Rodriguez, Vickie [KBOC] <Vickie.Rodriguez@ks.gov>
Subject: Fwd: Clarification

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

I received this from Patty Brown at KDADS. Would you agree that I do not need to proceed with the licensing of my salon that is used solely for Residents?

Respectfully,

Melissa

Begin forwarded message:

From: "Patty Brown [KDADS]" <Patty.Brown@ks.gov>
Date: February 7, 2019 at 7:43:22 AM CST
To: Melissa Dinsmore <melissadinsmore@mac.com>
Subject: Re: Clarification

I am sorry it has taken me so long to respond to you. There is a statute that exempts a salon in your building that only provides services to residents from oversight by KBOC:

39-938. Compliance with requirements and rules and regulations; exceptions. Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary for aging and disability services and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes. History: L. 1961, ch. 231, § 16; L. 1972, ch. 171, § 13; L. 1975, ch. 462, § 45; L. 1990, ch. 225, § 23; L. 2003, ch. 149, § 8; L. 2014, ch. 115, § 131; July 1.

Please let me know if you have any other questions

Patty Brown, RN MS

Interim Commissioner

Survey, Certification, and Credentialing

From: Melissa Dinsmore <melissadinsmore@mac.com>

Sent: Wednesday, January 16, 2019 12:52 PM

To: Patty Brown [KDADS]

Subject: Fwd: Clarification

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Patty,

There continues to be discussion about having salon services within my practice setting and among the Wichita group of Stylists.

I'm sure KBOC is going to reach out to you about this so I'm copying you in on the chain of emails and who is directing me...

Respectfully,

Melissa

Begin forwarded message:

From: "Gloeckner, Laura [KBOC]" <Laura.Gloeckner@ks.gov>

Date: January 16, 2019 at 12:43:48 PM CST

To: Melissa Dinsmore <melissadinsmore@mac.com>

Cc: "Bowes, Lindsey [KBOC]" <Lindsey.Bowes@ks.gov>, "Pryer, Aubrie [KBOC]" <Aubrie.Pryer@ks.gov>

Subject: Re: Clarification

Hi Melissa,

Yes, the application is online. You can access it through the following link.

[31. Cosmetology Establishment Application](#)

Feel free to contact this office if you have questions or need additional information.

Laura Gloeckner

Acting Executive Director

Kansas Board of Cosmetology

Phone: 785-296-5228

Fax: 785-296-3002

laura.gloeckner@ks.gov

www.kansas.gov/kboc

Licenses issued by the Board of Cosmetology can be verified online

at: http://www.kansas.gov/kboc/License_Verification.htm

[KBOC Customer Service Survey](#)

This E-mail message is intended only for the use of the individual or entity named above. If not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, notify us by telephone at 785-296-3155 and permanently delete the message from your system. Receipt by anyone other than the intended recipient is not a waiver of any privilege or immunity.

From: Melissa Dinsmore <melissadinsmore@mac.com>

Sent: Wednesday, January 16, 2019 12:38 PM

To: Gloeckner, Laura [KBOC]

Cc: Bowes, Lindsey [KBOC]; Pryer, Aubrie [KBOC]

Subject: Re: Clarification

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Is the application online at KBOC?

I will complete an initial license application. This does seem to be an area of confusion among many stylists and others.

Respectfully,

Melissa

On Jan 16, 2019, at 12:28 PM, Gloeckner, Laura [KBOC] <Laura.Gloeckner@ks.gov> wrote:

Hi Melissa,

Thank you. I will continue to look into this. I have requested that it be added to the Board agenda for discussion in February. In the meantime, nothing has changed with the Board. Cosmetology law currently requires salons and clinics providing cosmetology services in Kansas to be properly licensed through the Board regardless of location.

A Licensed practitioner working in unlicensed or expired salon or clinic may be subject to disciplinary action. Additionally, a salon or clinic operating without valid licensure may also be subject to disciplinary action.

Feel free to contact this office if you have questions or need additional information.

Laura Gloeckner
Acting Executive Director
Kansas Board of Cosmetology
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Licenses issued by the Board of Cosmetology can be verified online at: http://www.kansas.gov/kboc/License_Verification.htm

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From: Melissa Dinsmore <melissadinsmore@mac.com>
Sent: Wednesday, January 16, 2019 12:21 PM
To: Gloeckner, Laura [KBOC]
Cc: Bowes, Lindsey [KBOC]
Subject: Re: Clarification

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Patty Brown.

Respectfully,

Melissa

On Jan 15, 2019, at 11:09 AM, Gloeckner, Laura [KBOC] <Laura.Gloeckner@ks.gov> wrote:

Hi Melissa,

Thank you for reaching out to the Board. I am in the process of seeking clarification about this for you. Do you recall who you talked to at KDADS that gave you this information?

Feel free to contact this office if you have questions or need additional information.

Laura Gloeckner
Acting Executive Director
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Policy – Separation Requirements for Cosmetology Profession Establishments

Policy Number: 001-21

Approved by the Board: March 8, 2021


Last Updated: March 4, 2021

- I. Purpose
 - a. The purpose of this policy is to provide guidelines for Board staff to issue licensure when business or residential separation is required within cosmetology profession establishments.
- II. Authority
 - a. The secretary of health and environment shall adopt rules and regulations establishing sanitation standards for professions, shops, salons, facilities, clinics, schools and colleges regulated by the state board of barber examiners or the state board of cosmetology. K.S.A. 65-1,148(b).
 - b. The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to issue or renew a license, or revoke, suspend, censure, limit or condition a license for failure to comply with the sanitation standards prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto. K.S.A. 65-1908(a)(1).
 - c. If a room used for residential purposes is adjacent to a room used for the practice of cosmetology, nail technology, esthetics, or electrology, a solid partition shall separate the portion of the premises used for residential purposes from the licensed area. The partition may contain a door if it remains closed, except for entering and leaving. K.A.R. 28-24-13(b)(1).
 - d. If a room used for nonlicensed business purposes is also used for or is adjacent to a room used for the practice of cosmetology, nail technology, esthetics, or electrology and if the board, upon consultation with the secretary of health and environment, determines that the proximity of the licensed or nonlicensed activities poses a possible threat to the health of the employees, the consumers, or the public, the owner of the school or establishment shall mitigate the risk as directed by the board, including by meeting one or both of the following requirements: (1) A solid partition shall separate the portion of the premises used for nonlicensed business purposes from the licensed area. The partition may contain a door if it remains closed, except for entering and leaving. (2) A separate, outside entrance shall be provided for the school or establishment. K.A.R. 28-24-13(c).
 - e. The definition of "Cosmetology" in K.S.A. 65-1901(d)(2) "shall not include a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device so long as the service does not include the application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl or alter the structure of the hair and so long as the requirements of K.S.A. 65-1928, and amendments

thereto are met.” That statute does not preclude a licensed cosmetologist from performing the service described, however.

- f. As required by K.S.A. 65-1928, the Kansas Secretary of the Department of Health and Environment developed a brochure containing information about infection control techniques which are appropriate for hair braiding outside the salon setting. Kansas law requires this brochure be made available through the department of health and environment's website or by mail, upon request. The brochure contains a self-test with questions on the information contained in the brochure. For an individual engaged in hair braiding to be exempt from the practice of cosmetology under K.S.A. 65-1901 and amendments thereto, they must complete the self-test and keep the brochure and completed self-test available at the location at which the individual is braiding hair.
- III. Policy and Procedures
- a. On March 8, 2021, the Board determined that a solid partition is defined as something that divides the space and is not interrupted by a break or opening and has a texture that is close and not loose or spongy. The partition may contain a door if it remains closed, except for entering and leaving.
 - b. The intent of this regulation is that the solid partition completely divides the two spaces and not allow persons to move freely between the two spaces.
 - c. K.S.A. 65-1901 (d)(2) exempts hair braiding from the definition of cosmetology, so long as the service and the provider meet certain criteria in K.S.A. 65-1928. After review, Kansas Department of Health and Environment (KDHE) determined no health risk existed requiring separation; therefore, braiding services provided by unlicensed individuals are permitted in a licensed establishment, in a separate space with the understanding that they must adhere to infection control regulations and the separate space is subject to inspection. Additionally, the required KDHE brochure must be posted in the separate space and limitations to the braiding exemption must be adhered to by the unlicensed individual. Space used for unlicensed braiding must be separated by solid partition from the licensed cosmetology braiding services.
 - d. After review by KDHE and a determination that no health risk requiring separation existed, licensed barber services, as defined by K.S.A. 65-1809(f), are permitted in a licensed cosmetology establishment with no separate space required. Barbers are regulated by the Barbering Board and are not subject to the Kansas Board of Cosmetology (KBOC) inspection. Barbering stations will not be inspected by KBOC inspectors. Any violations found outside of barber stations will be cited and are subject to KBOC inspection.
 - e. After review by KDHE and a determination that no health risk requiring separation existed, henna services provided by unlicensed individuals are permitted in a licensed establishment, in a separate space with the understanding that they must adhere to infection control regulations and the separate space is subject to inspection. Although the space used for these unlicensed services does

- not require a solid partition as referenced in regulation, it must be distinctly separated from the licensed services.
- f. After review by KDHE and a determination that no health risk requiring separation existed, massage services provided by unlicensed individuals are permitted in a licensed establishment, in a separate space with the understanding that they must adhere to infection control regulations and the separate space is subject to KBOC inspection. Although the space used for these unlicensed services does not require a solid partition as referenced in regulation, it must be distinctly separated from the licensed services.
 - g. After review by KDHE and a determination that a potential health risk requiring separation existed, medical services are not permitted in a licensed establishment. Medical services must be completely separated from the licensed establishment. Medical spas are regulated by the Kansas Board of Healing Arts and are not subject to KBOC inspection. Licensed KBOC practitioners providing services within a medical facility under the supervision of a physician are not subject to KBOC rules and regulations.
 - h. After review by KDHE and a determination that no health risk requiring separation existed, cosmetology, esthetic, electrology and nail services do not need separation in a licensed cosmetology profession establishment.
 - i. After review by KDHE and a determination that a potential health risk requiring separation existed, Body Art services, including tattooing, cosmetic tattooing, and body piercing, as defined in K.S.A. 65-1940, shall be separate from cosmetology profession services by a solid partition and a separate establishment license is required for each profession.
 - j. After review by KDHE and a determination that a potential health risk requiring separation existed, tanning services, as defined by K.S.A. 65-1920, shall be separate from cosmetology profession services by a solid partition and a separate establishment license is required for each profession.
 - k. If a room used for residential purposes is adjacent to a room used for the practice of cosmetology, nail technology, esthetics, or electrology, a solid partition shall separate the portion of the premises used for residential purposes from the licensed area.



Laura Gloeckner
Executive Director
On Behalf of the Kansas Board of Cosmetology