

## LEGISLATIVE BILL 318

Approved by the Governor April 16, 1986

Introduced by Wesely, 26; Peterson, 21; Abboud, 12

AN ACT relating to public health; to amend sections 33-150 and 71-161.01, Reissue Revised Statutes of Nebraska, 1943, and section 71-204, Revised Statutes Supplement, 1984; to adopt the Nebraska Cosmetology Act; to create a fund; to provide penalties; to harmonize provisions; to change a provision relating to the practice of barbering; to repeal current provisions relating to cosmetology; to provide for severability; and to repeal the original sections, and also sections 71-312.01 to 71-320, 71-321, 71-322, and 71-322.02 to 71-339, Reissue Revised Statutes of Nebraska, 1943, and section 71-320.01, Revised Statutes Supplement, 1984.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 140 of this act shall be known and may be cited as the Nebraska Cosmetology Act.

Sec. 2. The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology services; (2) the practice of cosmetology involves the use of implements and chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology can encourage the spread of contagious diseases and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology at institutions operated exclusively for such purpose; (5) the need of the public to be served by well-trained persons and the need of cosmetology students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology; (6) the effectiveness of cosmetology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) continued competency can best be demonstrated by participation in

formal programs of continuing education; (8) the establishment and maintenance of a safe environment in places where cosmetology is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Sec. 3. The Legislature declares its intent to implement the findings specified in section 2 of this act through the Nebraska Cosmetology Act, to regulate the practice and profession of cosmetology and cosmetology education in all its forms, to limit the practice and teaching of cosmetology to persons and institutions as stipulated in the Nebraska Cosmetology Act, and to penalize persons violating such act. The Legislature directs that all interpretations of the Nebraska Cosmetology Act be made with full cognizance of the findings and intentions expressed in sections 2 and 3 of this act.

Sec. 4. For purposes of the Nebraska Cosmetology Act, unless the context otherwise requires, the definitions found in sections 5 to 33 of this act shall be used.

Sec. 5. Apprentice shall mean a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in an apprentice salon.

Sec. 6. Apprentice salon shall mean a cosmetology salon licensed under the Nebraska Cosmetology Act to serve as the site for the teaching of any or all of the practices of cosmetology to apprentices.

Sec. 7. Board shall mean the Board of Cosmetology Examiners.

Sec. 8. Charitable administration shall mean the performance of any or all of the practices of cosmetology without compensation for the benefit of charitable purposes or organizations.

Sec. 9. Cosmetic establishment shall mean a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the retail sale of cosmetics or other skin care products when such activity includes any application of the

products to customers other than self-application.

Sec. 10. Cosmetician shall mean a person registered under the Nebraska Cosmetology Act to apply cosmetics.

Sec. 11. Cosmetologist shall mean a person licensed under the Nebraska Cosmetology Act to perform all of the practices of cosmetology.

Sec. 12. Cosmetology shall mean the practice of performing for compensation any or all (1) of the acts of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, styling, or similar work upon the hair, wig, wiglet, or hairpiece of any person, by any means, with hands or a mechanical or electrical apparatus or appliance; (2) skin care; and (3) other similar practices upon the hair, scalp, face, neck, arms, hands, feet, or nails of any person when performed for the purpose of beautifying or enhancing physical appearance or the teaching of any practice specified in this section for occupational purposes. Cosmetology shall not include the practice or teaching of manicuring.

Sec. 13. Cosmetology establishment shall mean a cosmetology salon, skin care salon, school of cosmetology, apprentice salon, cosmetic establishment, or any other place in which any or all of the practices of cosmetology are performed on members of the general public for compensation or where instruction or training in any or all of the practices of cosmetology is given, except when such practices constitute nonvocational training or relate to manicuring.

Sec. 14. Cosmetology salon shall mean a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance of any or all of the practices of cosmetology by persons licensed or registered under such act.

Sec. 15. Department shall mean the Department of Health.

Sec. 16. Director shall mean the Director of Health.

Sec. 17. Domestic administration shall mean the performance of any or all of the practices of cosmetology upon members of a person's immediate family.

Sec. 18. Esthetician shall mean a person licensed under the Nebraska Cosmetology Act to perform all of the practices of skin care.

Sec. 19. Guest artist shall mean a person registered under the Nebraska Cosmetology Act to demonstrate cosmetology products or procedures for the purpose of imparting professional knowledge and

information to persons licensed or registered under the Nebraska Cosmetology Act or to persons owning or operating licensed cosmetology establishments under the sponsorship of a licensed cosmetology establishment or a cosmetologist licensed in Nebraska.

Sec. 20. Instructor shall mean a person licensed under the Nebraska Cosmetology Act to teach any or all of the practices of cosmetology in a school of cosmetology or an apprentice salon.

Sec. 21. Jurisdiction shall mean the District of Columbia and any state, territory, or possession of the United States of America.

Sec. 22. Manicuring shall mean the practice of performing any or all of the acts of: (1) Cutting, shaping, trimming, polishing, coloring, tinting, cleansing, rebuilding, reshaping, extending, or other cosmetic or sanitary acts on the nails of a person including attaching, fitting, shaping, or adjusting artificial nails; and (2) massaging, cleansing, stimulating, manipulating, exercising, or similar acts on the hands or feet of any person.

Sec. 23. Nonvocational training shall mean the act of imparting knowledge of or skills in any or all of the practices of cosmetology to persons not licensed or registered under the Nebraska Cosmetology Act for the purpose of noncommercial use by those receiving such training.

Sec. 24. Person shall mean any individual, firm, partnership, corporation, company, association, joint-stock association, or similar entity and shall include any trustee, receiver, assignee, or personal representative thereof.

Sec. 25. Practitioner shall mean a person who performs any or all of the practices of cosmetology for compensation, except manicurists.

Sec. 26. School of cosmetology shall mean a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the teaching of any or all of the practices of cosmetology, except manicuring, to students.

Sec. 27. Skin care shall mean the practice for compensation of using an electrical or mechanical apparatus or appliance or applying and using cosmetic preparations, antiseptics, chemicals, tonics, lotions, creams, or other similar products for personal beauty care.

Sec. 28. Skin care salon shall mean a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance

of any or all of the practices of skin care by persons licensed or registered under such act.

Sec. 29. Student shall mean a person registered under the Nebraska Cosmetology Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in a school of cosmetology.

Sec. 30. Student instructor shall mean a person registered under the Nebraska Cosmetology Act to engage in instructor's training in a school of cosmetology and to teach students in a school of cosmetology under the supervision of an instructor.

Sec. 31. Supervision shall mean direct day-to-day knowledge of and control over the actions of one individual by another.

Sec. 32. Teaching shall mean the act of imparting and demonstrating knowledge of cosmetology theory and practices to students or apprentices in an apprentice salon or school of cosmetology by an instructor or student instructor for the purpose of preparing the students or apprentices to engage in the occupations of cosmetology or skin care.

Sec. 33. Temporary practitioner shall mean a person registered under the Nebraska Cosmetology Act to perform any or all of the practices of cosmetology for a limited time under the supervision of a person licensed under such act.

Sec. 34. There is hereby created the Board of Cosmetology Examiners as the direct and only successor to the Board of Cosmetologist Examiners. The purpose of the Board of Cosmetology Examiners is to advise the department in administering the Nebraska Cosmetology Act and all rules and regulations adopted pursuant to such act, in accordance with the findings and intent of the Legislature, in order to protect the health and safety of the citizens of Nebraska.

Sec. 35. (1) Except as provided in subsection (2) of this section, the board shall be composed of seven members including two school owners, one licensed instructor, one lay person, one cosmetologist who is a salon owner and who is not a school owner, and two cosmetologists who are not school owners. The professional members shall be licensed in Nebraska and maintain that license as well as their establishment licenses in good standing. No two school owners may be affiliated with the same school. No two salon owners or cosmetologists may be affiliated with the same salon.

(2) All members of the Board of Cosmetologist Examiners serving on the effective date of this act

shall continue in office for the remainder of their terms as members of the Board of Cosmetology Examiners. Within sixty days after the effective date of this act the State Board of Health shall appoint one school owner for a five-year term, one school owner for a four-year term, one licensed instructor for a three-year term, and one lay person for a five-year term. The first vacancy occurring among the members serving on the effective date of this act shall be filled by appointing one cosmetologist who is a salon owner for a four-year term.

(3) Members of the board shall be appointed by the State Board of Health from among nominees submitted by professional associations and other interested parties. A person may nominate himself or herself.

(4) The State Board of Health may remove a member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license in the profession involved may be suspended or revoked under the Nebraska Cosmetology Act, or for a lack of licensure in the profession involved.

(5) Vacancies on the board shall be filled in the same manner as original appointments for the remainder of the unexpired term only.

(6) Members of the board, other than the initial members, shall serve for five-year terms and no member shall serve for more than two consecutive terms excluding any partial term for which he or she may have been appointed.

Sec. 36. (1) Any four members of the board shall constitute a quorum for routine business. For matters requiring professional judgment of competency or standards of professional conduct a quorum shall consist of any four professional members.

(2) The board shall meet at least twice a year and more often at the call of the chairperson or any four members.

(3) The board shall select officers from among its members including a chairperson, vice-chairperson, and secretary.

(4) Members of the board shall be paid for their expenses as provided in sections 84-306.01 to 84-306.05 for state employees and shall in addition receive a per diem of fifty dollars.

Sec. 37. The department shall:

(1) With the approval of the board, adopt, promulgate, and revise necessary rules and regulations

including procedures for approving cosmetology establishments:

(2) With the approval of the board, develop standards in cooperation with the owners of cosmetology establishments to be used in the evaluation and approval of such establishments;

(3) Review such standards at least once every five years;

(4) Survey each licensed cosmetology establishment every two years for the purpose of determining the establishment's compliance with all relevant laws, rules, and regulations; and

(5) Approve for renewal of its license each cosmetology establishment found to be operating in compliance with all relevant laws, rules, and regulations.

Sec. 38. The board shall:

(1) Review all reports of alleged violations investigated by the department and recommend action as authorized under the Nebraska Cosmetology Act;

(2) Approve all licensing examinations used;

(3) Serve as consultant to the department in all matters relating to cosmetology and to the enforcement and implementation of the Nebraska Cosmetology Act; and

(4) Recommend applicants to the department for the professional level position which will be responsible for the daily administration of the Nebraska Cosmetology Act.

Sec. 39. The board may appoint advisory committees or other advisory bodies as necessary for specific purposes. At least one board member shall serve on each advisory committee or body, and other members may be appointed from outside the board. Persons other than board members serving on an advisory body shall receive remuneration of expenses as provided in sections 84-306.01 to 84-306.05 for state employees and a per diem of fifty dollars. Board members shall receive expenses and their regular per diem.

Sec. 40. The department shall, with the approval of the board, adopt and promulgate rules and regulations defining conflict of interest and procedures to be followed in the event such conflict arises.

Sec. 41. The department shall employ one professional level employee whose responsibilities shall be limited to the administration of the Nebraska Cosmetology Act. The department shall also employ other staff necessary to carry out the act.

Sec. 42. There is hereby created the

Cosmetology Cash Fund to receive all money collected from fees pursuant to the Nebraska Cosmetology Act. Expenditures may be made from the Cosmetology Cash Fund to administer the act including, but not limited to:

(1) Expenditures for staff, equipment, supplies, office space, communications, consultants and other professional services, staff travel, and other related expenses involved with the administration of the act and the regulation of cosmetology;

(2) Per diem, travel, and other related expenses for board members to enable them to perform their required functions;

(3) Expenses necessary to permit board members and staff members to attend national and regional meetings of organizations of state licensing boards. Each board member and professional staff member shall be permitted to attend at least one such meeting each year with expenses paid from the Cosmetology Cash Fund;

(4) Expenses for the conducting of examinations; and

(5) Any other expenses related to the administration of cosmetology licensure and practice approved by the board and the director.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 43. Fees shall be set by the board within the dollar ranges provided in this section.

<u>Fee</u>	<u>Initial</u>	<u>Biennial Renewal</u>	<u>Late Renewal Penalty</u>
<u>Cosmetologist license</u>	<u>20-50</u>	<u>16-25</u>	<u>10-20</u>
<u>Esthetician license</u>	<u>10-25</u>	<u>16-25</u>	<u>10-20</u>
<u>Instructor license</u>	<u>10-25</u>	<u>16-25</u>	<u>10-20</u>
<u>Guest artist registration</u>	<u>10-15</u>	<u>--</u>	<u>--</u>
<u>Temporary practitioner registration</u>	<u>5-30</u>	<u>--</u>	<u>--</u>
<u>Cosmetician registration</u>	<u>5-15</u>	<u>--</u>	<u>--</u>
<u>Inactive renewal-- cosmetologist</u>	<u>--</u>	<u>16-25</u>	<u>10-20</u>
<u>Inactive renewal-- instructor, esthetician</u>	<u>--</u>	<u>16-25</u>	<u>10-20</u>
<u>Cosmetology salon</u>	<u>50-200</u>	<u>20-100</u>	<u>10-50</u>
<u>Skin care salon</u>	<u>40-100</u>	<u>20-50</u>	<u>10-25</u>
<u>Cosmetic establishment</u>	<u>20-50</u>	<u>10-25</u>	<u>5-10</u>
<u>Apprentice training salon</u>	<u>100-250</u>	<u>25-100</u>	<u>10-25</u>
<u>School of cosmetology</u>	<u>1000-3000</u>	<u>200-750</u>	<u>25-250</u>
<u>Satellite classroom</u>	<u>250-750</u>	<u>100-250</u>	<u>25-125</u>



<u>Transfer school location</u>			
<u>within county</u>	250-500	--	--
<u>Duplicate license or registration</u>	5-20	--	--
<u>Certification of grades or hours to another state</u>	5-20	--	--
<u>Continuing education</u>			
<u>provider fee</u>	10-40	--	--
<u>Repeat inspection</u>	30-100	--	--
<u>Home service permit</u>	10-40	20-80	10-25

Sec. 44. All fees paid by an applicant whose application is rejected shall be returned, except ten dollars thereof, which shall be retained by the department.

Sec. 45. If the balance of the Cosmetology Cash Fund exceeds five hundred thousand dollars at the end of any odd-numbered fiscal year and the renewal fees for any licenses are in excess of the minimum provided, the board shall lower renewal fees for the coming biennium. If the balance falls to fifty thousand dollars or less at the end of any odd-numbered fiscal year and renewal fees are below the maximum provided, the board shall raise renewal fees for the coming biennium. All other fee changes within the limits provided shall be at the discretion of the board.

Total expenditures from the fund for any biennium shall not exceed the sum of all money deposited into the fund during such biennium plus any amount in excess of fifty thousand dollars in the fund at the beginning of the biennium. There shall be no other limitations on the amount of money that may be expended from the fund for approved expenditures.

Sec. 46. Commencing on the effective date of this act, it shall be unlawful for any person, group, company, or other entity to engage in any of the following acts without being duly licensed or registered as required by the Nebraska Cosmetology Act, unless specifically excepted by such act:

(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of cosmetology or to act as a practitioner;

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of cosmetology; or

(3) To operate or advertise or hold oneself out as operating a cosmetology establishment in which any of the practices of cosmetology or the teaching of any of the practices of cosmetology are carried out.

Sec. 47. (1) All practitioners shall be

licensed or registered by the department under the Nebraska Cosmetology Act in a category or categories appropriate to their practice.

(2) Licensure shall be required before any person may engage in the full, unsupervised practice of cosmetology, skin care, or teaching, and no person may assume the title of cosmetologist, esthetician, or instructor without first being licensed by the department under the Nebraska Cosmetology Act.

Sec. 48. In order to be licensed by the department by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) Has attained the age of seventeen years on or before the beginning date of the examination for which application is being made, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;

(2) Has completed formal education equivalent to a United States high school education, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;

(3) Be free of any infectious or contagious disease, as evidenced by a signed statement to such effect by a licensed physician dated no more than three months before the date of the applicant's initial application;

(4) Possesses the ability to identify and respond to emergency situations that could occur in the practice of cosmetology as evidenced by successful completion of a basic first-aid course and basic training in cardiopulmonary resuscitation;

(5) Makes complete and proper application to the department, accompanied by the appropriate fee;

(6) Possesses a minimum competency in the knowledge and skills necessary to perform the practices for which licensure is sought, as evidenced by successful completion of an examination in the appropriate practices approved by the board and administered by the department;

(7) Possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination;

(8) Has graduated from a school of cosmetology or an apprentice salon in Nebraska upon completion of a program of studies appropriate to the practices for which licensure is being sought, as evidenced by a

diploma or certificate from the school or apprentice salon to the effect that the applicant has complied with the following:

(a) For licensure as a cosmetologist, the program of studies shall consist of a minimum of two thousand one hundred hours and two thousand credits;

(b) For licensure as an esthetician, the program of studies shall consist of a minimum of six hundred hours and six hundred credits; and

(c) For licensure as an instructor, the program of studies shall consist of a minimum of nine hundred twenty-five hours beyond the program of studies required for licensure as a cosmetologist earned in a period of not less than six months; and

(9) For licensure as an instructor, be currently licensed as a cosmetologist in Nebraska, as evidenced by possession of a valid Nebraska cosmetology license.

If any lapse in training of two years or longer occurs, all hours and credits earned shall be forfeited. Hours and credits shall be earned exclusively in either a school of cosmetology or apprentice salon. No hours or credits earned in one type of establishment may be transferred to an establishment of another type. The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.

Sec. 49. Application for any type of licensure or registration shall be made on forms and in the manner prescribed by the department with the approval of the board. A complete application for examination shall be postmarked no later than fifteen days before the beginning of the examination for which application is being made. Applications received after such date shall be considered as applications for the next scheduled examination. No application for any type of licensure or registration shall be considered complete unless all information requested in the application has been supplied, all seals and signatures required have been obtained, all supporting and documentary evidence has been received by the department, and the application is accompanied by the appropriate fee.

Sec. 50. The board shall approve and the department shall cause examinations to be administered as required for licensure under the Nebraska Cosmetology Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required

on the part of the applicant.

No person shall be permitted to take an examination for licensure unless he or she has met all the requirements of subdivisions (1) through (5), (8), and (9) of section 48 of this act, except for persons taking the examination under section 56 of this act.

The department shall provide at least one year's notice of future examination dates to schools of cosmetology and apprentice salons. Such establishments shall be responsible for notifying their students and apprentices of upcoming examination dates.

Sec. 51. (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in schools of cosmetology.

(2) The board shall fix the time and place of each examination no less than one year in advance. At least two examinations shall be given annually. All examinations shall be conducted in the city of Lincoln unless ordered otherwise by the department.

(3) If examinations are administered directly by the department, the examination shall be administered by a chief examiner who shall be an employee of the department. Persons serving as examiners for practical examinations administered directly by the department shall hold current licenses in the field of practice being examined or in cosmetology, except that examiners for instructors' examinations shall each hold an instructor's license, either active or inactive.

(4) Practical examinations shall be conducted in such a manner that the identity of the applicant is not disclosed to the examiners in any way.

(5) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five per cent on the written examination and an average grade of seventy-five per cent with no individual subject grade below sixty-five per cent on the practical examination.

(6) For practical examinations administered directly by the department, examination grades shall be approved by the board and the department before they become official. Any disagreements regarding a grade to be given among the examiners shall be settled by the chief examiner. An examiner may appeal such a decision to the Director of the Bureau of Examining Boards.

(7) The department shall keep a permanent record of all grades received in examinations and shall

provide any individual a copy of his or her grades upon request without charge.

Sec. 52. (1) An individual failing the examination may retake the examination within one year of the date of the failed examination by submitting a complete application to the department. The applicant may retake the examination one time without paying an additional fee.

(2) Persons failing a segmented practical examination due to an overall average grade of less than seventy-five per cent or due to having received three or more subject grades below sixty-five per cent shall retake the entire practical examination.

(3) Persons failing a segmented practical examination due to having received one or two subject grades below sixty-five per cent, but who achieved an overall grade average of seventy-five per cent or more, shall retake only the subjects they failed.

(4) Persons failing the practical examination but passing the written examination shall retake all or part of the practical examination, as appropriate, but need not retake the written examination. Persons failing the written examination but passing the practical examination shall retake the written examination, but need not retake the practical examination.

(5) After examination grades have been approved by the board and the department, the department shall promptly notify each applicant of the results of his or her examination.

Sec. 53. Except for persons taking the examination under section 56 of this act, no person may take his or her initial examination for licensure more than two years after the date upon which he or she was graduated from the program of studies preparing him or her for such examination.

Sec. 54. An applicant may review his or her examination questions, answers, papers, grades, and grading key or standards used in the licensure examinations under such terms and conditions as may be established by the department, with the following restrictions:

(1) No such review shall be permitted which violates any contractual agreement between the department and the testing agency providing the examination; and

(2) No material made available for review may be copied in any manner by the applicant or his or her representatives.

Sec. 55. The department may waive the requirement for examination and grant a license to any person who meets the requirements of subdivisions (1) through (5) and (9) of section 48 of this act and who presents proof of the following:

(1) That he or she is currently licensed in the appropriate category in another jurisdiction, that he or she has never been disciplined or had his or her license revoked, and that, so far as the records of the licensing authority of the jurisdiction are concerned, the applicant is entitled to its endorsement. Applicants seeking licensure as instructors in the manner provided in this section shall be licensed as an instructor in another jurisdiction. Persons seeking licensure as cosmetologists in the manner provided in this section shall be licensed as cosmetologists in another jurisdiction. Persons seeking licensure as estheticians in the manner provided in this section shall be licensed as cosmetologists, estheticians, or an equivalent title in another jurisdiction;

(2) That such license was issued on the basis of a written and practical examination and the results of the examinations; and

(3) That the applicant complies with the hour requirements of subdivision (8) of section 48 of this act through any combination of hours earned as a student or apprentice in a cosmetology establishment licensed or approved by the jurisdiction in which it was located and hour-equivalents granted for recent work experience, with hour-equivalents recognized as follows:

(a) Each month of full-time practice as an instructor within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an instructor's license or a cosmetology license and fifty hour-equivalents toward an esthetician's license;

(b) Each month of full-time practice as a cosmetologist within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward a cosmetology license and fifty hour-equivalents toward an esthetician's license; and

(c) Each month of full-time practice as an esthetician within the five years immediately preceding application shall be valued as fifty hour-equivalents toward an esthetician's license.

Sec. 56. Applicants for Nebraska licensure who received their training in foreign countries may not be licensed by waiver of examination. In order to be considered eligible to take the examination, they shall

meet the requirements of subdivisions (1) through (5) and (9) of section 48 of this act and, in order to establish equivalency with subdivision (8) of section 48 of this act, shall present proof satisfactory to the department of one of the following:

(1) Current licensure or equivalent official recognition of the right to practice in a foreign country; or

(2) At least five years of practice within the eight years immediately preceding application.

In all cases such applicants shall take the examination for licensure in the State of Nebraska.

Sec. 57. Every person holding a license or registration issued by the department under the Nebraska Cosmetology Act shall display it in a conspicuous place in his or her principal place of employment, and every cosmetology establishment shall so display the licenses and registrations of all practitioners there employed.

Sec. 58. (1) Each license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. All cosmetology and instructor's licenses issued on or before December 31, 1986, shall expire and be subject to renewal on that date and on December 31 of each even-numbered year thereafter. All esthetician's licenses issued on or before September 30, 1988, shall expire and be subject to renewal on that date and on September 30 of each even-numbered year thereafter.

(2) At least thirty days before the expiration of a license, the department shall notify each licensee by a letter addressed to the licensee at the last address contained in the department's records. Any licensee who fails to pay the renewal fee on or before the date of expiration of the license shall be given a second notice in the same manner, advising him or her that:

(a) The renewal fee has not been received;

(b) The license has expired;

(c) The department will suspend action for thirty days following the date of expiration;

(d) If the renewal fee and the additional late renewal fee are received within such thirty-day period, no order of revocation will be entered;

(e) If the inactive renewal fee is received within such thirty-day period, the license will be placed on inactive status and no order of revocation will be entered; and

(f) Upon failure to receive the fee under either subdivision (d) or (e) of this subsection within

such thirty-day period, an order of revocation will be entered.

(3) Any licensee who allows his or her license to expire by failure to renew according to this section may petition the department for reinstatement. Reinstatement may be granted upon the recommendation of the board and upon receipt by the department of a complete application for reinstatement accompanied by all regular renewal fees and the late renewal fee.

(4) No license may be renewed or reinstated unless the licensee provides evidence of compliance with the continuing education provisions contained in sections 68 to 79 of this act.

Sec. 59. Registration shall be required before any person may act as a quest artist, cosmetician, student, apprentice, student instructor, or temporary practitioner, and no person shall assume any title indicative of any of such areas of activity without first being registered by the department under the Nebraska Cosmetology Act.

Sec. 60. In order to become registered by the department, an individual shall make complete and proper application, including the appropriate fee, to the department and shall meet, and present to the department evidence of meeting, the requirements for the specific type of registration applied for.

Sec. 61. Applicants for registration as quest artists shall show evidence of licensure in another jurisdiction or other evidence as directed by the board sufficient to demonstrate that they possess education or experience of benefit to licensed or registered practitioners and are under the sponsorship of a licensed cosmetology establishment or cosmetologist.

Sec. 62. An applicant for registration as a cosmetician shall show evidence that he or she is or intends to become employed as a cosmetician and has received instruction in the chemical properties of, and potential reactions to, the cosmetics he or she intends to apply from his or her employers or from the manufacturers or distributors of the cosmetic products and is aware of actions to take in the event of such a reaction.

Sec. 63. (1) An applicant for registration as a standard student or apprentice shall show evidence that he or she attained the age of seventeen years on or before the date of his or her enrollment in a school of cosmetology or an apprentice salon, has completed the equivalent of a high school education, has been accepted for enrollment at a school of cosmetology or an



apprentice salon, and has not undertaken any training in cosmetology without being registered as a student or apprentice.

(2) An applicant for registration as a special study student or apprentice shall show evidence that he or she:

(a) Has attained the age of seventeen years on or before the date of enrollment in a school of cosmetology or an apprentice salon;

(b) Has completed the tenth grade and has successfully passed the tenth grade level general educational development test;

(c) Has been accepted for enrollment at a school of cosmetology or an apprentice salon; and

(d) Is actively continuing his or her formal high school education on at least a half-time basis as determined by the department.

An applicant for registration as a special study student or apprentice shall not have undertaken any training in cosmetology without being registered as a student or apprentice.

Special study students shall be limited to earning a maximum of twenty hours credit per week in a school of cosmetology during the school year and forty hours credit per week during the summer when high school is not in session. No student whose original high school class has already graduated may register as a special study student.

(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, or equivalent document as determined by the department. No school of cosmetology or apprentice salon shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration. No school of cosmetology or apprentice salon shall begin training an individual for whom the establishment has not submitted a complete registration application. No school of cosmetology or apprentice salon shall continue to train or enroll a person who has not received his or her registration within thirty days of its submission without the permission of the department.

Sec. 64. An applicant for registration as a student instructor shall show evidence of current licensure as a cosmetologist in Nebraska and show evidence that he or she has been accepted for instructor

training by a school of cosmetology.

Sec. 65. An applicant for registration as a temporary practitioner shall show evidence that his or her completed application for licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed cosmetology establishment under the supervision of a licensed practitioner.

Sec. 66. Registration shall be granted for a set period of time and cannot be renewed. Registration as a guest artist shall expire two years following the initial date of issuance. Registration as a cosmetician shall expire two years following the initial date of issuance. Registration as a student, apprentice, or student instructor shall expire upon successful completion of the licensing examination or termination of enrollment in a school of cosmetology or apprentice salon. Registration as a temporary practitioner shall expire five days after the results of the examination taken by the registrant are mailed, except that the registration of a temporary practitioner who fails to take the first regularly scheduled examination shall expire five days after the beginning of the examination unless the board finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances, in which case the board may extend the registration until five days after the results of the next regularly scheduled examination. No registration may be extended in such manner more than once.

Sec. 67. Nothing in the Nebraska Cosmetology Act shall be construed to apply to or restrict the activities of the following:

(1) Any person holding a current license or certificate issued pursuant to Chapter 71 when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaged solely in the practice of electrolysis;

(3) Any person engaging solely in ear piercing, tattooing, or other invasive beautification practices;

(4) Any person when engaged in domestic or charitable administration;

(5) Any person performing any of the practices of cosmetology solely for theatrical presentations or other entertainment functions;

(6) Any person practicing within the confines

of a hospital, nursing home, massage establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

(7) Any person providing services during a bona fide emergency;

(8) Any retail or wholesale establishment or any person engaged in the sale of cosmetics or other beauty products when the products are applied by the customer or when the application of the products are in direct connection with the sale or attempted sale of such products at retail;

(9) Any person when engaged in nonvocational training; and

(10) Any person engaged in the practice or teaching of manicuring.

Sec. 68. After January 1, 1988, no licensed practitioner shall renew his or her license to practice unless he or she has obtained, within the biennium immediately preceding the date of expiration of the license, the number of hours of approved continuing education required for his or her type of license as designated in the Nebraska Cosmetology Act and complied with all other requirements of such act. Continuing education shall be measured in terms of hours of participation in an approved continuing education program, and each fifty minutes of participation shall constitute one hour.

The number of hours of approved continuing education required shall be as follows:

(1) For a license to practice cosmetology, sixteen hours;

(2) For a license to practice as an instructor, sixteen hours; and

(3) For a license to practice as an esthetician, eight hours.

Sec. 69. Each licensee shall submit with his or her application for license renewal a signed and notarized affidavit affirming that the licensee has obtained the required hours within the preceding biennium and listing the approved programs in which the licensee participated in order to obtain such hours. The board may require further evidence to substantiate the licensee's statement at its discretion, except that such information shall be requested by the board within two years of the date on which the program was held.

Sec. 70. Each continuing education program approved by the board shall provide for the maintenance

of the technical skills and knowledge needed to safely practice cosmetology. Such program shall include cardio-respiratory resuscitation, the safe use of various chemical compounds, sanitation techniques, and knowledge of allergic reactions to chemicals applied to the hair or skin.

Sec. 71. The department, with the recommendations from the board, shall adopt and promulgate rules and regulations for the classification and approval of continuing education programs. Such rules and regulations shall include, but not be limited to, a requirement that:

(1) The program relate to the practices of cosmetology in which the licensee is licensed to engage; and

(2) The program be presented, conducted, and prepared by persons who are considered by the board to be knowledgeable in the subject matter of the program or activity by virtue of education, training, or experience and who are licensed or registered in Nebraska if they are physically present at the program or activity.

Any program offered within the state shall be open to all licensees in the state. Any program offered outside the state shall be approved by the appropriate accrediting body within the state in which it is held or by Nebraska if such jurisdiction does not require approval by an accrediting body.

Sec. 72. (1) The board shall certify as approved continuing education programs those courses, lectures, seminars, demonstrations, activities, correspondence or home study courses, or other instructional programs that meet the guidelines developed under section 70 of this act.

(2) An application for approval for a continuing education program shall be submitted to the board at least sixty days prior to the date upon which the sponsor wishes to announce the program as approved. Approval may be granted after such date, but persons presenting or attending programs which were not preapproved will not receive credit if the program is rejected by the board. The application for approval shall be filed by the person providing the program or by an individual licensee and shall contain such evidence as the board may deem necessary to ensure that the program and presentation will comply with the Nebraska Cosmetology Act and all pertinent rules and regulations adopted and promulgated under such act. A separate application shall be filed for each program proposed.

(3) The board shall review each application to determine if it meets the criteria for approval. The board shall notify each applicant of its determination within thirty days of receipt of the completed application.

(4) If a program is approved, the board shall issue a program number to the provider.

(5) If the program is not approved, the applicant's material and application shall be returned and a written explanation of the program's deficiencies shall be given to the applicant.

(6) The board shall certify the number of hours to be awarded for participation in each approved continuing education program.

Sec. 73. Each individual licensee shall be responsible for maintaining the records of his or her continuing education activities. Each provider of an approved continuing education program shall maintain such records as are necessary to establish the program's approval and the persons who attended for a period of two years.

Sec. 74. Each provider of an approved continuing education program shall furnish to each person completing the program a certificate of completion. Each certificate shall include the following:

(1) Program name and number;

(2) Name of the participant and his or her license number;

(3) Provider's name;

(4) Date the program began and ended;

(5) Number of hours for which the program was approved; and

(6) Category in which the program was classified.

Presentation of the certificate by the provider shall constitute evidence that the person complied with all requirements of the program and did complete the program. The provider shall employ some reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance shall reflect the participant's actual hours of attendance.

Sec. 75. The board may approve programs such as correspondence courses and home study courses that do not require an individual to attend a session or program. The board may modify any of the requirements of sections 71, 73, and 74 of this act when it finds

such requirements to be inappropriate for a nonattendance program. No more than one-fourth of a person's required continuing education hours each biennium may be earned in nonattendance programs.

Sec. 76. A licensee who fails to earn the required number of continuing education hours in a biennium, and who is not exempted from such requirement by the Nebraska Cosmetology Act, may request that his or her license be placed on inactive status upon its expiration. Such a request shall be granted upon payment of the required fee. No person shall practice in any manner under an inactive license. An inactive license may be restored to active status at such time as the licensee so petitions the department and presents evidence that he or she has completed the number of approved continuing education hours required as follows:

(1) For a license inactive less than two years, the amount of continuing education hours required for regular renewal;

(2) For a license inactive at least two years, but less than six years, two times the amount of continuing education required for regular renewal;

(3) For a license inactive at least six years, but less than ten years, three times the amount of continuing education hours required for regular renewal; and

(4) For a license inactive ten years or more, four times the amount of continuing education required for regular license renewal.

Hours of continuing education earned for the purpose of restoring an inactive license shall not be counted toward fulfillment of the renewal requirement for the next biennium.

Sec. 77. Any person seeking to reinstate a license that has been revoked for less than two years shall comply with the continuing education requirements for regular renewal of the license. Any person seeking to reinstate a license that has been revoked for two years or longer shall show evidence of having completed, within one year prior to his or her reinstatement, approved continuing education programs comprising two times the number of hours required for regular renewal.

Sec. 78. The following classes of persons shall have a limited exemption from the continuing education requirements of the Nebraska Cosmetology Act:

(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing education requirements shall be exempt for

the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing education seminars. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing education exemption based on an illness or disability:

(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;

(3) Any person receiving an initial license in Nebraska during the second year of the biennium shall be exempt from the continuing education requirement for that biennium only;

(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the six months immediately preceding the date of license renewal and who has not worked in Nebraska at any time during such period shall be exempt for that biennium and shall be placed on inactive status; and

(5) An instructor who meets the continuing education requirements for the instructor's license shall be exempt from meeting the continuing education requirements for his or her cosmetologist license for that biennium.

Sec. 79. The department shall not renew or reinstate the license of any person who has not complied with the continuing education requirements of the Nebraska Cosmetology Act.

Sec. 80. No person shall operate or profess or attempt to operate a cosmetology establishment unless such establishment is licensed by the department under the Nebraska Cosmetology Act. The department shall not issue or renew a license for a cosmetology establishment until all requirements of the Nebraska Cosmetology Act have been complied with. No person shall engage in any of the practices of cosmetology in any location or premises other than a licensed cosmetology establishment except as specifically permitted in the Nebraska Cosmetology Act.

Sec. 81. For the purposes of sections 81 to 89 of this act, salon shall mean cosmetology salon and skin care salon.

Sec. 82. In order to be licensed as a salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed salon shall be a fixed, permanent structure or part of one;

(2) The proposed salon shall be physically separated from all other business or residential activities except barbering and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) Areas of the salon used for barbering shall be clearly identified as such to the public by a sign and shall be visually distinct from other areas of the salon;

(5) All areas of the salon, including those used for barbering and for retail sales, shall comply with the sanitary requirements of the Nebraska Cosmetology Act;

(6) A salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

(7) The entrance into the proposed salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor;

(8) The proposed salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon employing a licensee exclusively to perform home services need not provide additional space for such employee; and

(9) The proposed salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area.

Sec. 83. Any person seeking a license to operate a salon shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be



submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 82 of this act; and

(2) A statement confirming application for minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Sec. 84. Each application for a license to operate a salon shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial, and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months of the issuance of such certificate. Salons passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 85. In order to maintain its license in good standing, each salon shall operate in accordance with the following requirements:

(1) The salon shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week if a salon is permanently closed, except in emergency circumstances as determined by the department;

(3) No salon shall permit any unlicensed or unregistered person to perform any of the practices of cosmetology within its confines or employment;

(4) The salon shall display a name upon, over, or near the entrance door distinguishing it as a salon;

(5) The salon shall permit any duly

authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the salon, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the salon, all personnel, and all records requested by the inspector;

(6) The salon shall be open to the public for business at least four hundred hours during each full calendar year for which the salon is licensed. Appointment records, employee time sheets, or similar records shall constitute evidence of being open;

(7) The salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a salon;

(b) The current licenses or registrations of all persons employed by or working in the salon; and

(c) The rating sheet from the most recent operation inspection;

(8) At no time shall a salon employ more employees than permitted by the square footage requirements of the Nebraska Cosmetology Act; and

(9) The salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the salon is open to the public.

Sec. 86. Each salon license issued under the Nebraska Cosmetology Act and each salon license in effect upon the effective date of this act shall expire and be subject to renewal on September 30, 1987, and on September 30 of each odd-numbered year thereafter. The procedure for renewing a salon license shall be identical to that for renewing a cosmetologist license except that, in addition to all other requirements, no salon license may be renewed unless the salon has attained a rating of satisfactory on its most recent operation inspection. Any salon not able to meet such requirement shall have its license placed on inactive status until all deficiencies of operation have been corrected, and the salon shall not be open to the public during the time its license is inactive.

Sec. 87. The license of a salon that has been revoked for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 88. Each salon license issued shall be in effect solely for the owner or owners and premises

named thereon and shall lapse automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 89. The owner of each salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Sec. 90. In order to be licensed as a cosmetic establishment by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed cosmetic establishment shall be a fixed permanent structure or part of one;

(2) The proposed cosmetic establishment need not consist of a separate room or rooms, but may be a counter or other clearly identifiable portion of a room or floor;

(3) The proposed cosmetic establishment shall have, or have convenient access to, handwashing facilities; and

(4) The proposed cosmetic establishment, if located in a private dwelling, shall be located in a room or rooms separate from the living quarters and having a private entrance. Such room or rooms shall not be used for any residential purpose during the hours the cosmetic establishment is being used, and all doors and windows connecting to residential quarters shall be closed at such times.

Sec. 91. Any person seeking a license to operate a cosmetic establishment shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before the proposed opening of the cosmetic establishment for operation. Along with the application the applicant shall submit:

(1) A floor plan or blueprint sufficient to identify the location of the proposed cosmetic establishment within any larger structure and the location of handwashing facilities; and

(2) The names of all persons registered or proposed to be registered as cosmeticians to be employed in the cosmetic establishment.

In the event that more than one counter or area within a larger commercial establishment will be used as a cosmetic establishment, only one license is

required for all such counters or areas if all are identified on the floor plan or blueprint accompanying the application. Each application shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant a certificate of consideration to operate a cosmetic establishment pending an operation inspection. The department shall conduct an operation inspection of each cosmetic establishment issued a certificate of consideration within six months of the issuance of such certificate. Cosmetic establishments passing the inspection shall be issued a permanent license. Cosmetic establishments failing the inspection shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the cosmetic establishment does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 92. In order to maintain its license in good standing, each cosmetic establishment shall operate in accordance with the following requirements:

(1) The cosmetic establishment shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The owner of the cosmetic establishment or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a cosmetic establishment is permanently closed, except in emergency circumstances as determined by the department;

(3) No cosmetic establishment shall permit anyone other than a cosmetician, cosmetologist, or esthetician to apply cosmetics to members of the general public upon its premises;

(4) The cosmetic establishment shall display a sign at each counter or area used for such purposes indicating that it is a licensed cosmetic establishment and that all persons applying cosmetics are registered cosmeticians or licensed cosmetologists or estheticians;

(5) The cosmetic establishment shall permit any duly authorized agent of the department to conduct

an operation inspection or investigation at any time during normal operating hours, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and

(6) The cosmetic establishment shall display in a conspicuous place near the place where cosmetics are applied the following records:

(a) The current license or certificate of consideration to operate a cosmetic establishment;

(b) The current licenses or registrations of all persons applying cosmetics; and

(c) The rating sheet from the most recent operation inspection.

Sec. 93. Each cosmetic establishment license issued under the Nebraska Cosmetology Act and each cosmetic establishment license in effect upon the effective date of this act shall expire and be subject to renewal on September 30, 1987, and on September 30 of each odd-numbered year thereafter. The procedure for renewing a cosmetic establishment license shall be identical to that for renewing a cosmetologist license except that, in addition to all other requirements, no cosmetic establishment license may be renewed unless the cosmetic establishment has attained a rating of satisfactory on its most recent operation inspection. Any cosmetic establishment not able to meet such requirement shall have its license placed on inactive status until all deficiencies of operation have been corrected, and the cosmetic establishment shall not be open to the public during the time its license is inactive.

Sec. 94. The license of a cosmetic establishment that has been revoked for any reason may not be reinstated. An original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business.

Sec. 95. Each cosmetic establishment license issued shall be in effect solely for the owner or owners and premises named thereon and shall lapse automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business. Nothing in sections 90 to 95 of this act shall be construed to prevent the creation, alteration, removal, or movement of specific counters or areas within a commercial enterprise holding a license as a cosmetic establishment.

Sec. 96. The owner of each cosmetic

establishment shall have full responsibility for ensuring that the cosmetic establishment is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the cosmetic establishment.

Sec. 97. In order to be licensed as a school of cosmetology by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed school shall be a fixed permanent structure or part of one;

(2) The proposed school shall have a contracted enrollment of at least fifteen full-time students;

(3) The proposed school shall contain at least three thousand five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established by the board and the department by rule and regulation; and

(4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon.

Sec. 98. Any person seeking a license to operate a school of cosmetology shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school.

Sec. 99. Along with the application the applicant for a license to operate a school of cosmetology shall submit:

(1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;

(2) A statement confirming application for minimal property damage, personal injury, and liability insurance coverage for the proposed school;

(3) A copy of the curriculum to be taught for all courses;

(4) A copy of the school rules and the student contract;

(5) A list of the names and credentials of all licensees to be employed by the school and the name

and qualifications of the school manager;

(6) Complete student entrance notifications and contracts for all persons proposed as students or student instructors, which shall be submitted fifteen days prior to opening;

(7) A completed cosmetology education evaluation scale;

(8) A schedule of proposed hours of operation and class and course scheduling; and

(9) Evidence of a surety bond issued for at least one year in the amount of five thousand dollars for each twenty students or fraction thereof enrolled, running in favor of the State of Nebraska with surety by a corporate bonding company authorized to do business in this state and conditioned that the school shall remain open during the period for which the bond is in effect.

Sec. 100. Each application for a license to operate a school of cosmetology shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. In the event an application is accepted, the board and the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Sec. 101. In order to maintain its license in good standing, each school of cosmetology shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or the authorized agent thereof shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a student, student instructor, instructor, or guest artist to perform any of the practices of cosmetology within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of cosmetology.

(4) The school shall display a name upon or near the entrance door designating it as a school of cosmetology.

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in cosmetology. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services.

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector.

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a school of cosmetology.

(b) The current licenses or registrations of all persons, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection.

(8) At no time shall a school enroll more students than permitted by the Nebraska Cosmetology Act or the rules and regulations adopted and promulgated under such act.

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the school is in operation.

(10) Food shall not be consumed in any area where cosmetology services are being taught or performed or stored in the same area where chemical supplies or used equipment are stored.

(11) No instructor or student instructor



shall perform, and no school shall permit such person to perform, any of the practices of cosmetology on the public in a school of cosmetology other than that part of the practical work which pertains directly to the teaching of practical subjects to students or student instructors and in no instance shall complete cosmetology services be provided for a client unless done in a demonstration class of theoretical or practical studies;

(12) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the Nebraska Cosmetology Act;

(13) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

(14) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

(15) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

(16) The school shall maintain on file the registrations of each student;

(17) The school shall submit a monthly report to the department, on forms established by the department, indicating the students and student instructors enrolled, the hours and credits earned, the instructors employed, the hours of operation, and such other pertinent information as the board and the department shall require. No hours or credits shall be allowed for any student unless such student is duly registered and the hours and credits are reported by the school;

(18) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the Nebraska Cosmetology Act or with the rules and regulations adopted and promulgated under such act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the

student of the standards he or she will be required to maintain. The board may review any school's rules to determine their consistency with the intent and content of the Nebraska Cosmetology Act and its rules and regulations and may overturn any rules found not to be in accord; and

(19) The school shall at all times employ at least one person holding a current certificate in cardiopulmonary resuscitation.

Sec. 102. In order to maintain its license in good standing, each school of cosmetology shall operate in accordance with the following requirements:

(1) All persons accepted for enrollment as students shall meet the qualifications established in section 63 of this act.

(2) The school shall submit a completed student entrance notification, including the student registration fee, on forms prescribed by the department, for each person enrolling in the school before such person may begin training;

(3) The school shall, at all times the school is in operation, have at least one instructor in the school for each twenty students or fraction thereof enrolled in the school, except that first-year and advanced students shall be taught by different instructors in separate classes;

(4) The school shall not permit any student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the first-year curriculum, except that the board may establish guidelines by which it may approve such practices as part of the first-year curriculum;

(5) No school shall pay direct compensation to any of its students. Student instructors may be paid as determined by the school;

(6) All students and student instructors shall be under the supervision of an instructor at all times, except that students shall be under the direct supervision of an instructor or student instructor at all times when cosmetology services are being taught or performed;

(7) Students shall be classified for reporting purposes as follows:

(a) A full-time student shall mean one who regularly trains at least eight hours a day during the normal school week, including normal excused absences as defined in the school rules; and

(b) A part-time student shall mean any

student not classified as a full-time student:

(8) Students no longer attending the school shall be classified for reporting purposes as follows:

(a) A graduate shall mean a student who has completed his or her hours and credits, has satisfied all school requirements, and has been granted a certificate or diploma by the school;

(b) A transfer shall mean a student who has transferred to another school in Nebraska or in another state;

(c) A temporary drop shall mean a student who has stopped attending school for a period of less than three months and has given no indication that he or she intends to drop permanently; and

(d) A permanent drop shall mean a student who has stopped attending school for a period of three months or more or one who has stopped attending for a shorter time but has informed the school in writing of his or her intention to drop permanently;

(9) Once a student has been classified as a permanent drop, the department shall keep a record of his or her hours and credits for a period of two years from the last date upon which the student attended school. If, after two years, the student has not reenrolled in a school of cosmetology in Nebraska or transferred his or her hours and credits to a school in another state, all hours and credits earned by the student shall be declared void;

(10) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(11) The school shall not credit a student or student instructor with hours and credits except when such hours and credits were earned in the study or practice of cosmetology in accordance with the required curriculum. Hours and credits shall be credited on a daily basis. Once credited, hours or credits cannot be removed or disallowed except by the department upon a finding that the hours or credits have been wrongfully allowed.

Sec. 103. Students may transfer from one school of cosmetology in Nebraska to another at any time without penalty if all tuition obligations to the school from which the student is transferring have been honored, upon fulfillment of the following requirements:

(1) The student shall secure a letter from the school from which he or she is transferring stating that the student has not left any unfulfilled tuition obligations and stating the number of hours and credits

earned by the student at such school, including any hours and credits the student transferred into that school, and the dates of attendance of the student at that school;

(2) The school to which the student is transferring shall submit a copy of such letter to the department along with a completed student entrance notification and fee. Documents already on file with the department with the original notification need not be resubmitted; and

(3) The student may not begin training at the new school until the requirements of subdivisions (1) and (2) of this section have been met.

The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, credit books and any and all records pertaining to the student.

Sec. 104. Students may transfer into a school of cosmetology in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section 102 of this act; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

In order to be honored in Nebraska, some portion of the student's hours shall have been earned within the two years immediately prior to the transfer. The board and the department shall establish guidelines for determining the manner in which hours and credits shall be awarded to students transferring from such schools.

Sec. 105. Any person holding a current barbering license issued by the appropriate authority in Nebraska shall be entitled to waive one thousand hours upon enrolling in a complete course of cosmetology training in a school of cosmetology. The school shall determine, based upon the knowledge and experience of the student, which one thousand hours of training shall be waived for the student. The school shall determine, based upon the knowledge and experience of the student, how many credits to waive and which credits are to be waived for the student, except that no fewer than five hundred credits and no more than one thousand credits may be waived for any such student. No hours shall be waived for a licensed barber enrolling in an esthetician training course or program.

Sec. 106. Any student may appeal a

determination of a school of cosmetology regarding his or her transfer status, hours, or credits to the board.

Sec. 107. No school of cosmetology shall at any time enroll more than one student instructor for each full-time instructor actively working in and employed by the school.

Sec. 108. Each school license issued under the Nebraska Cosmetology Act and each school license in effect upon the effective date of this act shall expire and be subject to renewal on December 31, 1987, and on December 31 of each odd-numbered year thereafter. The procedure for renewing a school license shall be identical to that for renewing a salon license except that, in addition to all other requirements, the school of cosmetology shall receive a satisfactory rating on an accreditation inspection conducted by the board and the department, in consultation with the State Department of Education, within the six months immediately prior to the date of license renewal.

Any school of cosmetology which has current accreditation from a national accrediting organization approved by the board shall be considered to satisfy the accreditation requirements outlined in this section, except that successful completion of an operation inspection shall be required. Each school of cosmetology, whether or not it is nationally accredited, shall satisfy all curriculum and sanitation requirements outlined in the Nebraska Cosmetology Act to maintain its license.

Any school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months of the date of license renewal, the license may be revoked unless the board approves an extension of the time limit. The license of a school that has been revoked or lapsed for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Sec. 109. Each school license issued shall be in effect solely for the owner or owners and premises named thereon and shall lapse automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application as required by the

department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Sec. 110. Any school of cosmetology may apply to the department for a license to operate a satellite classroom. A satellite classroom shall be subject to all requirements of the Nebraska Cosmetology Act and rules and regulations adopted and promulgated under such act, except as follows:

(1) A satellite classroom shall consist of classroom facilities only, and no clinical activities may be performed thereat. A satellite classroom shall contain a minimum of four hundred square feet of floor space:

(2) Students located at a satellite classroom may move to the home school, or vice versa, without being considered transfer students;

(3) Students in a satellite classroom shall be reported on the same monthly report form as students in the home school; and

(4) No satellite classroom may operate in any manner unless the home school is at the time operating and possesses a full active license, except a satellite classroom may keep different days and hours of operation from those of its home school. The license to operate a satellite classroom shall be revoked or shall lapse at the same time as that for its home school.

The board and the department may by rules and regulations modify or waive any of the operating or student requirements of a school of cosmetology for a satellite classroom if the board and the department determine that such requirements are not applicable or appropriate to a satellite classroom.

Sec. 111. The owner of each school of cosmetology shall have full responsibility for ensuring that the school is operated in compliance with all applicable laws and rules and regulations and shall be liable for any and all violations occurring in the school. Each school shall be operated by a manager who shall hold an active instructor's license and who shall be present on the premises of the school no less than thirty-five hours each week. The manager may have responsibility for the daily operation of the school or satellite classroom and, if so, shall share with the owner liability for any and all violations occurring in the satellite classroom.

Sec. 112. In order to be licensed as an apprentice salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed apprentice salon shall hold a current active license as a cosmetology salon or skin care salon;

(2) The proposed apprentice salon shall employ or plan to employ one active instructor for each two apprentices or fraction thereof it enrolls; and

(3) The proposed apprentice salon shall provide an area of not less than one hundred square feet to be used solely for educational purposes.

Sec. 113. Any person seeking a license to operate an apprentice salon shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A complete application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before training of apprentices is scheduled to begin. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed apprentice salon sufficient to demonstrate compliance with the Nebraska Cosmetology Act;

(2) A statement confirming application for a surety bond in the amount of one thousand dollars for each apprentice planned to be enrolled conforming to the requirements of the bond required for schools of cosmetology;

(3) A list of the names and qualifications of all instructors employed or proposed to be employed;

(4) Completed student entrance notifications for all apprentices proposed to be enrolled;

(5) A copy of the rules the salon proposes to use for its apprentices;

(6) A copy of the apprentice contract;

(7) A copy of the curriculum proposed to be used;

(8) A proposed schedule of training for each apprentice; and

(9) A completed cosmetology education evaluation scale.

Sec. 114. Each application for a license to operate an apprentice salon shall be reviewed by the department for compliance with the requirements of the

Nebraska Cosmetology Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice further applications by the applicant. In the event an application is approved, the department shall immediately conduct an operation inspection of the proposed apprentice salon. A salon passing the inspection shall be issued a license to operate and may begin training apprentices upon receipt of notification to such effect. A salon failing the operation inspection shall submit, within fifteen days, evidence of corrective action to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the salon does not receive a satisfactory rating, or if evidence is not submitted within fifteen days, the application may be denied.

Sec. 115. In order to maintain and renew its license in good standing, each apprentice salon shall operate in accordance with the following requirements:

(1) The apprentice salon shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The salon shall maintain its salon license in good standing; and

(3) The salon shall operate in accordance with all operating requirements and all student requirements of a school of cosmetology, except that the board and the department may by rule and regulation modify or waive any such requirements that are deemed not applicable to an apprentice salon.

Sec. 116. Each apprentice salon license issued under the Nebraska Cosmetology Act and each apprentice salon license in effect upon the effective date of this act shall expire and be subject to renewal on December 31, 1987, and on December 31 of each odd-numbered year thereafter. The procedure and requirements for renewing an apprentice salon license shall be the same as those for a school of cosmetology.

Sec. 117. The license of an apprentice salon that has been revoked or lapsed for any reason may not be reinstated. An original application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Sec. 118. Each apprentice salon license issued shall be in effect solely for the owner or owners and premises named thereon and shall lapse automatically upon any change of ownership or location. An original



application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Sec. 119. The owner of each apprentice salon shall have full responsibility for ensuring that the apprentice salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the apprentice salon.

Sec. 120. Practice outside a licensed cosmetology establishment shall be permitted in the following circumstances:

(1) A registered cosmetician may apply cosmetics or skin care products within the scope of such activity permitted a cosmetician in the home of a client or customer; and

(2) A licensed cosmetology salon or skin care salon may employ licensed cosmetologists and estheticians, according to the licensed activities of the salon, to perform home services by meeting the following requirements:

(a) In order to be issued a home services permit by the department, an applicant shall hold a current active salon license; and

(b) Any person seeking a home services permit shall submit an application to the department. The application shall be on such forms and shall contain such information as the department and the board may require. A complete application shall be received by the department at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of application for liability insurance or bonding.

The department shall issue a home services permit to each applicant meeting the requirements set forth in subdivisions (1) and (2) of this section.

Sec. 121. In order to maintain in good standing or renew its home services permit, a salon shall at all times operate in accordance with all requirements for operation of a salon, maintain its salon license in good standing, and comply with the following requirements:

(1) Clients receiving home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship

services, and other similar activities. Emergency circumstances may include such conditions or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention; or

(e) Any other conditions that, in the opinion of the board, meet the general definition of emergency circumstances;

(2) The salon shall determine that each person receiving home services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the department before home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with home services or to whom it has provided such services within the past two years;

(3) The salon shall employ or contract with persons licensed under the Nebraska Cosmetology Act to provide home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

(4) Each salon holding a home services permit shall report to the department every six months, as directed by the department, on the current status of each home services client;

(5) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(6) Each salon providing home services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Sec. 122. Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing home services.

Sec. 123. (1) Any person providing home services shall be currently certified to perform cardiopulmonary resuscitation.

(2) No licensee may perform home services except when employed by or under contract to a salon holding a valid home services permit.

Sec. 124. Each home services permit shall be subject to renewal at the same time as the salon license and shall be renewed upon request of the permitholder if the salon is operating its home services in compliance with the Nebraska Cosmetology Act and if the salon license is renewed. No permit that has been revoked or lapsed may be reinstated or transferred to another owner or location.

Sec. 125. The owner of each salon holding a home services permit shall have full responsibility for ensuring that the home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Sec. 126. The department shall enforce the Nebraska Cosmetology Act and for that purpose shall make necessary investigations and inspections relative thereto. Every licensee shall assist the department in such regard to the best of his or her ability and shall not withhold any information that may have a bearing on any investigation or inspection.

Sec. 127. Upon the request of the department, the Attorney General shall institute in the name of the state the proper proceedings against any person whom the board finds to be in violation of the Nebraska Cosmetology Act or any rule or regulation adopted and promulgated under such act, and the county attorney, at the request of the Attorney General or the department, shall appear and prosecute such action when brought in his or her county.

Sec. 128. The department may initiate an investigation when it receives a complaint regarding a possible violation or when the board or the department, on the basis of its own knowledge, deems such an investigation necessary. The purpose of the investigation shall be to ascertain facts and evidence for presentation to the board relating to the possible violation. Investigations shall be conducted only by employees or agents of the department specifically authorized to conduct investigations.

Sec. 129. (1) The board may recommend that the department review the results of any investigation and make a recommendation to the board as to whether the evidence appears to substantiate the existence of a violation.

(2) The board shall review the results of each

investigation brought before it by the department and shall make a determination as to whether the evidence presented appears to substantiate the existence of a violation.

(3) When the department finds that there is probable cause to suspect a violation has occurred based on the results of an investigation, it shall forward all pertinent material along with a statement of its findings to the Attorney General. The Attorney General shall review the material submitted, taking the recommendation of the board under advisement, and shall advise the board and the department promptly of his or her findings. If the Attorney General concurs that a probable violation has occurred, he or she shall immediately take steps to obtain an injunction against the party or parties involved if such a step is deemed necessary and to begin proceedings to prosecute the person accused of the violation.

Sec. 130. (1) The department shall conduct inspections as required by the Nebraska Cosmetology Act. Two types of inspections shall be conducted to be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment is operating in full compliance with all laws, rules, and regulations. An accreditation inspection shall be conducted to accomplish the purposes of an operation inspection and to ascertain that a school of cosmetology or an apprentice salon is maintaining academic standards and requirements of a quality consistent with the purpose of the Nebraska Cosmetology Act. All accreditation inspections shall be announced at least two weeks prior to the actual inspection.

(2) The board and the department shall adopt and promulgate rules and regulations governing the standards and criteria to be used in the conduct of inspections, the rating system to be used, and the level of achievement necessary to receive a passing grade.

(3) Operation inspections shall be unannounced and shall be conducted during the normal working hours of the establishment. The inspector shall make every effort to gather the information he or she needs to complete the operation inspection in an inconspicuous manner.

(4) At the conclusion of the inspection, the owner or manager of the establishment shall receive a copy of the rating form, which shall be promptly displayed, and a verbal statement of any deficiencies noted.

Sec. 131. If an establishment receives a rating of unsatisfactory, it shall submit evidence to the department within fifteen days providing proof of corrective action taken. A repeat inspection shall be conducted within sixty days of the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required. If the establishment receives an unsatisfactory rating on the repeat inspection, or if evidence is not submitted within fifteen days, the establishment license shall immediately be placed on inactive status pending action by the department, and the establishment may not operate in any manner while its license is inactive.

The owner or manager of an establishment whose license has been placed on inactive status shall appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such appearance, grant additional time for corrective action to occur, but the establishment may not operate during such time. The establishment may not return to operation until it has achieved a satisfactory rating on an inspection.

Sec. 132. Disciplinary actions and proceedings shall in general be carried out as specified in sections 71-147 to 71-161.08 and 71-161.11 to 71-161.19, except that in all instances the provisions of the Nebraska Cosmetology Act have precedence over such sections if there is conflict between them.

Sec. 133. Before sending a request to the Attorney General for revocation or prosecution, the department may request the person charged with the violation to appear before the department for the purpose of reaching a settlement to voluntarily surrender or limit the license, permit, or registration, in accordance with the procedures of section 71-161.11. Such agreement may be negotiated in lieu of prosecution or revocation at the discretion of the department. The provisions of the settlement may include any of the penalties prescribed in the Nebraska Cosmetology Act or any other measures the board deems appropriate for the protection of the public and the effective discipline of the practitioner.

Sec. 134. (1) The hearing in any disciplinary action shall be before the director or a hearing officer appointed by the director.

(2) In addition to the disciplinary actions cited in section 71-155, the director may levy a fine

against any practitioner found guilty of a violation, in an amount not to exceed ten times the initial fee of the license or registration held by the practitioner. All such fines shall be paid into the Cosmetology Cash Fund. In determining whether to levy a fine and the amount of the fine, the director shall take into consideration the recommendation of the board, the seriousness of the violation, and the extent to which the person derived financial gain as a result of the violation.

(3) Before determining the disciplinary action to impose upon a practitioner found guilty of a violation, the director shall consult with the board.

Sec. 135. (1) Persons and establishments holding licenses, registrations, or permits under the Nebraska Cosmetology Act shall be subject to the disciplinary actions described in section 71-155 and in sections 131 to 134 of this act upon the finding by the director that a violation has occurred.

(2) A person not holding a license, registration, or permit under the Nebraska Cosmetology Act shall, upon conviction of violation of such act, except as specific penalties are otherwise imposed, be guilty of a Class II misdemeanor. Any such person convicted of a second violation of the Nebraska Cosmetology Act, except as specific penalties are otherwise imposed, shall be guilty of a Class I misdemeanor.

(3) Any person engaging in any of the practices of cosmetology or operating a cosmetology establishment without being duly licensed or registered under the Nebraska Cosmetology Act, any person engaging in the provision of home services without having complied with such act, or any person found to be acting in violation of the Nebraska Cosmetology Act may be restrained by a temporary or permanent injunction.

Sec. 136. (1) Any person who files or attempts to file with the department any false or forged diploma, certificate, affidavit of identification or qualification, credential, or official document of any kind shall be deemed guilty of criminal simulation and upon conviction thereof shall be punished as provided in section 28-606.

(2) Any person who presents to the department a diploma or certificate of which he or she is not the rightful owner for the purpose of procuring a license, falsely impersonates a person to whom a license or registration has been issued by the department, or falsely impersonates a candidate for examination shall be guilty of a Class IV felony.

Sec. 137. Evidence of the violation of the Nebraska Cosmetology Act, any rule or regulation adopted and promulgated under such act, or any provision of section 71-147 or 71-148 or evidence of the commission of any act of unprofessional conduct as defined in the Nebraska Cosmetology Act or rules and regulations adopted and promulgated under such act may be deemed grounds for disciplinary action as specified in section 71-155 and in sections 131 to 135 of this act.

Sec. 138. Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the Nebraska Cosmetology Act:

(1) Performing any of the practices of cosmetology for which an individual is not licensed or registered;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the Nebraska Cosmetology Act;

(3) Failing to report to the department a suspected violation of the Nebraska Cosmetology Act;

(4) Aiding and abetting an individual to practice any of the practices of cosmetology for which he or she is not licensed or registered;

(5) Engaging in any of the practices of cosmetology for compensation in an unauthorized location;

(6) Engaging in the practice of any healing art or profession for which a license is required without holding such a license;

(7) Enrolling a student or apprentice without submitting a complete student entrance notification to the department;

(8) Knowingly falsifying any student or apprentice record or report;

(9) Initiating or continuing home services to a client who does not meet the criteria established in the Nebraska Cosmetology Act;

(10) Knowingly issuing a certificate of completion or diploma to a student or apprentice who has not completed all requirements for the issuance of such document;

(11) Failing, by a school of cosmetology or an apprentice salon, to follow its published rules;

(12) Violating, by a school of cosmetology, any federal or state law involving the operation of a vocational school or violating any federal or state law involving participation in any federal or state loan or

grant program;

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment under supervision to operate in violation of any law, rule, or regulation;

(14) Receiving two unsatisfactory inspection reports within any sixty-day period; and

(15) Engaging in any of the practices of cosmetology while afflicted with any active case of a serious contagious disease or infestation, as determined by the department, or in any other circumstances when such practice might be harmful to the health or safety of clients.

Sec. 139. (1) All licenses, certificates, or other credentials issued under sections 71-312 to 71-339 prior to the effective date of this act shall continue in full force and effect after the effective date of this act until such time as they are scheduled to expire or be renewed. No operating credential shall be terminated solely due to the enactment of the Nebraska Cosmetology Act.

(2) Any person practicing any of the practices of cosmetology, or any person operating an establishment that did not require licensure, registration, or other credentials prior to the effective date of this act, but does require such credentials as a result of the Nebraska Cosmetology Act, shall be permitted to apply to the department for the appropriate license, registration, or other credentials without meeting any of the requirements of the Nebraska Cosmetology Act for initial licensure, if:

(a) Such application is made prior to January 31, 1987;

(b) The applicant presents evidence that he or she has been engaged in the practice for which he or she seeks credentials or has operated the establishment for which he or she seeks credentials for a period of at least six months prior to the effective date of this act; and

(c) The applicant provides a written statement of his or her intention to comply with all provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act.

(3) The department shall issue an original license, registration, or permit in the appropriate category to each such applicant upon payment of the appropriate fee for original accreditation. Each such credential granted shall expire and be subject to renewal at the same time as all others in its class and



shall be subject to the same requirements for renewal as all others in its class.

Sec. 140. The department, with the assistance of the board, shall adopt and promulgate all rules, regulations, and guidelines necessary for the administration of the Nebraska Cosmetology Act. In particular, the department shall adopt and promulgate the following rules and regulations:

(1) Minimum standards governing the licensure, relicensure, and discipline of licensees;

(2) Operation of schools of cosmetology and apprentice salons, including standards and requirements governing application, curriculum, course of study, hours and credits, staff and faculty, student admission and registration, student instructor and apprentice admission and registration, instruction and supervision, textbooks, transfers, examinations, grading and evaluation, graduation requirements, records, reporting requirements, sanitation, attire, school and salon rules and policies, smoking, subject content, lesson plans, methods of counting and recording hours and credits, library facilities, space requirements, teaching equipment and apparatus, supplies, organization and administration, transfer of location, closing a school, change of ownership or location, scheduling of courses, class size, ratio of instructors to students, clinical experience requirements and locations, inspections, license renewal procedures and requirements, and any other related areas;

(3) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of satellite classrooms, including movement of students among satellite classrooms and home schools, location of records, ratio of students to instructors, inspections, reporting requirements, and any other related areas;

(4) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of cosmetology salons and skin care salons, including standards and requirements governing space, facilities, equipment, hours of operation, cleanliness and sanitation, smoking, laundry, storage facilities, instruments, implements, materials and supplies, methods and particular aspects of sanitizing, pets, toilet facilities, water, client files, employment and supervision of temporary practitioners, practices permitted, application, inspection, sale or change of ownership, closing a salon, records, reporting requirements, license renewal standards and procedures, and any other related areas;

(5) Situations constituting a conflict of interest for board members and procedures for dealing with such situations;

(6) Procedures for the conduct and grading of examinations and performance standards for examinations;

(7) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of cosmetic establishments including type and amount of instruction provided to cosmeticians, safety and sanitary procedures and standards, application, inspection, reporting requirements, license renewal standards and procedures, and any other related areas;

(8) Minimum standards governing the registration, expiration, discipline, and practice of cosmeticians, guest artists, students, apprentices, student instructors, and temporary practitioners, including application, supervision, type of training received, locations of practice, reporting requirements, grounds for discipline, and any other related areas;

(9) Criteria and standards for the approval and classification of continuing education programs, including reviewers, material required of applicants, fees, qualifications of presenters, content of programs, verification of programs as approved, verification of hours as reported by licensees, application, nonattendance programs, exemptions, and any other related areas;

(10) Criteria and standards to be used in the conduct of inspections and procedures to be used in the conduct of inspections and investigations, including rating systems, level of achievement necessary to receive a passing grade, conduct of inspections and investigations, and any other related areas;

(11) Minimum standards governing the granting, discipline of, and renewal of home services permits and the provisions of home services; and

(12) Acts constituting unprofessional conduct on the part of licensed and registered practitioners and licensed establishments.

Sec. 141. That section 33-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-150. The State Treasurer shall credit to the General Fund of the state fifteen per cent of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, dentistry, including fees from dental hygienists, optometry, pharmacy, embalming and funeral directing, including fees received from funeral establishments as

well as embalmers and funeral directors, podiatry, and veterinary medicine, the Board of Occupational Therapy Practice, the Board of Cosmetologist Examiners Cosmetology Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Brand Fund of the Secretary of State, the State Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned above, if and when fifteen per cent of all such fees remitted into the treasury be appropriated or reappropriated to the General Fund of the state by the Legislature for the uses and purposes of the General Fund during any biennium. Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and funds of the State Racing Commission.

Sec. 142. That section 71-161.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.01. A plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge shall be deemed to be a conviction within the meaning of sections 28-409, 71-147, ~~71-331~~, 71-1333, 71-2045.02, 71-2717, and 71-4712 and sections 135 and 136 of this act. The term conviction within the meaning of such sections shall mean a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof and shall include instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation. Pursuant to such sections a license, permit, certificate, or registration, including one of a temporary nature, may be denied, refused renewal, limited, suspended, revoked or have other disciplinary measures taken against it in accordance with section 71-155, when the time for appeal of the conviction has elapsed or the conviction has been affirmed on appeal or an order granting probation is made suspending the imposition or the execution of sentence, irrespective of any subsequent order under any statute allowing such person to withdraw his or her plea of guilty, nolo contendere or non vult contendere and to enter a plea of not guilty, or setting aside the verdict of guilty or the conviction, or releasing the person from probation, or dismissing the accusation,

information or indictment.

Sec. 143. That section 71-204, Revised Statutes Supplement, 1984, be amended to read as follows:

71-204. A person is qualified to receive a certificate of registration to practice barbering (1) who has a diploma showing graduation from high school or an equivalent education as determined by passing a general education development test; (2) who is at least ~~eighteen~~ seventeen years of age; (3) who has completed two thousand one hundred hours of training in a barber school or college; (4) who has graduated from a barber school or college approved by the Board of Barber Examiners; and (5) who has passed an examination conducted by the Board of Barber Examiners to determine his or her fitness to practice barbering, which examination shall be taken within two years after the date of entry into barbering school.

Sec. 144. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 145. That original sections 33-150 and 71-161.01, Reissue Revised Statutes of Nebraska, 1943, and section 71-204, Revised Statutes Supplement, 1984, and also sections 71-312.01 to 71-320, 71-321, 71-322, and 71-322.02 to 71-339, Reissue Revised Statutes of Nebraska, 1943, and section 71-320.01, Revised Statutes Supplement, 1984, are repealed.