

LEGISLATIVE BILL 906

Approved by the Governor March 31, 2004

Introduced by Stuhr, 24; Combs, 32; Foley, 29; Hudkins, 21; Kruse, 13;
McDonald, 41; Price, 26; Schimek, 27; Redfield, 12; Stuthman, 22

AN ACT relating to body art; to amend sections 71-110.01, 71-162, 71-340 to 71-343, 71-364, 71-376, 71-377, 71-386, 71-396, 71-397, 71-398, 71-3,100, 71-3,105, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska; to provide for licensure and regulation of body branding, body piercing, permanent color technology, and tattooing; to change and provide penalties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 71-110.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-110.01. (1) The department may provide for the renewal of a credential to engage in business as an apprentice training salon; a body art facility; a cosmetic establishment; a cosmetology salon; an electrology establishment; an emergency medical service; an emergency medical training program; an esthetics salon; a funeral establishment or branch establishment; a massage therapy establishment; a massage therapy school; a nail technology salon; a nail technology school; a satellite cosmetology classroom; a school of cosmetology; a school of electrology; or a school of esthetics upon request of the credentialed entity as provided in this section. The credential renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the appropriate professional board, shall establish by rule and regulation. The request for renewal need not be in any particular form and shall be accompanied by the renewal fee, if applicable. Such fee shall be paid not later than the date of the expiration of such credential.

(2) At least thirty days before the expiration of a credential, the department shall notify each credentialed entity by a letter addressed to the place of business as noted upon the department's records. Any credentialed entity which fails to pay the renewal fee on or before the date of expiration of the credential shall be given a second notice in the same manner as the first notice advising the entity (a) of the failure to pay the renewal fee, (b) that the credential has expired, (c) that the entity is subject to an administrative penalty under section 71-164.01 if the entity engages in business after the expiration date and prior to renewal, reinstatement, or issuance of a credential, (d) that upon the receipt of the renewal fee and the required late fee within thirty days after the expiration date, no order of revocation will be entered, and (e) that upon the failure to receive the fees, the credential will be revoked in the manner prescribed in section 71-149.

Sec. 2. Section 71-162, Reissue Revised Statutes of Nebraska, is amended to read:

71-162. (1) It is the intent of the Legislature that the revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or entities seeking credentials. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, and the credentialing review process for the following individuals and entities that provide health services and health-related services:

(a) Individuals in the practice of acupuncture; advanced practice nursing; asbestos abatement, inspection, project design, and training; athletic training; audiology; speech-language pathology; chiropractic; dentistry; dental hygiene; environmental health; hearing aid instrument dispensing and fitting; lead-based paint abatement, inspection, project design, and training; medical nutrition therapy; medical radiography; medication aide services; medicine and surgery; mental health practice; nursing; nurse aide services; nursing home administration; occupational therapy; optometry; osteopathic medicine; pharmacy; physical therapy; podiatry; psychology; radon detection, measurement, and mitigation; respiratory care; social work; swimming pool operation; veterinary medicine and surgery; water system operation; constructing or decommissioning water wells and installing water well pumps and pumping equipment; and wholesale

drug distribution; and

(b) Individuals in the practice of and entities in the business of body art; cosmetology; electrology; emergency medical services; esthetics; funeral directing and embalming; massage therapy; and nail technology.

(2) The department shall determine the cost of the credentialing system for such individuals and entities by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections 71-162.01 to 71-162.03.

(3) When fees are to be established pursuant to section 71-162.04 for individuals or entities other than individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, upon recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be collected as provided in section 71-163.

Sec. 3. Section 71-340, Reissue Revised Statutes of Nebraska, is amended to read:

71-340. Sections 71-340 to 71-3,235 and sections 7 to 13, 15, 16, 25 to 27, and 34 to 36 of this act shall be known and may be cited as the Nebraska Cosmetology Act.

Sec. 4. Section 71-341, Reissue Revised Statutes of Nebraska, is amended to read:

71-341. The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, esthetics, ~~and~~ electrology, and body art services; (2) the practices of cosmetology, nail technology, esthetics, ~~and~~ electrology, and body art involve 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, nail technology, esthetics, ~~or~~ electrology, or body art can encourage the spread of contagious diseases, infections, 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, nail technology, esthetics, and electrology at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, esthetics, and electrology students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology, nail technology schools, schools of esthetics, and schools of electrology; (6) the effectiveness of cosmetology, nail technology, esthetics, or electrology 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) continuing competency can best be demonstrated by participation in continuing competency activities; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, esthetics, ~~or~~ electrology, or body art 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. 5. Section 71-342, Reissue Revised Statutes of Nebraska, is amended to read:

71-342. The Legislature declares its intent to implement the findings specified in section 71-341 through the Nebraska Cosmetology Act, to regulate the practices and professions of cosmetology, nail technology, esthetics, ~~and~~ electrology, and body art and cosmetology, nail technology, esthetics, ~~and~~ electrology, and body art education in all forms, to limit the practice and teaching of cosmetology, nail technology, esthetics, or electrology, or body art 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 act be made with full cognizance of the findings and intentions expressed in this section and section 71-341.

Sec. 6. Section 71-343, Reissue Revised Statutes of Nebraska, is

amended to read:

71-343. For purposes of the Nebraska Cosmetology Act, unless the context otherwise requires, the definitions found in sections 71-344 to 71-372 and sections 7 to 13, 15, and 16 of this act shall be used.

Sec. 7. Body art means body piercing, branding, permanent color technology, and tattooing.

Sec. 8. Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Sec. 9. Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Sec. 10. Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Sec. 11. Guest body artist means a person registered under the Nebraska Cosmetology Act to demonstrate body art products or procedures for the purpose of imparting professional knowledge and information to persons licensed in this state to perform body art or to persons owning or operating a licensed body art facility under the sponsorship of a licensed body art facility or a person licensed in this state to perform body art.

Sec. 12. Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Sec. 13. Practices regulated under the Nebraska Cosmetology Act means body art, cosmetology, electrology, esthetics, and nail technology.

Sec. 14. Section 71-364, Reissue Revised Statutes of Nebraska, is amended to read:

71-364. Practitioner means a person who performs any or all of the practices of cosmetology, nail technology, esthetics, or electrology for compensation or who performs any or all of the practices of body art.

Sec. 15. Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Sec. 16. Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

Sec. 17. Section 71-376, Reissue Revised Statutes of Nebraska, is amended to read:

71-376. The department shall:

(1) With the approval of the board, adopt, promulgate, and revise necessary rules and regulations, including procedures for approving cosmetology, nail technology, and electrology establishments and body art facilities;

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

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

(4) Survey each licensed cosmetology, nail technology, and electrology establishment and body art facility 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, nail technology, or electrology establishment or body art facility found to be operating in compliance with all relevant laws, rules, and regulations.

Sec. 18. Section 71-377, Reissue Revised Statutes of Nebraska, is amended to read:

71-377. 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, nail technology, esthetics, or electrology~~ the practices regulated under the act and to the enforcement and implementation of the act;

(4) Recommend applicants to the department for the professional level position which will be responsible for the daily administration of the act; and

(5) Establish continuing competency requirements for persons licensed under the act for adoption and promulgation by the department in rules and regulations. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensee may select as an alternative to continuing education.

Sec. 19. Section 71-386, Reissue Revised Statutes of Nebraska, is amended to read:

71-386. (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 or teaching of cosmetology, electrology, esthetics, ~~or~~ nail technology, or on or after April 1, 2005, body art, and no person may assume the title of cosmetologist, electrologist, esthetician, instructor, nail technician, nail technology instructor, ~~or, on or after~~ January 1, 2003, esthetics instructor, or on or after April 1, 2005, permanent color technician, tattoo artist, body piercer, or body brander without first being licensed by the department under the Nebraska Cosmetology Act.

Sec. 20. Section 71-396, Reissue Revised Statutes of Nebraska, is amended to read:

71-396. 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, ~~and~~ electrology establishment, ~~and~~ body art facility shall so display the licenses and registrations of all practitioners there employed.

Sec. 21. Section 71-397, Reissue Revised Statutes of Nebraska, is amended to read:

71-397. (1) Each license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. Each cosmetology and instructor's license shall expire and be subject to renewal on December 31 of each even-numbered year. Each esthetician's and esthetics instructor's license shall expire and be subject to renewal on September 30 of each even-numbered year. Each electrologist's and electrology instructor's license shall expire and be subject to renewal on July 31 of each odd-numbered year. Each license to practice body art shall expire and be subject to renewal on March 31 of each odd-numbered year.

(2) Procedures for renewal, reinstatement, and assessment of late fees and administrative penalties shall be in accordance with sections 71-110 and 71-164.01. If an electrology instructor's license has been expired or has been on inactive status for five years or more, such electrology instructor shall retake and pass the electrology instructor's examination before such license is reinstated.

Sec. 22. Section 71-398, Reissue Revised Statutes of Nebraska, is amended to read:

71-398. Registration shall be required before any person may act as a guest artist, guest body 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. 23. Section 71-3,100, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,100. Applicants for registration as guest artists or guest body 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 for guest artists or a licensed body art facility or person licensed to practice body art for guest body artists.

Sec. 24. Section 71-3,105, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,105. Registration shall be granted for a set period of time and cannot be renewed. Registration as a guest artist or guest body 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, a school of electrology, a school of esthetics, or an apprentice salon. Registration as a temporary practitioner shall expire six weeks following the written examination date or upon receipt

of examination results, whichever occurs first, except that the registration of a temporary practitioner who fails to take the first regularly scheduled examination shall expire immediately 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 six weeks after the date of the next regularly scheduled written examination or upon receipt of the examination results, whichever occurs first. No registration may be extended in such manner more than once.

Sec. 25. (1) On or after April 1, 2005, no person shall perform any of the practices of body art or display a sign to, or in any other way, advertise or purport to be engaged in the business of practicing body art unless such person is licensed by the department.

(2) An applicant for licensure in any of the practices of body art shall show to the satisfaction of the department that the applicant:

(a) Has complied with the Nebraska Cosmetology Act and the applicable rules and regulations adopted and promulgated under the act;

(b) Is at least eighteen years of age;

(c) Has a high school diploma or GED;

(d) Has submitted evidence of training or experience prescribed or approved by the board to ensure the protection of the public in performing the practices of body art for which the applicant is seeking licensure; and

(e) Has successfully completed an examination prescribed or approved by the board to test the applicant's knowledge of safety, sanitation, and sterilization techniques and infection control practices and requirements, except that the department may waive all or a portion of the examination for persons engaged in the practice of body art prior to April 1, 2005, upon submission of evidence satisfactory to the department.

Sec. 26. (1) On or after April 1, 2005, no person shall establish or operate a body art facility in this state unless such facility is licensed by the department under the Nebraska Cosmetology Act. The department shall not issue or renew a license for a body art facility until all applicable requirements of the Nebraska Cosmetology Act have been complied with and the facility has been inspected by the department. No person shall engage in any of the practices of body art in any location or premises other than a licensed body art facility except as specifically permitted in the Nebraska Cosmetology Act. The department shall issue a license to operate a body art facility to each qualified applicant.

(2) Each body art facility license shall expire and be subject to renewal on March 31 of each odd-numbered year. The procedure for renewing a body art facility license shall be in accordance with section 71-110.01, except that in addition to all other requirements, no body art facility license may be renewed unless the facility has attained a rating of satisfactory on its most recent operation inspection. The license of any facility not attaining such rating shall be placed on inactive status and shall not be open to the public until all deficiencies have been corrected.

(3) The license of a body art facility that has been revoked for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such facility can reopen for business.

(4) Each body art facility license 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 facility may reopen for business.

Sec. 27. (1) In order to maintain a license in good standing, each body art facility or the owner of such facility or his or her agent shall:

(a) At all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(b) Notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a facility is permanently closed, except in emergency circumstances as determined by the department;

(c) 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

(d) Display in a conspicuous place near the place where body art is performed the following records:

(i) The then current license to operate the body art facility;

(ii) The then current license of each person performing body art;

and

(iii) The inspection report from the most recent operation inspection.

(2) The owner of each body art facility shall have full responsibility for ensuring that the facility is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the facility.

Sec. 28. Section 71-3,106, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,106. The Nebraska Cosmetology Act does not 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 engaging solely in ~~ear~~ earlobe piercing; ~~tattooing,~~ ~~or other invasive beautification practices;~~

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

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

(5) Any person practicing cosmetology, electrology, esthetics, or nail technology within the confines of a hospital, nursing home, massage therapy 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;

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

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

(8) Any person when engaged in nonvocational training;

(9) A person demonstrating on behalf of a manufacturer or distributor any cosmetology, nail technology, ~~or electrolysis,~~ or body art equipment or supplies if such demonstration is performed without charge; and

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

Sec. 29. Section 71-3,169, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,169. (1) The department shall conduct inspections as required by the Nebraska Cosmetology Act. Two types of inspections shall be conducted which shall be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment or a facility 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, a nail technology school, a school of esthetics, a school of electrology, 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 or facility. 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 or facility shall receive a copy of the rating form, which form shall be promptly displayed, and a verbal statement of any deficiencies noted.

Sec. 30. Section 71-3,170, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,170. If a cosmetology establishment, a nail technology establishment, ~~or an electrology establishment,~~ or a body art facility 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 after the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required. If the establishment or facility 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 or facility may not operate in any manner while its license is inactive.

The owner or manager of an establishment or a facility 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 or facility may not operate during such time. The establishment or facility may not return to operation until it has achieved a satisfactory rating on an inspection.

Sec. 31. Section 71-3,174, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,174. (1) Persons, and cosmetology, nail technology, and electrology establishments, and body art facilities 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 71-3,170 to 71-3,173 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 regulated under the Nebraska Cosmetology Act, any person operating a cosmetology establishment, engaging in any of the practice of nail technology, operating a nail technology establishment, engaging in any of the practices of electrology, operating an electrology establishment, or engaging in any of the practices of esthetics an establishment or a facility 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. 32. Section 71-3,177, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,177. 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, nail technology, esthetics, or electrology regulated under the Nebraska Cosmetology Act 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, nail technology, esthetics, or electrology regulated under the Nebraska Cosmetology Act for which he or she is not licensed or registered;

(5) Engaging in any of the practices of cosmetology, nail technology, esthetics, or electrology regulated under the Nebraska Cosmetology Act 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 an 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 an apprentice who has not completed all requirements for the issuance of such document;

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

(12) Violating, by a school of cosmetology, nail technology school, school of esthetics, or school of electrology, 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 or facility 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, nail technology, esthetics, or electrology~~ regulated under the Nebraska Cosmetology Act while afflicted with any active case of a serious contagious disease, infection, 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;

(16) Violating any rule or regulation relating to the practice of body art; and

(17) Performing body art on or to any person under eighteen years of age (a) without the prior written consent of the parent or court-appointed guardian of such person, (b) without the presence of such parent or guardian during the procedure, or (c) without retaining a copy of such consent for a period of five years.

Sec. 33. Section 71-3,179, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,179. 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 licensure, license renewal, discipline of licensees, and license reinstatement;

(2) Operation of schools of cosmetology, nail technology schools, schools of esthetics, schools of electrology, and apprentice salons, including standards and requirements governing application, curriculum, course of study, hours and credits, staff and faculty, student and nail technology student admission and registration, student instructor, nail technology 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, esthetics instructors, or nail technology instructors to students or nail technology students, clinical experience requirements and locations, inspections, license renewal procedures and requirements, and any other related areas;

(3) Minimum standards governing the licensure, license renewal, discipline of licensees, license reinstatement, 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, license renewal, discipline of licensees, license reinstatement, and operation of cosmetology salons, nail technology salons, and esthetics 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, license renewal, discipline of licensees, license reinstatement, and operation of cosmetic establishments including type and amount of instruction provided to cosmeticians or electrologists, 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, nail technicians, electrologists, guest artists, guest body artists, nail technology students, nail technology student instructors, students, apprentices, student instructors, nail technology temporary practitioners, and temporary practitioners, including application, supervision, type of training received, locations of practice, reporting requirements, grounds for discipline, and any other related areas;

(9) Continuing competency requirements for persons licensed under the Nebraska Cosmetology Act as approved by the board under section 71-377;

(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, nail technology home services permits, or home services permits for electrology and the provision of home services; and

(12) Acts constituting unprofessional conduct on the part of licensed and registered practitioners, ~~and~~ licensed establishments and nail technology establishments, and licensed body art facilities.

Sec. 34. No person shall perform body art on or to any person under eighteen years of age without the prior written consent of the parent or court-appointed guardian of such person. The person giving such consent must be present during the procedure. A copy of such consent shall be retained for a period of five years by the person performing such body art. Nothing in this section shall be construed to require the performance of body art on a person under eighteen years of age. Violation of this section is a Class III misdemeanor.

Sec. 35. Nothing in the Nebraska Cosmetology Act shall be construed to authorize a person performing body art to engage in the practice of medicine and surgery.

Sec. 36. The licensure of persons performing body art or operating a body art facility under the Nebraska Cosmetology Act shall not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the Nebraska Cosmetology Act.

Sec. 37. Original sections 71-110.01, 71-162, 71-340 to 71-343, 71-364, 71-376, 71-377, 71-386, 71-396, 71-397, 71-398, 71-3,100, 71-3,105, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska, are repealed.