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HOUSE BILL 350

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Monica Youngblood

AN ACT

RELATING TO BOARDS; ADDING THE POWER TO ISSUE CEASE AND DESIST ORDERS TO THE BOARD OF BARBERS AND COSMETOLOGISTS; ADDING PENALTIES TO THE BODY ART SAFE PRACTICES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-17A-7 NMSA 1978 (being Laws 1993, Chapter 171, Section 7, as amended) is amended to read:

"61-17A-7. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act and the Body Art Safe Practices Act;

(2) establish fees;

(3) provide for the examination, licensure and

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1 license renewal of applicants for licensure;

2 (4) establish standards for and provide for
3 the examination, licensure and license renewal of manicurists-
4 pedicurists, estheticians, electrologists and body artists and
5 operators pursuant to the Body Art Safe Practices Act;

6 (5) adopt a seal;

7 (6) furnish copies of rules and sanitary
8 requirements adopted by the board to each owner or manager of
9 an establishment, enterprise or school;

10 (7) keep a record of its proceedings and a
11 register of applicants for licensure;

12 (8) provide for the licensure of barbers,
13 cosmetologists, manicurists-pedicurists, estheticians, body
14 artists and operators pursuant to the Body Art Safe Practices
15 Act, electrologists, instructors, schools, enterprises and
16 establishments;

17 (9) establish administrative penalties and
18 fines;

19 (10) create and establish standards and
20 fees for special licenses;

21 (11) establish guidelines for schools to
22 calculate tuition refunds for withdrawing [~~student; and~~
23 students];

24 (12) hire an administrator and other such
25 staff as necessary to carry out the provisions of the Body Art

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1 Safe Practices Act; and

2 (13) issue cease and desist orders to persons
3 violating the provisions of the Barbers and Cosmetologists Act
4 or the Body Art Safe Practices Act and rules promulgated in
5 accordance with those acts.

6 B. The board may establish continuing education
7 requirements as requirements for licensure.

8 C. A member of the board, its employees or agents
9 may enter and inspect a school, enterprise or establishment at
10 any time during regular business hours for the purpose of
11 determining compliance with the Barbers and Cosmetologists Act
12 and the Body Art Safe Practices Act."

13 SECTION 2. Section 61-17B-11 NMSA 1978 (being Laws 2007,
14 Chapter 181, Section 11) is amended to read:

15 "61-17B-11. ENFORCEMENT--PENALTIES--

16 A. The board may seek relief in district court to
17 enjoin the operation of a body art establishment or the
18 practice of a body artist not in compliance with the Body Art
19 Safe Practices Act.

20 B. The district court may impose a civil penalty
21 not exceeding five hundred dollars (\$500) for a violation of
22 the Body Art Safe Practices Act. Each violation of the
23 provisions of the Body Art Safe Practices Act constitutes a
24 separate offense.

25 C. The board may promulgate rules imposing a

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1 schedule of penalties for violations of the Body Art Safe
2 Practices Act. [~~provided that~~] Except as provided in
3 Subsection D of this section, no penalty [~~exceeds~~] shall exceed
4 one hundred fifty dollars (\$150).

5 D. Penalties for the following violations shall not
6 exceed one thousand dollars (\$1,000):

7 (1) obtaining or attempting to obtain a
8 license by fraudulent misrepresentation;

9 (2) willfully falsifying by oath or
10 affirmation information required pursuant to the Body Art Safe
11 Practices Act; or

12 (3) practicing or attempting to practice under
13 an assumed name or by fraudulent misrepresentation."