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HOUSE BILL 54

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Andrea Romero

AN ACT

RELATING TO LICENSING; AMENDING THE BARBERS AND COSMETOLOGISTS
ACT; ADDING REGULATION AND LICENSING DEPARTMENT DUTIES;
REVISING BOARD OF BARBERS AND COSMETOLOGISTS DUTIES; REVISING
LICENSING REQUIREMENTS.

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

SECTION 1. Section 61-17A-2 NMSA 1978 (being Laws 1993,
Chapter 171, Section 2, as amended by Laws 2017, Chapter 108,
Section 1 and by Laws 2017, Chapter 112, Section 3) is amended
to read:

"61-17A-2. DEFINITIONS.--As used in the Barbers and
Cosmetologists Act:

A. "barber" means a person, other than a student,
who for compensation engages in barbering;

B. "board" means the board of barbers and

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1 cosmetologists;

2 C. "cosmetologist" means a person, other than a
3 student, who for compensation engages in cosmetology;

4 D. "department" means the regulation and licensing
5 department;

6 [~~D-~~] E. "electrologist" means a person, other than
7 a student, who for compensation removes hair from or destroys
8 hair on the human body through the use of an electric current
9 applied to the body with a needle-shaped electrode or probe;

10 [~~E-~~] F. "enterprise" means a business venture, firm
11 or organization;

12 [~~F-~~] G. "establishment" means an immobile beauty
13 shop, barber shop, electrology clinic, salon or similar place
14 of business in which cosmetology, barbering, eyebrow threading,
15 hairstyling or electrolysis is performed;

16 [~~G-~~] H. "esthetician" means a person, other than a
17 student, who for compensation:

18 (1) uses cosmetic preparations, including
19 makeup applications, antiseptics, powders, oils, clays or
20 creams, for the purpose of preserving the health and beauty of
21 the skin and body;

22 (2) massages, cleans, stimulates or
23 manipulates the skin for the purpose of preserving the health
24 and beauty of the skin and body; or

25 (3) performs activities similar to the

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1 activities described in Paragraph (1) or (2) of this subsection
2 on any part of the body of a person;

3 [~~H.~~] I. "eyebrow threading" means a method of hair
4 removal in which a thin thread is doubled, twisted and then
5 rolled over areas of unwanted hair, plucking the hair at the
6 follicle level;

7 [~~I.~~] J. "hairstylist" means a person, other than a
8 student, who for compensation engages in hairstyling;

9 [~~J.~~] K. "manicurist-pedicurist" means a person,
10 other than a student, who for compensation performs work on the
11 nails of a person and applies nail extensions or products to
12 the nails for the purpose of strengthening or preserving the
13 health and beauty of the hands or feet;

14 [~~K.~~] L. "sanitation" means the maintenance of
15 sanitary conditions to promote hygiene and the prevention of
16 disease through the use of chemical agents or products;

17 [~~L.~~] M. "school" means a public or private
18 instructional facility approved by the board that teaches
19 cosmetology, barbering or hairstyling; and

20 [~~M.~~] N. "student" means a person enrolled in a
21 school to learn or be trained in cosmetology, barbering,
22 hairstyling or electrolysis."

23 SECTION 2. Section 61-17A-6 NMSA 1978 (being Laws 1993,
24 Chapter 171, Section 6, as amended) is amended to read:

25 "61-17A-6. BOARD CREATED--MEMBERSHIP--DEPARTMENT

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1 DUTIES.--

2 A. The "board of barbers and cosmetologists" is
3 created. The board is administratively attached to the
4 [~~regulation and licensing~~] department. The board consists of
5 seven members appointed by the governor. Members shall serve
6 three-year terms; provided that at the time of initial
7 appointment, the governor shall appoint members to abbreviated
8 terms to allow staggering of subsequent appointments.
9 Vacancies shall be filled in the manner of the original
10 appointment.

11 B. Of the seven members of the board, five shall be
12 licensed pursuant to the Barbers and Cosmetologists Act and
13 shall have at least five years' practical experience in their
14 respective occupations. Of those five, one member shall be a
15 licensed barber, one member shall be a licensed hairstylist,
16 two members shall be licensed cosmetologists and one member
17 shall represent school owners. The remaining two members shall
18 be public members. Neither the public members nor their
19 spouses shall have ever been licensed pursuant to the
20 provisions of the Barbers and Cosmetologists Act or similar
21 prior legislation or have a financial interest in a school or
22 establishment.

23 C. Members of the board shall be reimbursed
24 pursuant to the Per Diem and Mileage Act and shall receive no
25 other compensation, perquisite or allowance.

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1 D. The board shall elect from among its members a
2 chair and such other officers as it deems necessary. The board
3 shall meet at the call of the chair, not less than four times
4 each year. A majority of members currently serving shall
5 constitute a quorum for the conduct of business.

6 E. No board member shall serve more than two full
7 consecutive terms and any member who fails to attend, after
8 proper notice, three meetings shall automatically be
9 recommended for removal [~~unless excused for reasons set forth~~
10 ~~by board rule~~].

11 F. The department shall:

12 (1) process and issue licenses to applicants
13 who meet the requirements of the Barbers and Cosmetologists Act
14 and board rules;

15 (2) investigate persons engaging in practices
16 that may violate the provisions of the Barbers and
17 Cosmetologists Act and report results of investigation to the
18 board;

19 (3) approve the selection of and supervise
20 primary staff assigned to the board;

21 (4) carry out the operations of the board to
22 include budgetary expenditures;

23 (5) maintain records, including financial
24 records; and

25 (6) keep a licensee record in which the names,

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1 addresses and license numbers of all licensees shall be
2 recorded together with a record of all license renewals,
3 suspensions and revocations."

4 SECTION 3. Section 61-17A-7 NMSA 1978 (being Laws 1993,
5 Chapter 171, Section 7, as amended) is amended to read:

6 "61-17A-7. BOARD POWERS AND DUTIES.--

7 A. The board shall:

8 (1) adopt and file, in accordance with the
9 State Rules Act, rules necessary to carry out the provisions of
10 the Barbers and Cosmetologists Act;

11 (2) establish fees;

12 (3) provide for the examination, licensure and
13 license renewal of applicants for licensure;

14 (4) establish standards for and provide for
15 the examination, licensure and license renewal of manicurists-
16 pedicurists, estheticians and electrologists;

17 ~~[(5) adopt a seal;~~

18 ~~(6) furnish copies of rules and sanitary~~
19 ~~requirements adopted by the board to each owner or manager of~~
20 ~~an establishment, enterprise or school;~~

21 ~~(7)]~~ (5) keep a record of its proceedings and
22 a register of applicants for licensure;

23 ~~[(8)]~~ (6) provide for the licensure of
24 barbers, hairstylists, cosmetologists, manicurists-pedicurists,
25 estheticians, electrologists, instructors, schools, enterprises

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1 and establishments;

2 [~~(9)~~] (7) establish administrative penalties
3 and fines;

4 [~~(10)~~] (8) create and establish standards and
5 fees for special licenses;

6 [~~(11)~~] (9) establish guidelines for schools to
7 calculate tuition refunds for withdrawing students; and

8 [~~(12)~~] (10) issue cease and desist orders to
9 persons violating the provisions of the Barbers and
10 Cosmetologists Act and rules promulgated in accordance with
11 that act.

12 B. The board may establish continuing education
13 requirements as requirements for licensure.

14 C. A member of the board, its employees or agents
15 may enter and inspect a school, enterprise or establishment at
16 any time during regular business hours for the purpose of
17 determining compliance with the Barbers and Cosmetologists Act
18 and rules adopted by the board."

19 SECTION 4. Section 61-17A-8 NMSA 1978 (being Laws 1993,
20 Chapter 171, Section 8, as amended) is amended to read:

21 "61-17A-8. LICENSURE REQUIREMENTS--BARBERS.--

22 A. Except as provided in Subsection B of this
23 section, a barber license shall be issued to any person who
24 files a completed application, accompanied by the required fees
25 and documentation, and who:

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1 [~~(1)~~] ~~has an education equivalent to the~~
2 ~~completion of the second year of high school;~~

3 ~~(2)~~] (1) is at least seventeen years of age;

4 [~~(3)~~] (2) has completed a course in barbering
5 of at least one thousand two hundred hours, or equivalent
6 credits, in a school or apprenticeship approved by the board;
7 and

8 [~~(4)~~] (3) has passed an examination approved
9 by the board.

10 B. A barbering license shall be issued to a person
11 who files a completed application, accompanied by the required
12 fees and documentation, meets the requirements of Paragraphs
13 (1) through [~~(4)~~] (3) of Subsection A of this section and shows
14 proof of having successfully completed a registered barbering
15 apprenticeship approved by the state apprenticeship agency and
16 the board of barbers and cosmetologists.

17 C. The holder of a barber license has the right and
18 privilege to use the title "barber", and the initials "R.B."
19 following the holder's surname and to use a barber pole, the
20 traditional striped, vertical emblem of the barbering trade."

21 SECTION 5. Section 61-17A-8.1 NMSA 1978 (being Laws 2017,
22 Chapter 112, Section 2) is amended to read:

23 "61-17A-8.1. LICENSURE REQUIREMENTS--HAIRSTYLISTS.--

24 A. Except as provided in Subsection B of this
25 section, a hairstylist license shall be issued to a person who

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1 files a completed application, accompanied by the required fees
2 and documentation, and who:

3 ~~[(1) has an education equivalent to the~~
4 ~~completion of the second year of high school];~~

5 ~~(2)]~~ (1) is at least seventeen years of age;

6 ~~[(3)]~~ (2) has completed a course in
7 hairstyling of at least one thousand two hundred hours in a
8 school approved by the board; and

9 ~~[(4)]~~ (3) has passed an examination approved
10 by the board.

11 B. A hairstylist license shall be issued to a
12 person who files a completed application, accompanied by the
13 required fees and documentation, and meets the requirements of
14 Paragraphs (1) through ~~[(4)]~~ (3) of Subsection A of this
15 section.

16 C. The holder of a hairstylist license has the
17 right and privilege to use the title "hairstylist".

18 SECTION 6. Section 61-17A-9 NMSA 1978 (being Laws 1993,
19 Chapter 171, Section 9, as amended) is amended to read:

20 "61-17A-9. LICENSURE REQUIREMENTS--COSMETOLOGISTS.--

21 A. A cosmetologist license shall be issued to any
22 person who files a completed application, accompanied by the
23 required fees and documentation, and who:

24 (1) is at least seventeen years of age;

25 ~~[(2) has an education equivalent to the~~

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1 ~~completion of the second year of high school;~~

2 ~~(3)]~~ (2) has completed a course in cosmetology
3 of at least one thousand six hundred hours at a school approved
4 by the board; and

5 ~~[(4)]~~ (3) has passed an examination approved
6 by the board.

7 B. The name of a licensed cosmetologist may be
8 immediately followed by the initials "R.C.", as a right and
9 privilege of licensure."

10 SECTION 7. Section 61-17A-11 NMSA 1978 (being Laws 1993,
11 Chapter 171, Section 11, as amended) is amended to read:

12 "61-17A-11. LICENSURE OF INSTRUCTORS.--

13 A. A cosmetologist instructor license shall be
14 issued to any person who files a completed application,
15 accompanied by the required fees and documentation, and who:

16 (1) is a licensed cosmetologist;

17 ~~[(2) has completed at least a four-year high~~
18 ~~school course of study or its equivalent as approved by the~~
19 ~~board;~~

20 ~~(3)]~~ (2) has met all requirements established
21 by the board; and

22 ~~[(4)]~~ (3) has passed an examination approved
23 by the board.

24 B. A barber instructor license shall be issued to
25 any person who files a completed application, accompanied by

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1 the required fees and documentation, and who:

2 (1) is a licensed barber;

3 [~~(2)~~] ~~has completed at least a four-year high~~
4 ~~school course of study or its equivalent as approved by the~~
5 ~~board;~~

6 ~~(3)]~~ (2) has met all requirements established
7 by the board; and

8 [~~(4)]~~ (3) has passed an examination approved
9 by the board.

10 C. An electrologist instructor license shall be
11 issued to any person who files a completed application,
12 accompanied by the required fees and documentation, and who
13 submits satisfactory evidence of compliance with all
14 requirements established by the board.

15 D. The name of a licensed instructor may be
16 immediately followed by the initials "R.I.", as a right and
17 privilege of licensure."

18 SECTION 8. Section 61-17A-17 NMSA 1978 (being Laws 1993,
19 Chapter 171, Section 17, as amended) is amended to read:

20 "61-17A-17. LICENSURE UNDER PRIOR LAW--ENDORSEMENT.--

21 A. [~~Any~~] A person licensed as a barber, a
22 cosmetologist, an esthetician, an electrologist, an instructor
23 of cosmetology or barbering or an instructor of electrology, a
24 manicurist-pedicurist or [~~any~~] a person holding an
25 establishment license, clinic license or school owner's license

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1 under ~~[any]~~ prior laws of this state, which license is valid on
2 ~~[the effective date of the Barbers and Cosmetologists Act]~~ June
3 18, 1993, shall be held to be licensed under the provisions of
4 ~~[that]~~ the Barbers and Cosmetologists Act and shall be entitled
5 to the renewal of ~~[his]~~ the person's license as provided in
6 that act.

7 B. The board may grant a license pursuant to the
8 provisions of the Barbers and Cosmetologists Act without an
9 examination, upon payment of the required fee, provided that
10 the applicant:

11 (1) holds a current license from another
12 state, territory or possession of the United States or the
13 District of Columbia that has training hours and qualifications
14 similar to or exceeding those required for licensure in New
15 Mexico; and

16 (2) meets all other requirements for
17 reciprocity as determined by ~~[regulation]~~ rule of the board."

18 SECTION 9. Section 61-17A-18 NMSA 1978 (being Laws 1993,
19 Chapter 171, Section 18, as amended) is amended to read:

20 "61-17A-18. LICENSE TO BE DISPLAYED--NOTICE OF CHANGE OF
21 PLACE OF BUSINESS.--Every holder of a license issued pursuant
22 to the Barbers and Cosmetologists Act shall notify the
23 ~~[executive director]~~ department of any change in place of
24 business. ~~[Upon receipt of the notification, the executive~~
25 ~~director shall make the necessary change in the books] A~~

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1 license shall be displayed conspicuously at the holder's place
2 of business."

3 SECTION 10. Section 61-17A-19 NMSA 1978 (being Laws 1993,
4 Chapter 171, Section 19) is amended to read:

5 "61-17A-19. LICENSE NONTRANSFERABLE.--Each license shall
6 be issued under the authority of the Barbers and Cosmetologists
7 Act by the ~~[board]~~ department in the name of the licensee. The
8 license may not be the subject of a sale, transfer, assignment,
9 conveyance, lease, bequest, gift or other means of transfer."

10 SECTION 11. Section 61-17A-21 NMSA 1978 (being Laws 1993,
11 Chapter 171, Section 21, as amended) is amended to read:

12 "61-17A-21. GROUNDS FOR REFUSAL TO ISSUE, RENEW, SUSPEND
13 OR REVOKE A LICENSE.--

14 A. The board shall, in accordance with the
15 provisions of the Uniform Licensing Act, issue a fine or
16 penalty, restrict, refuse to issue or renew or shall suspend or
17 revoke a license for any one or more of the following causes:

18 (1) the commission of any offense described in
19 the Barbers and Cosmetologists Act;

20 (2) the violation of any sanitary regulation
21 promulgated by the board;

22 (3) malpractice or incompetency;

23 (4) advertising by means of knowingly false or
24 deceptive statements;

25 (5) ~~[habitual drunkenness or habitual~~

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1 ~~addiction to the use of habit-forming drugs]~~ working in a
2 capacity regulated pursuant to the provisions of the Barbers
3 and Cosmetologists Act while under the influence of
4 intoxicating liquor or drugs;

5 (6) continuing to practice in or be employed
6 by an establishment, an enterprise, a school or an electrology
7 clinic in which the sanitary [~~regulations~~] rules of the board,
8 of the department of health or of any other lawfully
9 constituted board or state agency, promulgated for the
10 regulation of establishments, enterprises, schools or
11 electrology clinics, are known by the licensee to be violated;

12 (7) default of a licensee on a student loan;

13 (8) gross continued negligence in observing
14 the rules and regulations;

15 (9) renting, loaning or allowing the use of
16 the license to any person not licensed under the provisions of
17 the Barbers and Cosmetologists Act;

18 (10) dishonesty or unfair or deceptive
19 practices;

20 (11) sexual, racial or religious harassment;

21 (12) conduct of illegal activities in an
22 establishment, enterprise, school or electrology clinic or by a
23 licensee; or

24 [~~(13) conviction of a crime involving moral~~
25 ~~turpitude; or~~

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