

CHAPTER 97

Original House Bill No. 215

COSMETOLOGY REVISION

AN ACT to create W.S. 33-12-119 through 33-12-140; and to repeal W.S. 33-12-101 through 33-12-118 relating to cosmetology; providing definitions; providing for the issuing, renewal, revocation or suspension of licenses for cosmetology salons, schools, practitioners and instructors; providing for licensing, examination and other fees; creating the state board of cosmetology and defining its duties; granting rulemaking authority; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-12-119 through 33-12-140 are created to read:

CHAPTER 12

COSMETOLOGY

33-12-119. Citation. This act shall be known and may be cited as the "Wyoming Cosmetology Act".

33-12-120. Definitions.

(a) As used in this act:

(i) "Applicant" means the person, persons or entity applying for a license, examination or appointment;

(ii) "Application" means a form prescribed by the board used for making a request for licensure, examination or appointment;

(iii) "Board" means the state board of cosmetology;

(iv) "Cosmetologist" means a person who engages in any of the practices of cosmetology and who is licensed under this act;

(v) "Cosmetology" means services performed for others for the improvement and beautification of the hair, skin and nails of the human body;

(vi) "Instructor" means a person licensed to teach cosmetology;

(vii) "License" means a current document recognizing the cosmetologist, instructor, salon or school has met the qualifications required for doing business in this state;

(viii) "Model" means a person who volunteers to allow a licensed cosmetologist or student enrolled in a cosmetology school to perform cosmetology services without cost;

(ix) "Patron" means a paying customer in a cosmetology salon or school;

(x) "Salon" means any place licensed under this act in which cosmetology is practiced;

(xi) "School" means any place licensed under this act where cosmetology is taught to students;

(xii) "Student" means a person enrolled in a school licensed under this act;

(xiii) "This act" means W.S. 33-12-119 through 33-12-140.

33-12-121. Board; membership; appointment; qualifications; term of office.

(a) The board shall consist of three (3) members appointed by the governor. Each member shall be a cosmetologist licensed in Wyoming, and at least one (1) shall be an instructor licensed in Wyoming. Each member of the board shall be a resident of Wyoming with at least five (5) years experience as a cosmetologist immediately preceding the appointment. Appointments shall represent various geographical areas of Wyoming. The term of each appointee shall be three (3) years, unless sooner removed from the board, or until a successor is appointed. The members of the board holding office on the effective date of this act shall serve as members for the remainder of their respective terms.

(b) No member of the board shall be affiliated with or hold interest in any cosmetology school while serving as a member of the board.

(c) Vacancies shall be filled for the unexpired term. The governor shall remove any board member whose cosmetology license has been suspended or revoked. The governor may, after hearing, remove any board member for neglect of duty or other just cause.

33-12-122. Election of board officers. The board shall meet after each appointment and elect one (1) of their members as president, one (1) vice-president, and one (1) recording secretary.

33-12-123. Duties of board members.

(a) Within the limitations and authority granted by this act, the board shall:

(i) Develop rules setting uniform and reasonable standards of competency for the practice and teaching of cosmetology, for the operation of salons and schools, and procedures for its own conduct;

(ii) Administer examinations to determine competency for licensure of cosmetologists and instructors;

(iii) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this act and board rules;

(iv) Determine and administer appropriate disciplinary action against all individuals found to have violated this act or rules promulgated hereunder as provided by W.S. 33-12-135;

(v) Annually inspect, or appoint persons to inspect, all salons and schools for proper licensure of the salon, school and all cosmetologists or instructors practicing or teaching and for the purpose of determining compliance with the provisions of this act and board rules;

(vi) Determine fees as authorized by W.S. 33-12-139;

(vii) Employ an executive director and approve such additional staff as may be necessary to administer and enforce the provisions of this act and board rules.

33-12-124. Meetings. A majority of the board constitutes a quorum for meetings and the transaction of business. The act of the majority of members shall be the act of the board. The board shall meet as often as needed, but not less than four (4) times a year. At least three (3) weeks prior to each meeting, written notice of the meeting shall be published in three (3) newspapers in the state. The board shall keep permanent records of its meetings.

33-12-125. Assistants; inspectors; salaries.

(a) The board may employ and fix the duties and remuneration of inspectors, clerical or administrative assistants as deemed necessary to implement this act or the rules of the board.

(b) Board members shall receive as salary the sum paid each day to legislators, or an equivalent hourly wage, together with per diem and mileage allowance as allowed to state employees, when actually engaged in official board duties.

33-12-126. Executive director; duties; accountability; compensation. The board shall employ an executive director who shall be responsible for the administration of this act and rules of the board, and other duties as the board may direct. The executive director shall be a cosmetologist licensed in Wyoming and qualified by education and experience. The executive director may act in the board's behalf during the period between meetings on matters of licensure, applications for examination and other administrative functions. The executive director shall be responsible for the coordination and security of board examinations, shall assist the board members with adoption of rules and regulations, shall assist in legislative matters, shall attend board meetings and assist in implementation of board decisions. The annual salary of the executive director shall be determined by the state personnel division. The executive director shall receive mileage and per diem allowance for expenses incurred in the performance of official duties as provided for other state employees.

33-12-127. Licenses required; failure to comply; fines.

(a) From and after the effective date of this act, no person shall engage in the practice or instruction of cosmetology, and no place shall be maintained and operated for the practice or teaching of cosmetology, except under a license issued in compliance with this act and the rules adopted pursuant to this act.

(b) No school or salon shall employ, hire or in any manner allow any individual to practice or teach cosmetology unless that individual has a current license to practice or teach cosmetology.

- (c) The licenses required in subsections (a) and (b) of this section shall:
 - (i) Be issued in the name of the licensed cosmetologist, the instructor, the owner of the salon or the owner of the school;
 - (ii) State the licensing and expiration dates; and
 - (iii) Be displayed at all times in a conspicuous place in the principal office, place of business or employment of the licensee.
- (d) Any person who practices or teaches cosmetology for compensation, or who carries on any business, practice or operation governed by this act, without a license when a license is required, is guilty of a misdemeanor punishable, upon conviction, by a fine of not more than seven hundred fifty dollars (\$750.00).

33-12-128. Form; expiration; renewal of license. The board shall prescribe the form and expiration date of licenses. Licenses may be renewed by submitting the required application for renewal and fee to the board before the license expiration date. If a cosmetologist or instructor license is allowed to expire, the license may be renewed within a period of ninety (90) days after the expiration date, but after the expiration of ninety (90) days from the date the license expired the license shall lapse.

33-12-129. Expired and lapsed licenses; relicensure. If a salon or school license is allowed to expire a reinstatement fee for late renewal shall be imposed. A cosmetologist or instructor license which has lapsed may be reinstated subject to payment of a reinstatement fee in addition to license fees for the lapsed period. Any person whose license has lapsed for five (5) years or more, and who does not qualify for licensure by endorsement, shall be required to complete a refresher course of one hundred (100) hours at a licensed school before applying for examination and shall then be required to take the board examination.

33-12-130. Licensure by examination.

- (a) An applicant for admission to board examination shall meet the following requirements:
 - (i) Be a graduate of a cosmetology school and have met training requirements comparable to those set forth in board rules;
 - (ii) Submit proper credentials as required by the board no less than ten (10) days before the examination is to be given;
 - (iii) Pay the required fee for examination.
- (b) The board shall issue a license to persons successfully passing the board licensing examination.

33-12-131. Time, place and scope of examinations.

(a) Examinations shall be held at least six (6) times a year at a time and place designated by the board. The examinations shall be conducted by the board or a majority thereof.

(b) The examinations shall not be confined to any specific method or system, may consist of written, oral and performance examinations and

shall be of such scope and character as to disclose that any person passing the examination is qualified to receive a cosmetologist or instructor license.

33-12-132. Licensure by endorsement. An applicant for a license to practice cosmetology in Wyoming who is a qualified and currently licensed cosmetologist in another state, upon submitting an application to the board together with a certification from the board or licensing agency of the state in which the applicant is licensed and payment of the required fee, may receive a cosmetologist license by endorsement without examination in this state. An applicant from another state which does not require a board examination for licensure, or an applicant who did not attend a licensed cosmetology school, shall not obtain a Wyoming license by endorsement.

33-12-133. Foreign applicants. Applicants licensed or trained in a foreign country shall present an English translation of the requirements they met in that country. The credentials shall be presented to the board for consideration, and a determination as to what requirements are necessary to obtain a license in Wyoming shall be made.

33-12-134. Promulgation of rules.

(a) The board shall prescribe rules to implement this act in accordance with the Wyoming Administrative Procedure Act.

(b) The board shall prescribe sanitation rules necessary to prevent the spread of infectious and contagious diseases. All sanitation rules shall be subject to approval of the division of health and medical services of the department of health and social services.

33-12-135. Powers to revoke, refuse, suspend, refuse to renew licenses; grounds; procedures.

(a) The board may revoke, suspend or refuse to renew a license issued pursuant to this act after twenty (20) days notice and a hearing, held pursuant to the provisions of W.S. 16-3-101 through 16-3-115, for the violation of this act or any rule of the board by any person or entity holding a license. The board may require the attendance of witnesses and the production of books, records or papers it determines necessary for any investigation of any violation of this act or rule of the board. Any member of the board may administer oaths to witnesses appearing to testify before the board or before any board member.

(b) The board may refuse to grant a license to any person guilty of fraud, cheating or unfair practices in passing the examination, or who has at any time been found guilty of a felony or of grossly unprofessional or dishonest conduct, or to anyone addicted to the use of intoxicating liquor or drugs to such an extent as to render him unfit to practice or teach cosmetology, or to anyone advertising by means of statements known to be false or deceptive practices, or for the failure of any person, salon or school to display required licenses and inspection certificates.

33-12-136. Right of entry. Any member of the board, its agents or assistants may enter into and inspect any school or salon at any time during business hours.

33-12-137. Annual report to governor. The board shall report to the governor respecting all receipts, expenditures and activities of the board as required by W.S. 9-2-103.

33-12-138. Publications.

(a) The board shall:

(i) Provide a copy of appropriate statutes and rules to every licensed cosmetologist, salon and school. Additional copies shall be made available upon payment of a fee for the publication;

(ii) Prepare and maintain a current list of the names and addresses of all cosmetologists licensed in Wyoming, the names and addresses of the members of the board and their terms of office. The list shall be available for inspection and copying and for reproduction in whole or in part upon payment of the cost of reproduction.

33-12-139. Fees; disposition of fees.

(a) All fees shall be determined by the board, not to exceed the following limitations:

(i) Examination fee	\$ 40.00;
(ii) Cosmetologist license	\$ 40.00;
(iii) Instructor license	\$ 40.00;
(iv) Salon license	\$ 50.00;
(v) School license	\$200.00;
(vi) Endorsement fee	\$100.00;
(vii) License reinstatement fee	\$100.00.

(b) The board shall set fees sufficient to recover costs for the publication and distribution of registers, lists and booklets, for records and affidavits processed, and for educational programs.

(c) Each fee required shall be paid in advance and shall be received and collected as provided by law. The state treasurer shall place two percent (2%) of the money in the state's general fund, and the remainder in an account within the earmarked revenue fund.

33-12-140. Exemptions.

(a) Nothing in this act shall prohibit services rendered by licensed physicians, nurses, dentists, podiatrists, chiropractors, physical therapists, morticians or barbers when exclusively engaged in the practice of their respective professions.

(b) The provisions of this act shall not apply to employees, volunteers and residents of hospitals, health care facilities, nursing homes, senior citizen centers, convalescent or boarding homes or other similar facilities who render services to residents or members of these facilities on the premises.

(c) The provisions of this act shall not apply to persons engaged in demonstrating the use of any cosmetic or beauty aid or equipment for the purpose of offering for sale to the public such cosmetic or beauty aid or equipment, or to a person engaged in the business of or receiving compensation for facial makeup applications only.

Section 2. W.S. 33-12-101 through 33-12-118 are repealed.

Section 3. This act is effective May 23, 1985.

Approved February 18, 1985.