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HOUSE BILL NO. 1399

Offered January 13, 2006

A *BILL to amend and reenact §§ 54.1-700 and 54.1-702 of the Code of Virginia and §§ 54.1-701, 54.1-703, 54.1-704.1, 54.1-704.2, 54.1-705, and 54.1-706 of the Code of Virginia, as they are currently effective and as they shall become effective, and to amend the Code of Virginia by adding a section numbered 54.1-703.4, relating to Board for Barbers and Cosmetology; regulation of laser or light therapy technicians.*

Patron—Hargrove

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700 and 54.1-702 of the Code of Virginia and §§ 54.1-701, 54.1-703, 54.1-704.1, 54.1-704.2, 54.1-705, and 54.1-706 of the Code of Virginia, as they are currently effective and as they shall become effective, are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 54.1-703.4 as follows:

§ 54.1-700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

"Braiding salon" means any commercial establishment, residence, vehicle, or other establishment, place, or event wherein hair braiding is offered or practiced on a regular basis for compensation.

"Braiding school" means a place or establishment licensed by the Board to accept and train students and which offers a hair braiding curriculum approved by the Board.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, braids, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, braiding, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands

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59 or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting,
60 combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of
61 the wig or hairpiece.

62 "Cosmetology instructor" means a person who has been certified by the Board as having completed
63 an approved curriculum and who meets the competency standards of the Board as an instructor of
64 cosmetology.

65 "Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment,
66 place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may
67 include the training of apprentices under regulations of the Board.

68 (Effective July 1, 2007) "Esthetician" means a person who engages in the practice of esthetics for
69 compensation.

70 (Effective July 1, 2007) "Esthetics" includes, but is not limited to, the following practices of
71 administering cosmetic treatments to enhance or improve the appearance of the skin: cleansing, toning,
72 performing effleurage or other related movements, stimulating, exfoliating, or performing any other
73 similar procedure on the skin of the human body or scalp by means of cosmetic preparations, treatments,
74 any nonlaser device, electrical, mechanical, or manual, for care of the skin; applying make-up or
75 eyelashes to any person, tinting or perming eyelashes and eyebrows, and lightening hair on the body
76 except the scalp; and removing unwanted hair from the body of any person by the use of tweezing,
77 chemical, or mechanical means. However, "esthetics" is not a healing art and shall not include any
78 practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, or
79 chiropractic. The terms "healing arts," "practice of medicine," "practice of osteopathic medicine," and
80 "practice of chiropractic" shall mean the same as those terms are defined in § 54.1-2900.

81 (Effective July 1, 2007) "Esthetics instructor" means a licensed esthetician who has been certified by
82 the Board as having completed an approved curriculum and who meets the competency standards of the
83 Board as an instructor of esthetics.

84 (Effective July 1, 2007) "Esthetics spa" means any commercial establishment, residence, vehicle, or
85 other establishment, place, or event wherein esthetics is offered or practiced on a regular basis for
86 compensation under regulations of the Board.

87 "Hair braider" means a person who engages in the practice of hair braiding on a regular basis for
88 compensation.

89 "Hair braiding" means the braiding, twisting, wrapping, weaving, extending, or locking of natural
90 human hair by hand or mechanical device, provided that the service does not include hair cutting or the
91 application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to
92 straighten, curl, or alter the structure of the hair.

93 *"Laser or light therapy" means the nonabrasive photo-rejuvenation of the skin or the removal of hair*
94 *by selective photothermolysis, using laser or light therapy devices.*

95 *"Laser or light therapy clinic" means any commercial establishment, residence, vehicle, or other*
96 *establishment, place, or event, wherein laser or light therapy is offered or practiced on a regular basis*
97 *for compensation.*

98 *"Laser or light therapy instructor" means a licensed laser or light therapy technician certified by the*
99 *Board as having completed an approved curriculum and who meets the competency standards of the*
100 *Board as an instructor of laser or light therapy.*

101 *"Laser or light therapy school" means a place or establishment licensed by the Board to accept and*
102 *train students and that offers a laser or light therapy curriculum approved by the Board.*

103 *"Laser or light therapy technician" means any person who for compensation performs laser or light*
104 *therapy applications.*

105 (Effective July 1, 2007) "Master esthetician" means a licensed esthetician who, in addition to the
106 practice of esthetics, offers to the public for compensation, without the use of laser technology,
107 lymphatic drainage, chemical exfoliation, or microdermabrasion, and who has met such additional
108 requirements as determined by the Board to practice lymphatic drainage, chemical exfoliation with
109 products other than Schedules II through VI controlled substances as defined in the Drug Control Act
110 (§ 54.1-3400 et seq.), and microdermabrasion of the epidermis.

111 "Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

112 "Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or
113 event wherein nail care is offered or practiced on a regular basis for compensation and may include the
114 training of apprentices under regulations of the Board.

115 "Nail school" means a place or establishment licensed by the board to accept and train students in
116 nail care.

117 "Nail technician" means any person who for compensation manicures or pedicures natural nails, or
118 who performs artificial nail services for compensation, or any combination thereof.

119 "Nail technician instructor" means a licensed nail technician who has been certified by the Board as
120 having completed an approved curriculum and who meets the competency standards of the Board as an

instructor of nail care.

"Physical (wax) depilatory" means the wax depilatory product or substance used to remove superfluous hair.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

(Effective July 1, 2007) "School of esthetics" means a place or establishment licensed by the Board to accept and train students and which offers an esthetics curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

"Wax technician" means any person licensed by the Board who removes hair from the hair follicle using a physical (wax) depilatory or by tweezing.

"Wax technician instructor" means a licensed wax technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of waxing.

"Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

"Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein waxing is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

§ 54.1-701. (Effective until July 1, 2007) Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;

2. Registered nurses licensed to practice in the Commonwealth *performing activities under this chapter as part of their official duties in a medical facility under the responsibility of persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic*;

3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, hair braiders, *laser or light therapy technicians*, barber instructors, cosmetology instructors, wax technician instructors or, nail technician instructors, *or laser or light therapy instructors* who practice only on inmates of or patients in such sanatoria or institutions;

4. Persons licensed as funeral directors or embalmers in the Commonwealth;

5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, hair braider, tattooer, or body-piercer, *or laser or light therapy technician*;

6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, waxing, hair braiding, tattooing, or body-piercing, *or laser light therapy*;

7. Persons working in a cosmetology salon whose duties are expressly confined to hair braiding or the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;

8. Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, or hair braiding salon licensed by the Board in accordance with the Board's regulations; and

9. Schools of barbering, nail care, waxing, cosmetology, or hair braiding in public schools.

§ 54.1-701. (Effective July 1, 2007) Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;

2. Registered nurses licensed to practice in the Commonwealth *performing activities under this chapter as part of their official duties in a medical facility under the responsibility of persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic*;

3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, hair braiders, estheticians, *laser or light therapy technicians*, barber instructors, cosmetology instructors, wax

182 technician instructors, nail technician instructors, ~~or~~ esthetics instructors, *or laser or light therapy*
183 *instructors* who practice only on inmates of or patients in such sanatoria or institutions;

184 4. Persons licensed as funeral directors or embalmers in the Commonwealth;

185 5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, hair braider,
186 tattooer, body-piercer, ~~or~~ esthetician, *or laser or light therapy technician*;

187 6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology,
188 waxing, hair braiding, tattooing, body-piercing, ~~or~~ esthetics, *or laser or light therapy*;

189 7. Persons working in a cosmetology salon whose duties are expressly confined to hair braiding or
190 the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;

191 8. Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, hair braiding
192 salon, or esthetics spa licensed by the Board in accordance with the Board's regulations;

193 9. Schools of barbering, nail care, waxing, cosmetology, or hair braiding in public schools; and

194 10. Persons whose activities are confined solely to applying make-up, including such activities that
195 are ancillary to applying make-up.

196 § 54.1-702. Board for Barbers and Cosmetology; membership; officers; quorum.

197 A. The Board for Barbers and Cosmetology shall be composed of ~~four~~ members as follows: two
198 members shall be licensed barbers, one of whom may be an owner or operator of a barber school; two
199 members shall be licensed cosmetologists, at least one of whom shall be a salon owner and one of
200 whom may be an owner or operator of a cosmetology school; one member shall be a licensed nail
201 technician or a licensed cosmetologist engaged primarily in the practice of nail care, each of whom shall
202 have been licensed in their respective professions for at least three years immediately prior to
203 appointment; one member shall be either a licensed tattooer or a licensed body-piercer; two members
204 shall be licensed estheticians, at least one of whom shall be an esthetics salon owner and one of whom
205 may be an owner, operator, or designated representative of a licensed esthetics school; *one member shall*
206 *be a licensed laser or light therapy technician*; and two citizen members. The terms of Board members
207 shall be four years. No member shall serve for more than two full successive terms. The Board shall
208 elect a chairman and a vice-chairman. A majority of the Board shall constitute a quorum.

209 B. The Governor shall appoint to the Board two estheticians who have practiced as an esthetician for
210 at least five consecutive years immediately prior to appointment, effective July 1, 2005. The esthetician
211 members shall not vote on any matters before the Board, except matters related to esthetics, until July 1,
212 2007.

213 Of the esthetician members initially appointed to the Board, one shall be appointed for a term of two
214 years. Thereafter, all such appointments shall be for terms of four years, except that appointment to fill
215 vacancies shall be for the unexpired terms.

216 C. *The Governor shall appoint to the Board one laser or light therapy technician who has practiced*
217 *as a laser or light therapy technician for at least five consecutive years immediately prior to*
218 *appointment, effective July 1, 2006. The laser or light therapy technician member shall not vote on any*
219 *matters before the Board, except matters related to laser or light therapy, until July 1, 2008.*

220 § 54.1-703. (Effective until July 1, 2007) License required.

221 No person shall offer to engage in or engage in barbering, cosmetology, nail care, waxing, hair
222 braiding, tattooing, ~~or~~ body-piercing, *or laser or light therapy* without a valid license issued by the
223 Board, except as provided in § 54.1-701.

224 § 54.1-703. (Effective July 1, 2007) License required.

225 No person shall offer to engage in or engage in barbering, cosmetology, nail care, waxing, hair
226 braiding, tattooing, body-piercing, ~~or~~ esthetics, *or laser or light therapy* without a valid license issued by
227 the Board, except as provided in § 54.1-701.

228 § 54.1-703.4. Waiver of examination; *laser or light therapy technician*.

229 *The Board shall waive the examination requirements for licensure as a laser or light therapy*
230 *technician for any individual who (i) makes application for licensure between July 1, 2008, and July 1,*
231 *2009; (ii) otherwise complies with Board regulations relating to moral turpitude; and (iii) meets any of*
232 *the following conditions:*

233 1. *Has at least three years of documented work experience as a laser or light therapy technician that*
234 *is deemed satisfactory by the Board;*

235 2. *Has completed a training program that is deemed satisfactory by the Board; or*

236 3. *Holds an unexpired certificate of registration, certification, or license as a laser or light therapy*
237 *technician issued to him on the basis of comparable requirements by a proper authority of a state,*
238 *territory, or possession of the United States or the District of Columbia.*

239 § 54.1-704.1. (Effective until July 1, 2007) License required for barbershop, cosmetology salon, nail
240 care salon, waxing salon, hair braiding salon, tattoo parlor, body-piercing salon, and laser or light
241 therapy clinic.

242 No individual or entity shall operate a barbershop, cosmetology salon, nail care salon, waxing salon,
243 hair braiding salon, tattoo parlor, ~~or~~ body-piercing salon, *or laser or light therapy clinic* without a valid

license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, nail technician, waxing technician, tattooer, ~~or~~ body-piercer, *or laser or light therapy technician* who does not have an ownership interest in a licensed barbershop, cosmetology salon, nail care salon, waxing salon, hair braiding salon, tattoo parlor, ~~or~~ body-piercing salon, *or laser or light therapy clinic* in which he is employed.

§ 54.1-704.1. (Effective July 1, 2007) License required for barbershop, cosmetology salon, nail care salon, waxing salon, hair braiding salon, tattoo parlor, body-piercing salon, esthetics spa, laser or light therapy clinic.

No individual or entity shall operate a barbershop, cosmetology salon, nail care salon, waxing salon, hair braiding salon, tattoo parlor, body-piercing salon, ~~or~~ esthetics spa, *or laser or light therapy clinic* without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, nail technician, waxing technician, tattooer, body-piercer, ~~or~~ esthetician, *or laser or light therapy technician* who does not have an ownership interest in a licensed barbershop, cosmetology salon, nail care salon, waxing salon, hair braiding salon, tattoo parlor, body-piercing salon, ~~or~~ esthetics spa, *or laser or light therapy clinic* in which he is employed.

§ 54.1-704.2. (Effective until July 1, 2007) License required for schools of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, body-piercing, laser or light therapy.

Except as provided in § 54.1-701, no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, ~~or~~ body-piercing, *or laser or light therapy* unless licensed by the Board pursuant to its regulations.

§ 54.1-704.2. (Effective July 1, 2007) License required for schools of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, body-piercing, esthetics, or laser or light therapy.

Except as provided in § 54.1-701, no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, body-piercing, ~~or~~ esthetics, *or laser or light therapy* unless licensed by the Board pursuant to its regulations.

§ 54.1-705. (Effective until July 1, 2007) Inspections.

A. Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, waxing salon, nail care salon, hair braiding salon, tattoo parlor, ~~and~~ body-piercing salon, *and laser or light therapy clinic* in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action.

B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, waxing salons and schools, nail care salons and schools, hair braiding salons and schools, tattoo parlors and schools, ~~and~~ body-piercing salons and schools, *and laser or light therapy clinics and schools* for compliance with regulations promulgated by the Board.

C. The Board shall specify procedures for enforcement of compliance with the disease control and disclosure requirements of § 18.2-371.3, including unannounced inspections by appropriate personnel.

D. The Board or the Virginia Department of Health, or an affiliated local health department, may regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons.

§ 54.1-705. (Effective July 1, 2007) Inspections.

A. Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, waxing salon, nail care salon, hair braiding salon, tattoo parlor, body-piercing salon, ~~and~~ esthetics spa, *and laser or light therapy clinic* in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action.

B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, waxing salons and schools, nail care salons and schools, hair braiding salons and schools, tattoo parlors and schools, body-piercing salons and schools, ~~and~~ esthetics spas and schools, *and laser or light therapy clinics and schools* for compliance with regulations promulgated by the Board.

C. The Board shall specify procedures for enforcement of compliance with the disease control and disclosure requirements of § 18.2-371.3, including unannounced inspections by appropriate personnel.

D. The Board or the Virginia Department of Health, or an affiliated local health department, may regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons.

§ 54.1-706. (Effective until July 1, 2007) Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, ~~and~~ body-piercing, *and laser or light therapy*.

305 § 54.1-706. (Effective July 1, 2007) Different requirements for licensure.

306 The Board shall have the discretion to impose different requirements for licensure for the practice of
307 barbering, cosmetology, nail care, waxing, hair braiding, tattooing, body-piercing, ~~and~~ esthetics, *and*
308 *laser or light therapy*.

309 **2. That the provisions of this act shall become effective on July 1, 2008, except that the provisions**
310 **of § 54.1-702 shall become effective on July 1, 2006.**

311 **3. That the Board for Barbers and Cosmetology shall promulgate regulations to implement the**
312 **provisions of this act to be effective on or before July 1, 2008.**