

**BARBERS AND COSMETOLOGISTS
BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION**

**TITLE 37, CHAPTER 31
BARBERING, COSMETOLOGY, ELECTROLOGY,
ESTHETICS, AND MANICURING**

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CHAPTER 31

BARBERING, COSMETOLOGY, ELECTROLOGY, ESTHETICS, AND MANICURING

Chapter Administrative Rules

Title 24, chapter 121, ARM Board of Barbers and Cosmetologists.

Chapter Case Notes

Constitutionality: Former Title 37, ch. 30, is within state's police powers; it was not rendered unconstitutional as discriminatory by fact that those practicing barbering within state at time of its passage were not required to pass an examination while defendant, who was so practicing in another state at that date, was required to pass an examination. *St. v. Bays*, 100 M 125, 47 P2d 50 (1935).

Chapter Attorney General's Opinions

Self-Government Powers — Professional Licensing — Conflict With State Statutes: The city of Helena, operating under a home rule charter, passed an ordinance requiring a license fee of all city businesses. State statutes that prohibit municipalities from imposing license fees on certain professions did not apply because the statutes were not made specifically applicable to self-government units. Home rule governments have all powers not specifically denied by the Montana Constitution, law, or charter. 39 A.G. Op. 60 (1982).

Chapter Law Review Articles

Montana Supreme Court Survey (*Bell v. St.*), Snyder, 41 Mont. L. Rev. 155 (1980).

Voluntary Cosmetics Regulation Flawed, Shoop, 26 Trial 98 (1990).

Part 1

General

37-31-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.
- (2) "Booth" means any part of a salon or shop that is rented or leased for the performance of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring services, as specified in 39-51-204.
- (3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (4) (a) "Electrology" means the study of and the professional practice of permanently removing superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle. Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the use of chemical depilatories.
(b) Electrology does not include pilethermology, which is the study and professional practice of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.
- (5) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.
- (6) "Esthetics" means skin care of the body, including but not limited to hot compresses or the use of approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.
- (7) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and the application and maintenance of artificial nails.

(8) "Place of residence" means a home and the following residences defined under 50-5-101:

- (a) an assisted living facility;
- (b) an intermediate care facility for the developmentally disabled;
- (c) a hospice;
- (d) a critical access hospital;
- (e) a long-term care facility; or
- (f) a residential treatment facility.

(9) "Practice or teaching of barbering" means any of the following practices performed for payment, either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of disease or physical or mental ailments:

- (a) shaving or trimming a beard;
- (b) cutting, styling, coloring, or waving hair;
- (c) straightening hair by the use of chemicals;
- (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations applied by hand or mechanical appliance;
- (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or
- (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands, or neck.

(10) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as provided in subsection (9) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.

(11) (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.

(b) The practice and teaching of cosmetology may not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state of Montana as a store or place of business.

(12) (a) "Salon or shop" means the physical location in which a person licensed under this chapter practices barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

(b) The term does not include a room provided in a place of residence that is used for the purposes of barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring unless the owner, manager, or operator allows the room to be used for the practice of barbering or barbering nonchemical or the practice of cosmetology to serve nonresidents for compensation, in which case the room must be licensed as a salon or a shop.

(13) "School" means a program and location approved by the board with respect to its course of instruction for training persons in barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring and that meets any other criteria established by the board.

History: En. Sec. 2, Ch. 104, L. 1929; re-en. Sec. 3228.2, R.C.M. 1935; amd. Sec. 2, Ch. 222, L. 1939; amd. Sec. 2, Ch. 20, L. 1955; amd. Sec. 2, Ch. 244, L. 1961; amd. Sec. 1, Ch. 175, L. 1974; amd. Sec. 64, Ch. 350, L. 1974; R.C.M. 1947, 66-802; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 1, Ch. 260, L. 1985; amd. Sec. 1, Ch. 602, L. 1985; amd. Sec. 2, Ch. 88, L. 1989; amd. Sec. 1, Ch. 473, L. 1993; amd. Sec. 1, Ch. 305, L. 1997; amd. Sec. 17, Ch. 491, L. 1997; amd. Sec. 137, Ch. 483, L. 2001; amd. Sec. 5, Ch. 243, L. 2003; amd. Sec. 1, Ch. 36, L. 2007; amd. Sec. 2, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in definitions of booth, salon or shop in three places, and school inserted references to barbering nonchemical; inserted definition of practice or teaching of barbering nonchemical; and made minor changes in style. Amendment effective October 1, 2015.

2007 Amendment: Chapter 36 inserted definition of place of residence; in definition of salon or shop inserted (b) providing that a salon or shop does not include a room in a place of residence except under certain conditions; and made minor changes in style. Amendment effective October 1, 2007.

2003 Amendment: Chapter 243 in definition of board inserted "barbers and"; in definition of booth substituted "salon or shop" for "cosmetology, manicuring, or esthetics salon", added barbering and electrology to the listed services, and substituted "39-51-204" for "39-51-204(1)(e)"; deleted definition of cosmetology salon that read: "'Cosmetology salon" means the premises, a building, or a part of a building in which a branch or combination of branches of cosmetology or the occupation of a hairdresser and

cosmetician or cosmetologist is practiced by a person licensed under the provisions of this chapter"; inserted definition of electrology; in definition of esthetics substituted "body" for "face, neck, and hands"; deleted definition of esthetics salon that read: "'Esthetics salon' means the premises, a building, or a part of a building in which the art of esthetics is practiced"; in definition of manicuring substituted "care of the nails, the hands, the lower arms, the feet, and the lower legs" for "nail care of the hands and feet"; deleted definition of manicuring salon that read: "'Manicuring salon' means the premises, a building, or a part of a building in which the art of manicuring is practiced"; inserted definition of practice or teaching of barbering; in definition of practice or teaching of cosmetology substituted "salons or shops" for "cosmetology salons" and at end substituted "and body" for "scalp, face, arms, feet, or hands"; inserted definitions of salon or shop and school; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

2001 Amendment: Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "part 17" for "part 18"; and made minor changes in style. Amendment effective July 1, 2001.

1997 Amendments: Chapter 305 in definition of booth inserted references to esthetics salon and to manicuring and esthetics services; in definition of cosmetology salon, at end, substituted "is practiced by a person licensed under the provisions of this chapter" for "and that must have a manager-operator in charge"; inserted definitions of esthetician, esthetics, and esthetics salon; in definition of practice and teaching of cosmetology, near beginning, inserted "esthetics"; and made minor changes in style.

Chapter 491 in definition of booth, at end, substituted "39-51-204(1)(e)" for "39-51-204(1)(l)". Amendment effective January 1, 1998.

Preamble: The preamble attached to Ch. 491, L. 1997, provided: "WHEREAS, House Bill No. 98 (Ch. 48, L. 1995), enacted by the 54th Legislature, excluded direct sellers from minimum wage, overtime, unemployment insurance, and workers' compensation requirements; and

WHEREAS, the Legislature in House Bill No. 98 adopted the federal definition of direct seller to apply to relevant Montana statutes; and

WHEREAS, ARM 24.11.831 narrowed the scope of the federal definition of direct seller; and

WHEREAS, an original purpose of this House Bill No. 561 was to codify the narrower definition of direct seller; and

WHEREAS, this House Bill No. 561 is the appropriate place to repeal Rule 24.11.831, Administrative Rules of Montana."

Severability: Section 36, Ch. 491, L. 1997, was a severability clause.

Saving Clause: Section 37, Ch. 491, L. 1997, was a saving clause.

1993 Amendment: Chapter 473 in definition of booth substituted "cosmetology salon" for "cosmetological establishment" and substituted "salon" for "shop"; substituted cosmetology salon as defined term for cosmetological establishment; in definition of manicuring salon substituted "salon" for "shop"; in definition of practice and teaching of cosmetology substituted "cosmetology salons" for "so-called hairdressing and beauty shops"; and made minor changes in style.

1989 Amendment: In first sentence of definition of practice and teaching of cosmetology, after "beauty shops", inserted "booths"; inserted definition of booth; and made minor changes in form.

1985 Amendments: Chapter 260 deleted former (1)(b) that read: "cosmetological artists who demonstrate cosmetological skills under the auspices of the state association of cosmetology or its affiliated units, whether at meetings or in licensed cosmetological establishments"; and made minor changes in punctuation and phraseology.

Chapter 602 in (1), after "'hairdressing'" inserted "'manicuring'" and after "arms" inserted "feet"; deleted former (1)(b); inserted (5) defining manicuring; and inserted (6) defining manicuring shop.

Chapter 602 amendment effective January 1, 1986.

1981 Amendment: Substituted "department of commerce" for "department of professional and occupational licensing" in (4); changed internal references to the department and the board.

Administrative Rules

ARM 24.121.301 Definitions.

Attorney General's Opinions

Sex of Client Not Determinative — Exceptions: The sex of the client does not determine whether the service is barbering or cosmetology except as provided in 37-30-101 (now repealed). 34 A.G. Op. 58 (1972).

Shampooing, Dyeing Male's Hair: Only licensed barbers may singe, shampoo, apply tonic to, or dye the hair of a male person. 34 A.G. Op. 58 (1972). (See 37-31-102.)

37-31-102. Exemptions. The provisions of this chapter do not prohibit:

- (1) service in case of emergency or domestic administration without compensation;
- (2) services by persons authorized under the laws of this state to practice dentistry, the healing arts, or mortuary science; or
- (3) barbering, cosmetology, or esthetics services, including the application of masks, makeup, or other theatrical devices, in the course of or incidental to a theatrical or other visual arts production, including television or motion pictures, by persons employed or under contract to provide these services.

History: En. Sec. 18, Ch. 104, L. 1929; re-en. Sec. 3228.18, R.C.M. 1935; amd. Sec. 2, Ch. 101, L. 1977; R.C.M. 1947, 66-818; amd. Sec. 6, Ch. 243, L. 2003; amd. Sec. 2, Ch. 244, L. 2003.

Compiler's Comments

2003 Amendments — Composite Section: Chapter 243 deleted former (3) that read: "(3) services by barbers lawfully engaged in the performance of the usual and ordinary duties of their vocation or in cutting women's hair"; and made minor changes in style. Amendment effective October 1, 2003.

Chapter 244 inserted (3) relating to barbering, cosmetology, and esthetics; and made minor changes in style. Amendment effective April 8, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

37-31-103. Purpose. It is a matter of legislative policy in the state of Montana that the practice of barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring affects the public health, safety, and welfare and is subject to regulation and control in order to protect the public from unauthorized and unqualified practice.

History: En. Sec. 3, Ch. 243, L. 2003; amd. Sec. 3, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 inserted reference to barbering nonchemical. Amendment effective October 1, 2015.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

Effective Date: This section is effective October 1, 2003.

Part 2

Board of Barbers and Cosmetologists

Part Cross-References

Seal defined, 1-4-201.

Adoption and publication of rules, Title 2, ch. 4, part 3.

Allocation of boards for administrative purposes, 2-15-121.

Quasi-judicial boards, 2-15-124.

Board established, 2-15-1747.

Duties of Department, Director, and boards, Title 37, ch. 1, part 1.

Part Administrative Rules

Title 24, chapter 121, subchapter 1, ARM Organizational rule.

Title 24, chapter 121, subchapter 2, ARM Procedural rules.

37-31-201. Organization — seal. (1) The board shall annually, before March 1, elect from its number a president, vice-president, and secretary-treasurer.

(2) The board shall adopt a seal and authenticate its acts.

History: (1)En. Sec. 5, Ch. 104, L. 1929; re-en. Sec. 3228.5, R.C.M. 1935; amd. Sec. 5, Ch. 222, L. 1939; amd. Sec. 66, Ch. 350, L. 1974; Sec. 66-805, R.C.M. 1947; (2)En. Sec. 6, Ch. 104, L. 1929; re-en. Sec. 3228.6, R.C.M. 1935; amd. Sec. 2, Ch. 80, L. 1941; amd. Sec. 5, Ch. 244, L. 1961; amd. Sec. 67, Ch. 350, L. 1974; amd. Sec. 1, Ch. 305, L. 1977; Sec. 66-806, R.C.M. 1947; R.C.M. 1947, 66-805, 66-806(2).

37-31-202. Compensation of members — expenses. Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133.

History: En. Sec. 9, Ch. 104, L. 1929; re-en. Sec. 3228.9, R.C.M. 1935; amd. Sec. 8, Ch. 222, L. 1939; amd. Sec. 135, Ch. 147, L. 1963; amd. Sec. 1, Ch. 133, L. 1967; amd. Sec. 1, Ch. 224, L. 1974; amd. Sec. 70, Ch. 350, L. 1974; amd. Sec. 28, Ch. 439, L. 1975; amd. Sec. 1, Ch. 531, L. 1977; R.C.M. 1947, 66-809(part); amd. Sec. 25, Ch. 474, L. 1981.

Compiler's Comments

1981 Amendment: Substituted section (see 1981 Session Law) for former text that read: "Each member of the board may receive as compensation for his services the sum of \$25 per day for each day in actual attendance at any meeting of the board. In addition, each member shall be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, necessarily incurred in the performance of official duties".

Board Compensation and Travel Expenses — Preamble: The preamble of SB 463 (Ch. 474, L. 1981), which provided for uniform compensation and travel expenses for Board members, is located in the compiler's comments under 37-1-133.

37-31-203. Rulemaking powers. The board shall prescribe rules for:

- (1) the conduct of board business;
- (2) the qualification and licensure of applicants to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring or to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring;
- (3) the regulation and instruction of apprentices and students;
- (4) the conduct of schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring for apprentices and students;
- (5) the qualification and licensure of applicants for booth rental licenses; and
- (6) generally the conduct of the persons, firms, or corporations affected by this chapter.

History: En. Sec. 6, Ch. 104, L. 1929; re-en. Sec. 3228.6, R.C.M. 1935; amd. Sec. 2, Ch. 80, L. 1941; amd. Sec. 5, Ch. 244, L. 1961; amd. Sec. 67, Ch. 350, L. 1974; amd. Sec. 1, Ch. 305, L. 1977; R.C.M. 1947, 66-806(1); amd. Sec. 15, Ch. 22, L. 1979; amd. Sec. 2, Ch. 602, L. 1985; amd. Sec. 3, Ch. 88, L. 1989; amd. Sec. 2, Ch. 305, L. 1997; amd. Sec. 7, Ch. 243, L. 2003; amd. Sec. 82, Ch. 467, L. 2005; amd. Sec. 4, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in (2) in two places and in (4) inserted "barbering nonchemical"; and made minor changes in style. Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 in (2) after "qualification" deleted "examination" and after "and" substituted "licensure" for "registration"; in (5) after "qualification and" substituted "licensure" for "registration"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in (2) inserted the practice of barbering and electrology and the teaching of barbering and electrology; deleted former (3) that read: "(3) the qualification and registration of applicants for manager-operator licenses"; in (4) inserted references to barbering and electrology; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (2) inserted references to esthetics practice applicants and to manicuring or esthetics teaching applicants; in (5) inserted reference to esthetics schools; and made minor changes in style.

1989 Amendment: Inserted (6) regarding rules for booth rental licenses; and made minor changes in form.

1985 Amendment: In (2) after "practice", inserted "cosmetology or manicuring"; and in (5) after "schools of cosmetology", inserted "and schools of manicuring". Amendment effective January 1, 1986.

Statement of Intent: The statement of intent attached to Ch. 602, L. 1985, provided: "A statement of intent is required for this bill because it grants the board of cosmetologists the authority to make rules regarding the practice and teaching of manicuring. Currently Title 37, chapter 31, allows for the licensing of practitioners, teachers, and schools of cosmetology. It is the intent of this bill to license those persons

wishing to practice manicuring apart from the practice of cosmetology and to require that only a person who holds a valid license to teach cosmetology may teach manicuring to such persons. It is contemplated that rules adopted by the board should address the following:

- (1) types of programs required for practicing or teaching manicuring or operating a school of manicuring, such as classroom instruction and examination;
- (2) standards for determining programs to be approved for the fulfillment of the requirements, such as adequacy of facilities, qualification of instructors, and course content;
- (3) the number of hours of instruction required;
- (4) the basic content and the passing grade for any examination required;
- (5) preparation of a written application to be filed for examination and practice of manicuring; and
- (6) methods of monitoring compliance."

Administrative Rules

Title 24, chapter 121, ARM Board of Barbers and Cosmetologists.

Case Notes

Administrative Rule More Stringent Than Statute Held Invalid: An administrative rule (adopted prior to the 1981 amendment reducing the period of apprenticeship from 1 year to 3 months, prior to the 1983 amendment providing for temporary certificates, and prior to the 1985 amendment eliminating the apprenticeship requirement) of the Board of Barbers requiring a year's apprenticeship served in a "commercial barbershop" prior to examination, as opposed to a year's apprenticeship served "under the immediate personal supervision of a licensed barber" as required by 37-30-301 (now repealed) and 37-30-305 (now repealed), is invalid because it does not satisfy the test as required in 2-4-305 that a rule must be "reasonably necessary to effectuate the purpose of the statute". *Bd. of Barbers v. Big Sky College of Barber-Styling*, 192 M 159, 626 P2d 1269, 38 St. Rep. 621 (1981).

Administrative Rule Exceeding Statutory Authority — Barbers: Administrative regulations are inconsistent with legislative guidelines if they engraft additional requirements on the statute that were not envisioned by the Legislature. Where the statutes (prior to enactment in 1983 of the requirement for an instructor's examination) set forth experience and character requirements for a barber school operator but did not mention an instructor's examination, an administrative rule requiring such an examination was void. *Bell v. St.*, 182 M 21, 594 P2d 331, 36 St. Rep. 880 (1979).

Attorney General's Opinions

City Licensing: A city can license local aspects of interstate commerce if not a direct burden or impediment, but enterprises preempted by state regulation are not subject to city licensing. 37 A.G. Op. 100 (1977).

37-31-204. Sanitary rules. The board, subject to the approval of the department of public health and human services, shall prescribe sanitary rules that it considers necessary, with particular reference to the precautions necessary to be employed to prevent the creation and spread of infectious and contagious diseases.

History: En. Sec. 12, Ch. 104, L. 1929; re-en. Sec. 3228.12, R.C.M. 1935; amd. Sec. 72, Ch. 350, L. 1974; R.C.M. 1947, 66-812; amd. Sec. 68, Ch. 418, L. 1995; amd. Sec. 97, Ch. 546, L. 1995.

Compiler's Comments

1995 Amendments: Chapter 418 substituted "department of public health" for "department of health and environmental sciences"; and made minor changes in style. Amendment effective July 1, 1995.

Chapter 546 substituted "department of public health and human services" for "department of health and environmental sciences". Amendment effective July 1, 1995.

Transition: Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

Saving Clauses: Section 503, Ch. 418, L. 1995, was a saving clause.

Section 571, Ch. 546, L. 1995, was a saving clause.

Administrative Rules

Title 24, chapter 121, subchapter 15, ARM Sanitary standards.

Part 3 Licensing

Part Cross-References

- Contested case as including licensing, 2-4-102.
- Adoption and publication of rules, Title 2, ch. 4, part 3.
- Contested case procedure, Title 2, ch. 4, part 6.
- Licensing to follow contested case procedure, 2-4-631.
- Unfair trade practices and consumer protection, Title 30, ch. 14.
- Duty of Department to administer and grade examinations and to investigate unprofessional conduct, 37-1-101.
- Reporting disciplinary actions against licensees, 37-1-105.
- Duties of Director in investigation of unethical conduct, 37-1-121.
- Duty of Board to adopt and enforce licensing and certification rules and to adopt rules on conduct, 37-1-131.
- Licensing boards to establish fees commensurate with costs, 37-1-134.
- Licensing investigation and review — record access, 37-1-135.
- Disciplinary authority of boards — injunctions, 37-1-136.
- Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.
- Licensure of criminal offenders, Title 37, ch. 1, part 2.
- Nondiscrimination in licensing, 49-3-204.

37-31-301. Prohibited acts. (1) Without an appropriate license issued under this chapter, it is unlawful to:

- (a) practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation;
- (b) own, manage, operate, or conduct a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring;
- (c) manage or operate a salon or shop or a booth; or
- (d) teach in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

(2) It is unlawful:

- (a) for a person who owns, manages, or controls a salon or shop to employ or use an unlicensed person as a barber, a barber nonchemical, a cosmetologist, an electrologist, an esthetician, or a manicurist;
- (b) to operate a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring without complying with all of the regulations of 37-31-311;
- (c) to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring in any place other than in a licensed salon or shop as provided in this chapter, except when a licensee is requested:
 - (i) by a customer to go to a place other than a licensed salon or shop and is sent to the customer from a licensed salon or shop; or
 - (ii) by a customer with a disability or homebound customer to go to the customer's place of residence; or
- (d) to violate any of the provisions of this chapter.

History: En. Sec. 17, Ch. 104, L. 1929; amd. Sec. 1, Ch. 13, L. 1931; re-en. Sec. 3228.17, R.C.M. 1935; amd. Sec. 14, Ch. 222, L. 1939; amd. Sec. 1, Ch. 140, L. 1959; R.C.M. 1947, 66-817(A), (B); amd. Sec. 3, Ch. 602, L. 1985; amd. Sec. 4, Ch. 88, L. 1989; amd. Sec. 1, Ch. 23, L. 1993; amd. Sec. 2, Ch. 473, L. 1993; amd. Sec. 3, Ch. 305, L. 1997; amd. Sec. 28, Ch. 472, L. 1997; amd. Sec. 8, Ch. 243, L. 2003; amd. Sec. 5, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 throughout section inserted references to barbering nonchemical; and made minor changes in style. Amendment effective October 1, 2015.

2003 Amendment: Chapter 243 in (1)(a) inserted references to barbering, electrology, esthetics, and manicuring; in (1)(b) inserted references to barbering and electrology; in (1)(c) substituted "salon or shop or a booth" for "cosmetology salon, manicuring salon, esthetics salon, or booth"; in (1)(d) inserted references to barbering and electrology; deleted (1)(e) through (1)(g) that read: "(e) practice manicuring for compensation;

(f) practice as a finger-waver; or

(g) practice esthetics for compensation"; in (2)(a) substituted "salon or shop" for "cosmetology salon" and inserted references to barbers and electrologists; in (2)(b) inserted references to schools of barbering, electrology, esthetics, and manicuring; in (2)(c) inserted references to barbering, electrology, esthetics, and manicuring, after "salon" inserted "or shop", and substituted "licensee" for "licensed operator"; in (2)(c)(i) in two places after "salon" inserted "or shop"; deleted former (2)(d) through (2)(f) that read: "(d) for a person who owns, manages, or controls a manicuring salon to employ or use an unlicensed person as a manicurist;

(e) for a person who owns, manages, or controls an esthetics salon to employ or use an unlicensed person as an esthetician;

(f) to operate a manicuring school or a school of esthetics without complying with 37-31-311"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendments: Chapter 305 in (1)(b), (1)(d), and (2)(f) inserted reference to esthetics school; in (1)(c) inserted "esthetics salon"; inserted (1)(g) providing that it is unlawful to practice esthetics for compensation without a license; inserted (2)(e) prohibiting a person who owns, manages, or controls an esthetics salon to employ or use an unlicensed person as an esthetician; and made minor changes in style.

Chapter 472 in (2)(c)(ii) substituted "customer with a disability" for "handicapped".

1993 Amendments: Chapter 23 inserted (2)(c)(ii) to allow home-visit cosmetology for handicapped or homebound customers; and made minor changes in style.

Chapter 473 in two places in (1)(c) and once in (2)(a) and (2)(d) substituted "salon" for "shop"; in (1)(c), at end, deleted "beauty parlor"; in (2)(c) and (2)(c)(i), in two places, substituted "salon" for "establishment"; and made minor changes in style.

1989 Amendment: In (1)(c), after "manicuring shop", inserted "booth".

1985 Amendment: In (1)(b) and (1)(d), at end inserted "or school of manicuring"; in (1)(c), after "cosmetology shop" inserted "manicuring shop"; in (1)(e), after "manicuring" inserted "for compensation"; in (2)(a), at end after "cosmetologist" inserted "or manicurist"; inserted (2)(d) making it unlawful to employ unlicensed manicurist; and inserted (2)(e) making it unlawful to operate school without complying with 37-31-311. Amendment effective January 1, 1986.

37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license or a temporary operating permit as provided in 37-31-312.

(4) A person may not operate or conduct a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a license. The application must be accompanied by the license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid.

History: En. Sec. 1, Ch. 104, L. 1929; re-en. Sec. 3228.1, R.C.M. 1935; amd. Sec. 1, Ch. 222, L. 1939; amd. Sec. 1, Ch. 80, L. 1941; amd. Sec. 1, Ch. 211, L. 1945; amd. Sec. 1, Ch. 20, L. 1955; amd. Sec. 1, Ch. 244, L. 1961; amd. Sec. 1, Ch. 85, L. 1974; amd. Sec. 63, Ch. 350, L. 1974; R.C.M. 1947, 66-801; amd. Sec. 4, Ch. 106, L. 1981; amd. Sec. 4, Ch. 602, L. 1985; amd. Sec. 5, Ch. 88, L. 1989; amd. Sec. 3, Ch. 473, L. 1993; amd. Sec. 4, Ch. 305, L. 1997; amd. Sec. 38, Ch. 492, L. 1997; amd. Sec. 9, Ch. 243, L. 2003; amd. Sec. 1, Ch. 194, L. 2005; amd. Sec. 83, Ch. 467, L. 2005; amd. Sec. 6, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 throughout section after "barbering" inserted "barbering nonchemical"; and made minor changes in style. Amendment effective October 1, 2015.

2005 Amendments — Composite Section: Chapter 194 in (3) at end after "license" inserted "or a temporary operating permit as provided in 37-31-312". Amendment effective April 7, 2005.

Chapter 467 in (2) near end after "compensation" substituted "unless licensed" for "except under a certificate of registration"; and in (6) at end of first sentence before "license" deleted "certificate of registration and" and at end of second sentence before "fee" substituted "license" for "registration". Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 throughout section inserted references to barbering and electrology; in (2) at end inserted "as a school"; in (3) substituted "salon or shop" for "cosmetology salon, a manicuring salon, or an esthetics salon or practice cosmetology, manicuring, or esthetics"; in (4) near middle after "or teach" deleted "the art of"; in (6) near beginning inserted "or other legal entity" and substituted "a salon or shop shall apply" for "a cosmetology salon shall make an application"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendments: Chapter 305 in (1) and (2) inserted reference to esthetics; in (3) inserted references to esthetics salon and to the practice of esthetics and near end, before "license", deleted "manager-operator"; in (4) inserted references to esthetics school, teaching of esthetics, and license to teach manicuring or esthetics; and made minor changes in style.

Chapter 492 in (6), in second sentence after "accompanied by the", deleted "annual". Amendment effective July 1, 1997.

Preamble: The preamble attached to Ch. 492, L. 1997, provided: "WHEREAS, the Legislature finds that delays in licensing board responses to complaints of misconduct by licensees and unlicensed practice that result in frustration on behalf of the public, licensees, and boards is caused by a lack of personnel to assist with compliance issues; and

WHEREAS, licensing boards collect and accumulate sufficient funds from the fees charged to licensees to meet the cost of compliance and enforcement personnel, but these same boards often lack the authority to expend the funds that they collect; and

WHEREAS, the delayed processing and the accumulating complaint backlog have a deleterious effect on the productivity and reputation of the licensees; and

WHEREAS, the Legislature finds that certain licensing boards need to be granted temporary spending authority to address the delayed processing and accumulated complaint backlog; and

WHEREAS, a uniformly flexible approach to license renewal scheduling would also reduce frustration on the part of licensees and the public that they serve; and

WHEREAS, inflexible examination dates for license applicants in the plumbing and electrical fields have caused undue hardship with no discernable [sic] public benefit; and

WHEREAS, the Committee on Business and Labor desires to alleviate these and other related problems by appropriating funds for certain professional and occupational boards that need additional compliance specialists, by allowing the Department of Commerce [now Department of Labor and Industry] to establish license renewal dates by rule, and by allowing electrical and plumbing apprentices to take the examination required for licensure before the apprenticeships expire."

1993 Amendment: Chapter 473 in (3) substituted "cosmetology salon" for "beauty shop" and substituted "manicuring salon" for "manicuring shop"; in (6) substituted "cosmetology salon" for "cosmetological establishment"; and made minor changes in style.

1989 Amendment: Inserted (5) requiring a booth rental license; and made minor changes in form.

1985 Amendment: In (1) after "cosmetology", inserted "or practice or teach manicuring"; in (2) after "cosmetology", inserted "or manicuring"; in (3) substituted language providing that a person must have a manager-operator license to operate or manage a beauty or manicuring shop or to practice cosmetology or manicuring for former text that read: "No person may operate, manage, or conduct a beauty shop or school and teach the art or practice without a manager-operator license"; and inserted (4) requiring license to operate school of or teach cosmetology or manicuring. Amendment effective January 1, 1986.

1981 Amendment: At the end of (3), deleted the requirement that a manager-operator license not be issued unless the applicant has been engaged in or teaching the practice of cosmetology in this state for 1 year.

37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring shall file an application provided by the department and pass the examination prescribed by the board to qualify for licensure.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(3); amd. Sec. 5, Ch. 602, L. 1985; amd. Sec. 6, Ch. 88, L. 1989; amd. Sec. 10, Ch. 243, L. 2003; amd. Sec. 84, Ch. 467, L. 2005; amd. Sec. 7, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 inserted "barbering nonchemical". Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 near middle after "application" substituted "provided by the department" for "prescribed by the board" and deleted former second sentence that read: "The license must be renewed in accordance with the provisions of 37-31-322"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in first sentence substituted "a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring" for "a license to practice or teach cosmetology or for a license to practice manicuring" and at end inserted "in order to qualify for licensure"; in second sentence substituted "in accordance with the provisions of" for "annually under"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1989 Amendment: At end of first sentence, after "board", deleted "and given by the department, subject to 37-1-101".

1985 Amendment: At beginning substituted "An applicant for a license to practice or teach cosmetology or for a license to practice manicuring" for "The applicant". Amendment effective January 1, 1986.

Administrative Rules

ARM 24.121.601 Licensure by examination.

ARM 24.121.603 Out-of-state applicants.

ARM 24.121.607 Application for instructor license.

37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

- (a) barbering, the person shall obtain a license to practice barbering from the department;
- (b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from the department;
- (c) cosmetology, the person shall obtain a license to practice cosmetology from the department;
- (d) electrology, the person shall obtain a license to practice electrology from the department;
- (e) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology; or
- (f) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) (i) To be eligible to take the examination to practice barbering or barbering nonchemical, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(ii) An applicant to practice barbering must have completed a course of study of at least 1,100 hours in a licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board by rule.

(iii) An applicant to practice barbering nonchemical must have completed a course of study of at least 900 hours in a licensed barbering or barbering nonchemical school, not including hours applicable to the use of chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a

diploma from the barbering or barbering nonchemical school or must have completed the course of study in barbering or barbering nonchemical at a school of cosmetology authorized to offer a course of study in barbering or barbering nonchemical as prescribed by the board by rule.

(b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering or barbering nonchemical.

(c) The board shall issue a license to practice barbering or barbering nonchemical, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board by rule.

(b) A person qualified under subsection (3)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a licensed school of cosmetology or a licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a licensed school of cosmetology or a licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(1); amd. Sec. 2, Ch. 260, L. 1985; amd. Sec. 6, Ch. 602, L. 1985; amd. Sec. 34, Ch. 658, L. 1987; amd. Sec. 1, Ch. 520, L. 1989; amd. Sec. 4, Ch. 473, L. 1993; amd. Sec. 26, Ch. 308, L. 1995; amd. Sec. 5, Ch. 305, L. 1997; amd. Sec. 11, Ch. 243, L. 2003; amd. Sec. 85, Ch. 467, L. 2005; amd. Sec. 8, Ch. 15, L. 2015; amd. Sec. 1, Ch. 260, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 260 in (2)(a)(ii) substituted "1,100 hours" for "1,500 hours"; in (2)(a)(iii) substituted "900 hours" for "1,000 hours"; and in (3)(a) substituted "1,500 hours" for "2,000 hours". Amendment effective October 1, 2017.

2015 Amendment: Chapter 15 inserted (1)(b) regarding a barbering nonchemical license; in (2)(a)(i), (2)(b), and (2)(c) after "barbering" inserted "or barbering nonchemical"; in (2)(a)(ii) substituted "An applicant to practice barbering" for "The applicant" and at end inserted "by rule"; inserted (2)(a)(iii) regarding requirements for an applicant to practice barbering nonchemical; in (3)(a) at end inserted "by rule"; and made minor changes in style. Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 in (2)(a) in fourth sentence after "hours in a" substituted "licensed" for "registered"; in (2)(b) near middle after "file" substituted "an application" for "a written application"; in (3)(a) in fourth sentence after "hours in a" substituted "licensed" for "registered"; in (3)(b) and in (4)(b) near middle after "file" substituted "an application" for "a written application"; in (5)(a) in second sentence in two places substituted reference to licensed school for reference to registered school; in (5)(b) near middle after "file" substituted "an application" for "a written application"; in (6)(a) in second sentence in two places substituted reference to licensed school for reference to registered school; in (6)(b) near middle after "file" substituted "an application" for "a written application"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in (1) inserted first sentence providing that a person must obtain a license from the department before practicing barbering and inserted third sentence providing that a person must obtain a license from the department before practicing electrology; inserted (2)(a) stating the qualifications for the barbering examination and procedures for licensure; inserted (4)(a) stating the qualifications for the electrology examination; inserted (4)(b) requiring an application and an application fee and passage of a fitness examination; in (5)(a) in first sentence at end deleted "or a certificate of completion from a vocational-technical program"; in (5)(b) at end inserted "and pass an examination as to fitness to practice manicuring"; in (6)(a) in first sentence at end deleted "or a certificate of completion from a vocational-technical program" and in third sentence at end deleted "or a vocational-technical program certificate of completion"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (1), at end, inserted third sentence concerning requirement of a license to practice esthetics unless the person already has a license to practice cosmetology; and inserted (4) stating eligibility requirements for taking an exam to practice esthetics and providing that a qualified exam applicant must file a written exam application, deposit the required exam fee, and pass the exam.

1995 Amendment: Chapter 308 in two places in (3)(a) substituted "vocational-technical program" for "vocational-technical center". Amendment effective July 1, 1995.

1993 Amendment: Chapter 473 in (2)(a), near beginning of first sentence after "moral character, and must" deleted "have completed 2 years of high school or" and after "possess" inserted "a high school diploma or", inserted second and third sentences relating to the educational exception, and in fourth sentence, before "course of study", deleted "continuous", in two places substituted "cosmetology school" for "beauty school", and after "registered cosmetology school" deleted "which course of study has been distributed over a period of not less than 10 months or more than 14 months"; in (3)(a), at end, inserted last two sentences relating to the exception for the educational requirement; and made minor changes in style.

1989 Amendment: In first sentence of (2)(a), after "years of age", deleted "a graduate of the 8th grade" and after "character" inserted "and must have completed 2 years of high school or possess the equivalent of a high school diploma recognized by the superintendent of public instruction", and at end of (2)(a), after "board", deleted "of public education".

1987 Amendment: Before "vocational-technical" deleted "postsecondary".

1985 Amendments: Chapters 260 and 602 near middle of (2)(b) after "application to take the examination", deleted "accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the department".

Chapter 602 in (1) substituted entire text (see 1985 Session Law) for former text that read: "Before one may practice or teach cosmetology or a person, firm, partnership, or corporation may operate a school of cosmetology, the person, firm, partnership, or corporation must obtain a license or certificate of registration from the department"; in (2)(b) at beginning substituted "A person qualified under subsection (2)(a)" for "The person qualified"; inserted (3)(a) stating eligibility requirements to take

manicurist's examination; and inserted (3)(b) requiring applicant to file written application for examination and to pay fee. Chapter 602 amendment effective January 1, 1986.

Administrative Rules

- ARM 24.121.403 General requirements.
- ARM 24.121.601 Licensure by examination.
- ARM 24.121.603 Out-of-state applicants.
- ARM 24.121.607 Application for instructor license.
- ARM 24.121.807 School curricula.

37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach or instruct in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the person shall obtain from the department a license to teach.

(2) To be eligible for a license to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction;

(b) have a license to practice issued by the department in the particular area of practice in which the person plans to teach;

(c) have been actively engaged in that particular area of practice for 12 continuous months before taking the teacher's examination; and

(d) (i) have received a diploma from a licensed school approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license under this subsection (2)(d)(ii) has 2 years to complete board-approved coursework related to teaching methodology before a license to teach is renewed.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(2); amd. Sec. 5, Ch. 106, L. 1981; amd. Sec. 3, Ch. 260, L. 1985; amd. Sec. 7, Ch. 602, L. 1985; amd. Sec. 5, Ch. 473, L. 1993; amd. Sec. 6, Ch. 305, L. 1997; amd. Sec. 12, Ch. 243, L. 2003; amd. Sec. 86, Ch. 467, L. 2005; amd. Sec. 8, Ch. 100, L. 2011; amd. Sec. 2, Ch. 102, L. 2013; amd. Sec. 9, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in (1) and (2) after "barbering" inserted "barbering nonchemical". Amendment effective October 1, 2015.

2013 Amendment: Chapter 102 inserted (2)(d)(ii) regarding experience and time for completion of coursework; and made minor changes in style. Amendment effective October 1, 2013.

2011 Amendment: Chapter 100 in (1) near middle after "may teach" substituted reference to instruction in either of five types of schools for "manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology" and at end deleted "cosmetology"; in (2) near beginning after "eligible" substituted reference to license to teach any of five subjects for "to take an examination to obtain a license to teach cosmetology"; in (2)(b) after "practice" deleted "cosmetology" and after "department" substituted reference to particular teaching area for "and have received a diploma from a licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training"; in (2)(c) substituted current text for "have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination"; inserted (2)(d) regarding receipt of diploma; deleted former (3) through (8) relating to qualifications for teaching manicuring, esthetics, barbering, and electrology (see 2011 Session Law for former text); and made minor changes in style. Amendment effective October 1, 2011.

2005 Amendment: Chapter 467 in (1)(b)(i) near middle after "from a" substituted "licensed" for "registered"; and in (4)(b)(i), (6)(b)(i), and (7)(b)(i) near middle after "from a" deleted "registered". Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 inserted (7) and (8) providing criteria for eligibility to take an examination to obtain a license to teach barbering or electrology; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (1) inserted two references to esthetics; inserted (3) requiring a license to teach manicuring to a person seeking only to be licensed to practice manicuring unless the teacher is already licensed to teach cosmetology; inserted (4) stating eligibility requirements for taking an exam to teach manicuring; inserted (5) requiring a license to teach esthetics to a person seeking only to be licensed to practice esthetics unless the teacher is already licensed to teach cosmetology; inserted (6) stating eligibility requirements for taking an exam to teach esthetics; and made minor changes in style.

1993 Amendment: Chapter 473 in (2)(b)(ii) substituted "cosmetologist" for "beauty operator"; and made minor changes in style.

1985 Amendments: Chapter 260 in (2)(b)(i) after "department", deleted "been actively engaged as a beauty operator for 1 continuous year immediately prior to taking the examination", and increased hours of training from 500 to 650.

Chapter 602 in (1) and introductory clause of (2), substituted language (see 1985 Session Law) for former text that read: "Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he must."; renumbered subsections; and in (2)(b)(i) made same deletion as Ch. 260. Chapter 602 amendment effective January 1, 1986.

1981 Amendment: Changed "an operator's license" to "a license" at the beginning of (2)(a).

37-31-306. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. 66-808.1 by Sec. 5, Ch. 533, L. 1977; R.C.M. 1947, 66-808.1; amd. Sec. 6, Ch. 106, L. 1981.

37-31-307. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(5); amd. Sec. 1, Ch. 460, L. 1979; amd. Sec. 7, Ch. 106, L. 1981; amd. Sec. 1, Ch. 29, L. 1989.

37-31-308. Exemption for persons with disabilities. A person with a physical disability who is trained for barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services is, for a period of 1 year immediately following graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary license to practice the profession in this state.

History: (1), (3)En. Sec. 8, Ch. 104, L. 1929; amd. Sec. 1, Ch. 85, L. 1935; re-en. Sec. 3228.8, R.C.M. 1935; amd. Sec. 7, Ch. 222, L. 1939; amd. Sec. 69, Ch. 350, L. 1974; Sec. 66-808, R.C.M. 1947; (2)En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; Sec. 66-803, R.C.M. 1947; R.C.M. 1947, 66-803(4), 66-808; amd. Sec. 8, Ch. 106, L. 1981; amd. Sec. 4, Ch. 260, L. 1985; amd. Sec. 8, Ch. 602, L. 1985; amd. Sec. 7, Ch. 88, L. 1989; amd. Sec. 6, Ch. 473, L. 1993; amd. Sec. 98, Ch. 546, L. 1995; amd. Sec. 7, Ch. 305, L. 1997; amd. Sec. 29, Ch. 472, L. 1997; amd. Sec. 13, Ch. 243, L. 2003; amd. Sec. 87, Ch. 467, L. 2005; amd. Sec. 10, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in two places inserted "barbering nonchemical". Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 deleted former (1) that read: "(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services"; near end of second sentence after "necessary" deleted "certificate or"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 throughout section inserted references to barbering and electrology; in (1) deleted former second sentence that read: "The examinations must be supervised by the board", inserted third sentence allowing the board to contract for examination and grading services, and deleted last sentence that read: "The examinations must be conducted by persons who hold current licenses to practice in the profession for which the applicant is being examined"; deleted former (2)

through (4) that read: "(2) Anyone failing twice to pass the examination for a license to practice cosmetology may not apply to retake the examination:

(a) sooner than 6 months after the date of the second failure; or

(b) until the applicant has taken 200 hours additional training at a registered school of cosmetology approved by the board.

(3) Anyone failing twice to pass the examination for a license to practice manicuring or a license to practice esthetics shall meet the additional requirements prescribed by the board before applying to retake the examination.

(4) Anyone failing twice to pass the examination for a license to teach cosmetology, manicuring, or esthetics shall wait 1 year before reapplying to take the examination. Upon reapplying, the applicant shall provide certification of completion of 500 hours of teacher training during that year in a registered school licensed as a teacher training unit"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendments: Chapter 305 in (1) inserted references to an esthetics practice license and to a manicuring or esthetics teaching license; in (3) inserted "or a license to practice esthetics"; in (4) inserted reference to manicuring and esthetics teaching licenses; in (5), near beginning and near end, inserted references to esthetics; and made minor changes in style.

Chapter 472 in (5), at beginning, substituted "Persons with physical disabilities" for "Physically handicapped persons".

1995 Amendment: Chapter 546 in (5), in three places, substituted "department of public health and human services" for "department of social and rehabilitation services". Amendment effective July 1, 1995.

Saving Clause: Section 571, Ch. 546, L. 1995, was a saving clause.

1993 Amendment: Chapter 473 in (5), near end, substituted "cosmetology school" for "beauty school"; and made minor changes in style.

1989 Amendment: In second sentence of (1) substituted "supervised" for "conducted" and substituted "board" for "department, subject to 37-1-101" and inserted fourth sentence relating to persons who conduct examinations.

1985 Amendments: Chapters 260 and 602 in (1) in first sentence, after "practice", inserted "or to teach cosmetology", near middle of sentence, after "held at", substituted "places and times" for "a place and time", at end of sentence after "board", deleted "at least two times a year and not more than five times a year and for teacher's license once each year"; in (2) after "examination", inserted "for a license to practice cosmetology"; in (2)(b) before "training", deleted "teacher"; and inserted (4) requiring applicant who twice fails examination for license to teach cosmetology to reapply.

Chapter 602 in (1) in first sentence, after "license to practice", inserted "cosmetology or manicuring"; inserted (3) requiring applicant who twice fails examination for manicurist's license to meet additional requirements before reapplying; in (5), near beginning, after "cosmetology", inserted "or manicuring"; and near end, after "required", substituted "training in a beauty school or manicuring school" for "apprenticeship or training in a shop or beauty school". Chapter 602 amendment effective January 1, 1986.

1981 Amendment: Substituted "a license to practice" for "operator's license" near the beginning of the first sentence of (1).

37-31-309. Booth rental license. (1) A person may not receive a booth rental license under 37-31-302 without proving to the satisfaction of the board that the booth will be used and maintained in compliance with the rules and regulations promulgated by the board, including sanitary rules prescribed under 37-31-204.

(2) A booth rental license that is not renewed within 1 year of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained. The provisions of 37-1-141 do not apply to this subsection.

History: En. Sec. 9, Ch. 88, L. 1989; amd. Sec. 9, Ch. 100, L. 2011.

Compiler's Comments

2011 Amendment: Chapter 100 inserted (2) regarding termination of booth rental license; and made minor changes in style. Amendment effective October 1, 2011.

37-31-310 reserved.

37-31-311. Schools — license — requirements — bond — curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation unless licensed by the department. Application for the license must be filed with the department on an approved form.

(2) A school for teaching barbering or barbering nonchemical may not be granted a license unless the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering or barbering nonchemical.

(c) It maintains a school term of not less than 1,100 hours for barbering and not less than 900 hours for barbering nonchemical and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board by rule.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering or barbering nonchemical.

(3) A school for teaching cosmetology may not be granted a license unless the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 1,500 hours and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board by rule.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a license unless the school maintains a school term and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board by rule.

(5) A school for teaching manicuring may not be granted a license unless the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and a course of practical training and technical instruction as prescribed by the board by rule.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a license unless the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses for schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of \$5,000 and in a form and manner prescribed by the board by rule.

(11) A professional salon or shop may not be operated in connection with a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in licensed schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(6) thru (8); amd. Sec. 9, Ch. 602, L. 1985; amd. Sec. 7, Ch. 473, L. 1993; amd. Sec. 8, Ch. 305, L. 1997; amd. Sec. 14, Ch. 243, L. 2003; amd. Sec. 88, Ch. 467, L. 2005; amd. Sec. 11, Ch. 15, L. 2015; amd. Sec. 2, Ch. 260, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 260 in (2)(c) substituted "1,100 hours" for "1,500 hours" and substituted "900 hours" for "1,000 hours"; and in (3)(c) substituted "1,500 hours" for "2,000 hours". Amendment effective October 1, 2017.

2015 Amendment: Chapter 15 throughout section inserted references to barbering nonchemical; in (2)(c) inserted "for barbering and not less than 1,000 hours for barbering nonchemical"; in (2)(c), (3)(c), (4), (5)(b), and (10) at end inserted "by rule"; and made minor changes in style. Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 in (1) near end of first sentence after "unless" substituted "licensed by" for "a certificate of registration has been first obtained from" and in second sentence at beginning after "for the" substituted "license" for "certificate" and at end after "department on" substituted "an approved form" for "a form prescribed by the board"; in (2) after "granted a" substituted "license" for "certificate of registration"; in (2)(c) in first sentence after "hours and" deleted "prescribes"; in (3) after "granted a" substituted "license" for "certificate of registration"; in (3)(c) in first sentence after "hours and" deleted "prescribes"; in (4) after "granted a" substituted "license" for "certificate of registration", after "term" deleted "prescribes", and after "instruction" inserted "prescribed by the board"; in (5) after "granted a" substituted "license" for "certificate of registration"; in (5)(b) after "term and" deleted "prescribes"; in (6) after "granted a" substituted "license" for "certificate of registration"; in (7) at beginning after "Licenses" deleted "or certificates of registration"; in (12) near middle after "training in" substituted "licensed" for "registered"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in (1) in first sentence inserted "or other legal entity" and inserted references to barbering and electrology; inserted (2) providing requirements for a school for teaching barbering in order to be granted a certificate of registration; in (3)(b) and (5)(a) before "teaching" deleted "ready and full"; in (3)(e) at beginning substituted "It does not" for "An owner or person in charge of a school of cosmetology may not"; inserted (4) providing that an electrology school may not be granted a certificate of registration unless it has a school term, course of practical training and technical instruction, and equipment needed for teaching as prescribed by the board; in (5)(b) inserted "prescribes"; in (5)(c) at beginning substituted "It does not" for "An owner or person in charge of a school of manicuring may not"; in (6)(c) at beginning substituted "It does not" for "An owner or person in charge of a school of esthetics

may not"; in (7), (8), (9), (10), (11), and (12) inserted references to barbering and electrology; in (10) near beginning inserted "or other legal entity" and near end substituted "bond or other security" for "good and sufficient bond"; in (11) substituted "salon or shop" for "cosmetology, manicuring, or esthetics salon"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (1), in first sentence, inserted reference to operation of a school to teach esthetics for compensation; inserted (4) stating the requirements for a certificate of registration for a school for teaching esthetics; in (5), (6), (7), (8), and (9) inserted references to esthetics; in (10) inserted references to manicuring and esthetics; and made minor changes in style.

1993 Amendment: Chapter 473 in (8) substituted "cosmetology salon" for "beauty shop" and substituted "manicuring salon" for "manicuring shop"; and made minor changes in style.

1985 Amendment: In (1) in first sentence, after "cosmetology for compensation", inserted "or for the purpose of teaching manicuring for compensation"; inserted (3) stating requirements for certificate of registration for school for teaching manicuring; in (4) after "registration", inserted "for schools of cosmetology and schools of manicuring"; in (5), after "practice cosmetology" inserted "or manicuring" and after "a school" inserted "of cosmetology or a school of manicuring"; in (6) after "schools of cosmetology" inserted "and schools of manicuring"; in (7) after "a school" inserted "of cosmetology or a school of manicuring"; and in (8), after "beauty shop" inserted "or manicuring shop" and after "school of cosmetology" inserted "or school of manicuring". Amendment effective January 1, 1986.

Administrative Rules

ARM 24.121.605 Application for school licensure.

ARM 24.121.611 Examination requirements and process.

Title 24, chapter 121, subchapter 8, ARM School facility and operation.

37-31-312. Inspection — temporary permits. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of barbering nonchemical, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license.

(2) When an owner or operator applies for a shop or salon license and pays licensure and inspection fees prescribed by the board, the board:

(a) may authorize the department to grant to a new salon or shop a temporary operating permit;

or

(b) shall, in order to avoid a disruption of business, authorize the department to grant a temporary operating permit to an existing shop or salon whose owner or operator is currently in good standing with the board, as defined by the board, and who is relocating to a new location. An owner or operator of an existing shop or salon may not receive a temporary operating permit under this section within 90 days of a license renewal date.

(3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon or shop to operate until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted to a salon or shop if the board does not receive a response within 30 days from the date of the inspection or the response received does not indicate that all of the inspection violations have been corrected, in which case a new license application must be filed. A temporary permit is not renewable.

(4) The department shall require an inspector appointed under subsection (1) to conduct an annual inspection of each salon or shop in the state.

History: (1)En. Sec. 13, Ch. 104, L. 1929; re-en. Sec. 3228.13, R.C.M. 1935; amd. Sec. 11, Ch. 222, L. 1939; amd. Sec. 73, Ch. 350, L. 1974; Sec. 66-813, R.C.M. 1947; (2), (3)En. Sec. 66-813.1 by Sec. 2, Ch. 85, L. 1974; amd. Sec. 2, Ch. 305, L. 1977; Sec. 66-813.1, R.C.M. 1947; R.C.M. 1947, 66-813, 66-813.1; (4)En. Sec. 9, Ch. 106, L. 1981; amd. Sec. 56, Ch. 345, L. 1981; amd. Sec. 5, Ch. 260, L. 1985; amd. Sec. 10, Ch. 602, L. 1985; amd. Sec. 8, Ch. 88, L. 1989; amd. Sec. 1, Ch. 458, L. 1991; amd. Sec. 8, Ch. 473, L. 1993; amd. Sec. 9, Ch. 305, L. 1997; amd. Sec. 15, Ch. 243, L. 2003; amd. Sec. 2, Ch. 194, L. 2005; amd. Sec. 89, Ch. 467, L. 2005; amd. Sec. 10, Ch. 100, L. 2011; amd. Sec. 12, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in (1) inserted "school of barbering nonchemical". Amendment effective October 1, 2015.

2011 Amendment: Chapter 100 in (3) in first sentence after "shop to operate" substituted current text for "for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever comes first" and inserted second sentence regarding granting of license if shop fails to respond or indicate corrections of violations. Amendment effective October 1, 2011.

2005 Amendments — Composite Section: Chapter 194 deleted former (2) that read: "(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board"; at beginning of (2) inserted "When an owner or operator applies for a shop or salon license and pays licensure and inspection fees prescribed by the board"; in (2)(a) near middle after "grant to a" inserted "new", after "shop" deleted "upon payment of the initial inspection fee", after "temporary" inserted "operating", and after "permit" deleted "authorizing the salon or shop to operate for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever occurs first"; inserted (2)(b) requiring the board to authorize a temporary permit; inserted (3) limiting operation under a temporary permit; and made minor changes in style. Amendment effective April 7, 2005.

Chapter 467 in (1) at end of second sentence after "licensee's" inserted "or school's" and after "license" deleted "or a school's certificate of registration". Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in (1) in first sentence substituted "salons or shops" for "cosmetology salons" and in second sentence substituted "salon or shop" for "cosmetology salon, manicuring salon, esthetics salon", inserted references to schools of barbering and electrology, after "refusal of a licensee" inserted "or school", and at end substituted "a licensee's license or a school's certificate of registration" for "the license"; in (2), in (3) in first sentence in two places, and in (4) substituted "salon or shop" for reference to cosmetology, manicuring, or esthetics salon; in (4) substituted "require the inspector or inspectors" for "cause an inspector"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (1), in second sentence, inserted references to esthetics salon and school of esthetics; in (2), (3), and (4) inserted references to esthetics salons; and made minor changes in style.

1993 Amendment: Chapter 473 throughout section substituted references to cosmetology salons for references to beauty parlors and cosmetological establishments and substituted "manicuring salon" for "manicuring shop"; and made minor changes in style.

1991 Amendment: In (1), in first sentence after second "department", inserted "in cooperation with the board"; in (4) substituted "department" for "board" and after "shall" inserted "cause an inspector, appointed as provided in subsection (1), to". Amendment effective July 1, 1991.

1989 Amendment: In second sentence of (1), after "manicuring shop", inserted "booth".

1985 Amendments: Chapters 260 and 602 in (1) in first sentence, after "inspectors", deleted "who are licensed to practice under this chapter".

Chapter 602 throughout section inserted references to manicuring shop; in (1), in second sentence, after "school of cosmetology", inserted "or school of manicuring"; and near end of (4) substituted "cosmetological establishment" for "cosmetology establishment". Chapter 602 amendment effective January 1, 1986.

1981 Amendments: Chapter 106 added (4) requiring Board to inspect annually each cosmetology establishment and manicuring shop.

Chapter 345 substituted "an initial inspection fee prescribed by the board" for "an initial inspection fee of \$25" at the end of (2).

Fees Prescribed by Board — Statement of Intent and Preamble: Chapter 345, L. 1981 (SB 412), which amended this section relating to the Board prescribing fees, contained a statement of intent and a preamble. For the texts see compiler's comments at 37-1-134.

Administrative Rules

ARM 24.121.407 Premises and general requirements.

ARM 24.121.801 Inspection — school layout.

Title 24, chapter 121, subchapter 15, ARM Sanitary standards.

Law Review Articles

Marshall v. Barlow's, Inc. (98 Sup. Ct. 1816): Administrative Inspections and the Fourth Amendment, 9 Environ. L. 149 (1978).

Marshall v. Barlow's, Inc. (98 Sup. Ct. 1816) and the Warrant Requirement for OSHA "Spot Check" Inspections, 15 Id. L. Rev. 187 (1978).

37-31-313 through 37-31-320 reserved.

37-31-321. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 7, Ch. 104, L. 1929; re-en. Sec. 3228.7, R.C.M. 1935; amd. Sec. 6, Ch. 222, L. 1939; amd. Sec. 68, Ch. 350, L. 1974; R.C.M. 1947, 66-807; amd. Sec. 16, Ch. 243, L. 2003.

37-31-322. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 16, Ch. 104, L. 1929; re-en. Sec. 3228.16, R.C.M. 1935; amd. Sec. 13, Ch. 222, L. 1939; amd. Sec. 1, Ch. 115, L. 1961; amd. Sec. 1, Ch. 132, L. 1967; amd. Sec. 75, Ch. 350, L. 1974; amd. Sec. 3, Ch. 305, L. 1977; R.C.M. 1947, 66-816; amd. Sec. 16, Ch. 22, L. 1979; amd. Sec. 57, Ch. 345, L. 1981; amd. Sec. 6, Ch. 260, L. 1985; amd. Sec. 11, Ch. 602, L. 1985; amd. Sec. 9, Ch. 473, L. 1993; amd. Sec. 94, Ch. 429, L. 1995; amd. Sec. 17, Ch. 243, L. 2003; amd. Sec. 38, Ch. 271, L. 2003.

37-31-323. Fees. (1) Fees for licenses must be paid to the department in amounts prescribed by the board by rule.

(2) The license fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

History: En. Sec. 15, Ch. 104, L. 1929; re-en. Sec. 3228.15, R.C.M. 1935; amd. Sec. 12, Ch. 222, L. 1939; amd. Sec. 3, Ch. 80, L. 1941; amd. Sec. 3, Ch. 20, L. 1955; amd. Sec. 2, Ch. 140, L. 1959; amd. Sec. 1, Ch. 131, L. 1963; amd. Sec. 1, Ch. 324, L. 1971; amd. Sec. 74, Ch. 350, L. 1974; amd. Sec. 4, Ch. 533, L. 1977; R.C.M. 1947, 66-815; amd. Sec. 10, Ch. 106, L. 1981; amd. Sec. 58, Ch. 345, L. 1981; amd. Sec. 18, Ch. 243, L. 2003; amd. Sec. 90, Ch. 467, L. 2005; amd. Sec. 13, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in (1) at end inserted "by rule"; and in (3) inserted "barbering nonchemical". Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 in (1) near beginning after "licenses" deleted "and certificates of registration"; in (2) near beginning after "license" deleted "and registration"; and in (3) near beginning after "license" deleted "or registration". Amendment effective July 1, 2005.

2003 Amendment: Chapter 243 in (2) after "must be paid" deleted "annually"; in (3) at end inserted references to barbering, electrology, esthetics, and manicuring; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1981 Amendments: Chapter 106, deleted subsection (1)(e) relating to a license fee for an operator.

Chapter 345, substituted "shall be paid to the department in amounts prescribed by the board" for "shall be paid to the department not to exceed the following respective amounts prescribed by the board" in the first sentence of (1); and deleted subsections (1)(a) through (1)(n) which set maximum fees for various licenses and certificates of registration.

Fees Prescribed by Board — Statement of Intent and Preamble: Chapter 345, L. 1981 (SB 412), which amended this section relating to the Board prescribing fees, contained a statement of intent and a preamble. For the texts see compiler's comments at 37-1-134.

Administrative Rules

ARM 24.121.401 Fees.

Attorney General's Opinions

Self-Government Powers — Professional Licensing — Conflict With State Statutes: The city of Helena, operating under a home rule charter, passed an ordinance requiring a license fee of all city

businesses. State statutes that prohibit municipalities from imposing license fees on certain professions did not apply because the statutes were not made specifically applicable to self-government units. Home rule governments have all powers not specifically denied by the Montana Constitution, law, or charter. 39 A.G. Op. 60 (1982).

37-31-324. Deposit of fees. All fees collected by the department under this chapter shall be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

History: En. Sec. 9, Ch. 104, L. 1929; re-en. Sec. 3228.9, R.C.M. 1935; amd. Sec. 8, Ch. 222, L. 1939; amd. Sec. 135, Ch. 147, L. 1963; amd. Sec. 1, Ch. 133, L. 1967; amd. Sec. 1, Ch. 224, L. 1974; amd. Sec. 70, Ch. 350, L. 1974; amd. Sec. 28, Ch. 439, L. 1975; amd. Sec. 1, Ch. 531, L. 1977; R.C.M. 1947, 66-809(part); amd. Sec. 1, Ch. 277, L. 1983.

Compiler's Comments

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

37-31-325 through 37-31-330 reserved.

37-31-331. Refusal, revocation, or suspension of licenses — grounds — notice and hearing. (1) The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the following cases:

(a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon or shop or a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to comply with this chapter;

(b) failure to comply with the sanitary rules adopted by the board and approved by the department of public health and human services for the regulation of salons or shops or schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring;

(c) gross malpractice;

(d) continued practice by a person who knowingly has an infectious or contagious disease;

(e) habitual drunkenness or habitual addiction to the use of any habit-forming drug;

(f) permitting a license to be used when the holder is not personally, actively, and continuously engaged in business; or

(g) failure to display the license.

(2) The board may not refuse to authorize the department to issue or renew a license or to revoke or suspend a license already issued until after notice and opportunity for a hearing.

History: En. Sec. 11, Ch. 104, L. 1929; re-en. Sec. 3228.11, R.C.M. 1935; amd. Sec. 10, Ch. 222, L. 1939; amd. Sec. 71, Ch. 350, L. 1974; R.C.M. 1947, 66-811; amd. Sec. 12, Ch. 602, L. 1985; amd. Sec. 10, Ch. 473, L. 1993; amd. Sec. 69, Ch. 418, L. 1995; amd. Sec. 99, Ch. 546, L. 1995; amd. Sec. 10, Ch. 305, L. 1997; amd. Sec. 19, Ch. 243, L. 2003; amd. Sec. 43, Ch. 44, L. 2007; amd. Sec. 14, Ch. 15, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 15 in (1)(a) and (1)(b) inserted "barbering nonchemical". Amendment effective October 1, 2015.

2007 Amendment: Chapter 44 in (1)(f) at beginning after "permitting a" deleted "certificate of registration or". Amendment effective October 1, 2007.

2003 Amendment: Chapter 243 in (1)(a) inserted "or other legal entity", substituted "salon or shop" for "cosmetology salon, manicuring salon, esthetics salon", and near end inserted references to barbering and electrology schools; in (1)(b) substituted "salons or shops" for "cosmetology salons, manicuring salons, esthetics salons" and inserted references to barbering and electrology schools; in (1)(e) after "the use of" deleted "morphine or"; and made minor changes in style. Amendment effective October 1, 2003.

Severability: Section 25, Ch. 243, L. 2003, was a severability clause.

1997 Amendment: Chapter 305 in (1)(a) and (1)(b) inserted references to esthetics salon and school of esthetics; and made minor changes in style.

1995 Amendments: Chapter 418 in (1)(b) substituted "department of public health" for "department of health and environmental sciences"; and made minor changes in style. Amendment effective July 1, 1995.

Chapter 546 in (1)(b) substituted "department of public health and human services" for "department of health and environmental sciences". Amendment effective July 1, 1995.

Transition: Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

Saving Clauses: Section 503, Ch. 418, L. 1995, was a saving clause.

Section 571, Ch. 546, L. 1995, was a saving clause.

1993 Amendment: Chapter 473 in (1)(a) substituted "cosmetology salon" for "cosmetological establishment" and substituted "manicuring salon" for "manicuring shop"; in (1)(b) substituted "cosmetology salons" for "cosmetological establishments" and substituted "manicuring salons" for "manicuring shops"; and made minor changes in style.

1985 Amendment: In (1)(a) and (1)(b), before "school(s) of cosmetology" inserted "manicuring shop(s)" and after "school(s) of cosmetology" inserted "or school(s) of manicuring". Amendment effective January 1, 1986.

37-31-332. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 3, Ch. 104, L. 1929; amd. Sec. 1, Ch. 14, L. 1931; re-en. Sec. 3228.3, R.C.M. 1935; amd. Sec. 3, Ch. 222, L. 1939; amd. Sec. 1, Ch. 210, L. 1945; amd. Sec. 3, Ch. 244, L. 1961; amd. Sec. 1, Ch. 167, L. 1969; amd. Sec. 2, Ch. 168, L. 1971; amd. Sec. 1, Ch. 268, L. 1973; amd. Sec. 1, Ch. 310, L. 1973; amd. Sec. 65, Ch. 350, L. 1974; R.C.M. 1947, 66-803(9).

37-31-333. Appeal from actions of board. An appeal may be taken from any actions of the board to the district court of the county in which the applicant resides.

History: En. Sec. 14, Ch. 104, L. 1929; re-en. Sec. 3228.14, R.C.M. 1935; R.C.M. 1947, 66-814.

Cross-References

Judicial review of contested cases, Title 2, ch. 4, part 7.

37-31-334. Penalty — injunction. (1) The commission of any of the acts prohibited as provided in 37-31-301 or the violation of any other provision in this chapter shall be a misdemeanor punishable by a fine or imprisonment or both fine and imprisonment.

(2) Regardless of any penalties provided in this chapter and as an additional remedy, the district courts of the state of Montana are vested with jurisdiction to restrain and enjoin any violation or threatened violation of the requirements of this chapter as a nuisance per se or otherwise and the board, the attorney general, or any county attorney may institute proceedings in equity for the purpose of obtaining equitable relief against violations of the provisions of this chapter.

History: En. Sec. 17, Ch. 104, L. 1929; amd. Sec. 1, Ch. 13, L. 1931; re-en. Sec. 3228.17, R.C.M. 1935; amd. Sec. 14, Ch. 222, L. 1939; amd. Sec. 1, Ch. 140, L. 1959; R.C.M. 1947, 66-817(C), (D).

Cross-References

Duties of Attorney General, 2-15-501.

Issuance of injunctions on nonjudicial days, 3-1-302, 3-5-302.

Contempts, Title 3, ch. 1, part 5.

Prosecutorial duties of County Attorney, 7-4-2712.

Duties of County Attorney relating to state matters, 7-4-2716.

Affidavits, Title 26, ch. 1, part 10.

Injunctions, Title 27, ch. 19.

Nuisances, Title 27, ch. 30.

Disciplinary authority of boards — injunctions, 37-1-136.

Penalty when none specified, 46-18-212.