

THE ALABAMA COSMETOLOGY ACT

Code of Alabama 1975
Section 34-7B-1 through 34-7B-94



ADMINISTRATIVE RULES

Alabama Administrative Code
Chapter 250-X-1 through 250-X-7

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ARTICLE 1

Section 34-7B-1 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(1) APPRENTICE. Any person engaged in learning the practices defined in this article including, but not limited to, assisting in the performance of any acts of barbering or cosmetology on the general public under the constant and direct supervision of a person who has held a valid current license issued by the board for at least five years, in a shop licensed by the board.

(2) BARBERING. The occupation of shaving or trimming the beard, cutting or dressing the hair, giving facial or scalp massages, giving facial or scalp treatment with oils or creams or other preparations made for that purpose, either by hand or by means of mechanical appliances, singeing and shampooing the hair, dyeing the hair, or permanently waving or straightening the hair of any living or deceased person for compensation, as performed by a Class 2 barber.

(3) BOARD. The Alabama Board of Cosmetology and Barbering.

(4) CLASS 1 BARBER. A person who only does the following in his or her ordinary course of business: Arranges, cleans, cuts, or sings the hair of any person or massages, cleans, stimulates, exercises, or does similar work on the scalp, face, or neck of any person with the hands, or with mechanical or electrical apparatus or appliance, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams. Any one or a combination of the following practices, when done upon the human body above the seventh cervical vertebra for cosmetic purposes and not for the treatment of disease or physical or mental ailments, and when done for payment, directly or indirectly or without payment for the public generally: Shaving or trimming the beard or trimming the hair.

(5) CLASS 2 BARBER. Any person, other than a student or apprentice, who performs barbering on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this chapter for a Class 2 barber. For the purposes of this chapter, the term barber, standing alone, shall be deemed a reference to a Class 2 barber.

(6) COSMETOLOGIST. Any person, other than a student or apprentice, who performs cosmetology on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a cosmetologist.

(7) COSMETOLOGY. Any of the practices generally recognized as beauty culture, hairdressing, or any other designation engaged in by any person who performs such on the general public for compensation including, but not limited to, cleansing, singeing, cutting, arranging, dressing, curling, braiding, waxing, bleaching, weaving, coloring the hair by hand or mechanical apparatus, the use of creams, lotions, or cosmetic preparations, with or without massage, on the scalp, face, arms, legs, feet, or hands, esthetics practices, nail technology, manicure, pedicure, or desairology.

(8) ESTHETICIAN. Any person, other than a student or apprentice, who performs esthetics on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for an esthetician.

(9) ESTHETICS. The practice of performing acts of skin care including, but not limited to, facials, body waxing, makeup, and general esthetics procedures on the general public for compensation.

(10) ESTHETICS/MANICURE. A combination of the practices of esthetics and manicure.

(11) ESTHETICIAN/MANICURIST. Any person, other than a student or apprentice, who performs a combination of the practices of esthetics and manicure on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for an esthetician/manicurist.

(12) INSTRUCTOR. A licensee who teaches in a licensed or registered school of barbering or any branch of cosmetology and completes any applicable requirements for continuing education.

(13) LICENSE. A document issued by the board which entitles the holder to practice the profession listed on the document.

(14) LICENSEE. Any person holding a license issued pursuant to this article.

(15) MANICURE. The practice of beautifying or grooming the fingernails, toenails, adding nail tips, extensions, gels, or massaging the hands, forearms, feet, or lower legs of the general public for compensation.

(16) MANICURIST. Any person, other than a student or apprentice, who performs the practice of manicure on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a manicurist.

(17) MANICURE/WAXING. A combination of the practices of manicure and waxing.

(18) MANICURIST/WAXER. Any person, other than a student or apprentice, who performs a combination of the practices of manicure and waxing on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a manicurist/waxer.

(19) NATURAL HAIR STYLING. The practice of cleansing, weaving or interweaving, extending, locking, braiding, or arranging the hair without cutting, coloring, permanent waving, relaxing, removing, or chemical treatments.

(20) NATURAL HAIRSTYLIST. Any person, other than a student, who performs natural hair styling on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a natural hairstylist.

(21) SCHOOL. An establishment licensed or registered by the board to teach any or all of the practices of barbering or cosmetology.

(22) SHAMPOO ASSISTANT. Any person who is licensed to perform only the practices of shampooing, cleansing, or applying temporary weekly color rinses to the hair of the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a shampoo assistant.

(23) SHOP. Any place where barbering or cosmetology is practiced including, but not limited to, a mobile salon. Only a properly licensed person, who is not an apprentice or a student, may operate a shop.

(24) STUDENT. Any person who is engaged in learning any practice regulated by this article in a school licensed or registered pursuant to this article, and who, as part of the learning process, performs or assists in any practice regulated by this article under the immediate supervision of an instructor who is licensed pursuant to this article.

(25) THREADING. The practice of eyebrow removal with the use of a loop made of cotton or any other material.

(26) THREADER. Any person engaged in the practice of threading on the general public for compensation, and who shall satisfy the qualifications and licensure requirements provided in this article for a threader.

Section 34-7B-2 Creation; Composition; Compensation.

(a) There is created the Alabama Board of Cosmetology and Barbering which shall consist of seven persons appointed by the Governor. The membership of the board shall include all of the following:

- (1) Two active cosmetologists, who have been licensed by the board as cosmetologists for at least five years before appointment.
- (2) Two actively practicing Class 2 barbers, who have been practicing in the state for at least five years before appointment. Except for the initial members appointed to the board, Class 2 barber members of the board shall be licensed by the board before appointment.
- (3) One active esthetician who has been licensed by the board as an esthetician for at least five years before appointment.
- (4) One active manicurist who has been licensed by the board as a manicurist for at least five years before appointment.
- (5) One consumer.

(b) One member shall be appointed from each congressional district, as those districts are constituted on August 1, 2013, and shall reside in the district he or she represents during the entire term of office.

(c) The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(d) All appointments shall be for a term of four years. No person shall serve for more than two terms on the newly constituted board. Except as an instructor, no member of the board may be affiliated with or own a school regulated by this chapter or any business which sells, rents, or distributes supplies to shops or schools. Any board member may be removed by the Governor for just cause.

(e) The terms of all board members serving on August 1, 2013, shall continue until expiration pursuant to original appointment. To facilitate the intent of this chapter, members whose terms expire by October 30, 2013, shall continue to serve until a successor is appointed pursuant to this chapter. As terms expire, successor board members shall be appointed by the Governor pursuant to subsection (a).

(f) Members of the board shall annually elect from among their members a chair, a vice chair, a secretary, and a treasurer. The offices of secretary and treasurer may be combined.

(g) Each member of the board shall be paid one hundred dollars (\$100) per day for the transaction of board business, not exceeding 36 days during any calendar year, and shall be paid the same mileage and per diem rate as state employees.

Section 34-7B-3 Vacancies.

Any vacancy on the board shall be filled by the Governor for the unexpired term.

Section 34-7B-4 Officers and Meetings.

(a) Before commencing their duties, each board member shall take an oath of office, the original copy of which shall be kept by the Secretary of State, and file a good and sufficient bond, in the penal amount of five thousand dollars (\$5,000) payable to the state, to insure the faithful performance of his or her duties. The premium for the bond shall be paid out of the funds of the board.

(b) The board may do all things and take all legal action necessary, appropriate, and convenient for enforcing this chapter. The board shall adopt and promulgate rules compatible with this chapter pursuant to the Administrative Procedure Act, Chapter 22 of Title 41. Any amendment to this chapter or the rules of the board shall be compiled, published, and distributed to licensees. Distributed copies shall be retained in each shop or school licensed by the board and shall be available for inspection by the general public, shop personnel, school personnel, and board personnel during normal operating hours.

(c) The board shall meet at such times and places as a majority of members agree by a properly adopted resolution, and shall set rules for its governance. The board shall adopt an official seal for authentication of board transactions. A majority of the members of the board shall constitute a quorum for conducting business.

(d) The board shall keep a permanent record of its proceedings and minutes which shall be public information. All board records and books shall be prima facie evidence of the contents and shall be available for public inspection at all reasonable times.

Section 34-7B-5 Executive Director.

(a) The executive director of the board shall be appointed by the Governor in the unclassified service of the state Merit System. The executive director shall serve at the pleasure of the Governor and shall perform administrative duties of the board.

(b) The executive director shall hire all necessary employees of the board subject to the state Merit System. Job descriptions and compensation shall be established for each employee consistent with guidelines of the State Personnel Board.

Section 34-7B-6 Board of Cosmetology and Barbering Fund.

(a) There is established a special fund in the State Treasury to be known as the Board of Cosmetology and Barbering Fund. The fund shall consist of all monies received by the board pursuant to this chapter. Monies in the fund shall be disbursed only upon warrant of the Comptroller upon itemized vouchers signed by the treasurer of the board or an authorized designee. Any money remaining in the fund at the end of each fiscal year shall remain on deposit in the fund for the use of the board.

(b) All funds and fees of any nature received by the board shall be paid to the fund or a designated party on behalf of the board.

Section 34-7B-7 Application for Examination or Licensure.

(a) Any person who desires to engage in any of the practices regulated by the board pursuant to this chapter shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and shall file with the board a written application for examination or licensure. Before a person may engage in the practices regulated by this chapter, the person shall be licensed by the board pursuant to this chapter. Any person who practices, maintains a school or shop, or acts in any capacity without a license when one is required pursuant to this chapter, or who otherwise violates this chapter, shall be guilty of a misdemeanor and fined five hundred dollars (\$500) or imprisoned for not more than 30 days, or both. Any corporation which violates this chapter shall be punished by a fine of not more than one thousand dollars (\$1,000).

(b) Licenses and permits issued by the board under the seal of the board and signed by an authorized representative of the board entitle the holder to legally practice the stated profession.

(c)(1) To receive a personal license, an applicant shall satisfy any of the following requirements:

- a. All legal requirements, completion of the required hours as a student or apprentice, submission of the appropriate examination fees, successful completion of the appropriate examination, and submission of any applicable license fees.
- b. Be currently licensed in good standing in another state or jurisdiction, with documentation of having passed a board-approved examination, and submission of any applicable license fees.
- c. Be currently licensed in good standing in another state or jurisdiction, with documentation of having practiced as a licensee for at least five years before application to the board, and submission of any applicable license fees.
- d. Be otherwise qualified, submit any applicable examination fees, successfully complete any appropriate examinations, and submit any applicable license fees.

(2) a. An application for examination or reexamination shall include the payment of a nonrefundable fee.

b. Examination of an applicant for licensure shall be conducted pursuant to a procedure sanctioned by the board consistent with the prescribed curriculum for schools.

c. An applicant who fails the prescribed examination shall be entitled to two additional attempts.

d. An applicant who fails the prescribed examination on a third attempt shall complete additional hours of school training as the board may direct before being allowed to repeat the examination.

(3) Personal licenses for any practice except Class 2 barbering as regulated by the board shall expire on the last day of the birth month of the licensee in odd-numbered years. An application for renewal that is postmarked later than the license expiration date shall subject the licensee to a late fee.

(4) Personal licenses for Class 2 barbers shall expire on the last day of the birth month of the licensee in even-numbered years. An application for renewal that is postmarked later than the license expiration date shall subject the licensee to a late fee.

(5) Active personal licenses shall be displayed in a conspicuous place near the work station of the licensee.

(d) (1) To receive a business license, an applicant shall satisfy all legal requirements and submit any applicable license fees.

(2) All business licenses regulated by the board shall expire on the last day of September in odd-numbered years. An application for renewal that is postmarked later than October 31 in the year of expiration shall subject the licensee to a late fee.

(3) On or before December 31, 2013, the initial fee for a Class 2 barber business license shall be one hundred fifty dollars (\$150) for a shop and three hundred dollars (\$300) for a school. Renewal fees shall be the same fee as the board provides for other business licenses under this chapter.

(4) A business license shall be displayed in a conspicuous place near the main entrance of the business.

(5) The initial fee for a personal Class 2 barber license shall be the same fee as is provided for other original licenses under this chapter. The renewal fee shall be the same as is provided for other licenses under this chapter.

Section 34-7B-8 Fee Schedule.

(a) The board shall establish a fee schedule including, but not limited to, all of the following:

(1) Original issuance and renewal fees for any personal license issued and regulated by the board.

(2) Original issuance and renewal fees for any business license issued by the board.

(3) Original issuance and renewal fees for any applicant seeking licensure by reciprocity.

(4) Fees for reinstating an expired personal license.

(5) Penalty fees for late renewal of any license.

(6) Fees for examination and reexamination.

(7) Fees for insufficient fund checks, consistent with state law.

(8) Fees for inactive licenses if the board elects to allow for inactive licenses by administrative rules.

(b) Fees for examination or reexamination of applicants for licensure may be collected by the vendor of examinations.

Section 34-7B-9 Change of Name or Address.

(a) A personal licensee shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal purposes.

(b) Each business licensee shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal purposes.

(c) If the business license pertains to a school, the licensee shall provide a floor plan and evidence of insurance for the new location to the board and the board shall inspect the new location for compliance with board rules before the school begins or resumes operation at the new location.

Section 34-7B-10 Suspension or Revocation of License or Permit; Penalties.

(a) The board may suspend or revoke a license or permit based on the provisions of this chapter or board rules, subject to due process of law as described in the Alabama Administrative Procedure Act. The board shall furnish all applicants who are denied licensure a reason for the denial.

(b) (1) The board, for any of the following reasons, may revoke or suspend the license or permit of any applicant, licensee, or holder who:

a. Is found guilty of fraud or dishonest conduct in taking an examination.

b. Has been convicted of a felony or gross immorality, or is guilty of grossly unprofessional or dishonest conduct.

c. Is addicted to the excessive use of intoxicating liquor or to the use of drugs to an extent that he or she is rendered unfit to practice any profession regulated by the board.

d. Advertises by means of knowingly false or deceptive statements.

- e. Has practiced fraud or deceit in obtaining or attempting to renew a license or permit.
- f. Has permitted his or her license or permit to be used by another person.
- g. Has committed an offense in another jurisdiction resulting in revocation, suspension, or voluntary surrender of a license or permit to avoid disciplinary proceedings related to his or her license or permit. This paragraph includes an agreement or stipulation executed by a licensee to avoid formal disciplinary proceedings.

(2) The board may deny the sale or transfer of a school or shop if the owner or operator is the subject of outstanding violations of this chapter or the rules of the board, or both.

(3) The board may not revoke or suspend any license or permit without a hearing. The affected applicant or licensee or holder of a permit shall be given at least 20 days' notice in writing of the hearing, specifying the reasons for the action by the board and any offense charged. Notice may be served by registered or certified mail to the last known residence or business address of the applicant or licensee or holder of a permit. The hearing shall be held in Montgomery County at a time and place prescribed by the board. Attorney fees, Administrative Law Judge fees, and professional recording fees necessary for hearings shall be borne by defendants who are judged guilty.

(c) In addition to any disciplinary powers authorized by this section, the board may levy and collect an administrative fine of not more than seven hundred fifty dollars (\$750) per violation for serious violations of this chapter or the rules or regulations of the board.

Section 34-7B-11 Findings, Orders of Board; Appeals.

(a) Any finding or order of the board, obtained pursuant to an inquiry or hearing conducted either by the board or a hearing officer on behalf of the board shall be deemed the finding or order of the board when approved and confirmed by a majority of the members of the board.

(b) Any provision of law to the contrary notwithstanding, a person who has exhausted all administrative remedies available through the board, other than a rehearing, and who has been aggrieved by a final decision in a contested case, may appeal pursuant to Section 41-22-20. A decision by the board to revoke or suspend a license or permit, or to otherwise restrict or discipline a licensee, shall be subject to provisions regarding stays as provided in subsection (c) of Section 41-22-20. All appeals shall be filed in the Circuit Court of Montgomery County.

Section 34-7B-12 Construction of Chapter.

This chapter may not be construed to affect or regulate the teaching of cosmetology or any of its practices in any public school.

Section 34-7B-13 Exemptions from Chapter.

This chapter does not apply to any of the following persons, activities, or services:

- (1) Service in the case of emergency or domestic upheaval, without compensation.
- (2) Licensed medical professionals operating within the scope of their normal practice.
- (3) Personnel of the United States armed services performing their ordinary duties.
- (4) Any public trade school or other public school or school program under the purview of the State Board of Education or a local board of education.
- (5) Any person who only occasionally dresses hair and receives no compensation therefor, or does any other act or thing mentioned in this chapter, without holding himself or herself out to the public as a provider of any practices defined in this chapter for compensation.
- (6) Departments in retail establishments where cosmetics are demonstrated and offered for sale but where no other acts of cosmetology or barbering are performed.
- (7) The licensees of any county or municipal barber board or commission in existence on August 1, 2013, unless such board or commission elects, by resolution adopted by the governing body of the county or municipality, to come under the provisions of this chapter.
- (8) Any person who practices as a Class 1 barber.

Section 34-7B-14 Duration, Expiration, and Reinstatement of License; Records.

(a) No license issued by the board shall be valid for more than two years.

(b) An expired license may be reinstated within four years after the date of expiration by paying renewal fees for the lapsed period, a current renewal fee, and a late fee.

(c) A license which has been expired for more than four years may be reinstated by furnishing proof of prior licensure, paying the appropriate examination fee, passing the appropriate examination, and paying renewal fees of not more than three hundred dollars (\$300), the current renewal fee, and a late fee.

(d) The record of any licensee, student, apprentice, or examination candidate who does not renew within four years or which does not indicate any activity for four years may be purged by the board.

Section 34-7B-15 Student Registration.

(a) No person may be registered as a student unless he or she satisfies all of the following qualifications:

- (1) Is at least 16 years old.
- (2) Has successfully completed at least 10 grades in secondary school, or the equivalent.

(b) Upon certification of enrollment by a school, the name, address, Social Security number, and birth date of each student shall be sent to the board on a form provided by the board.

(c) A student who has completed 70 percent of the required school instructional hours may work in a shop when school is not in session. One student shall be allowed for each licensee in the shop.

(d) Within 120 days after a student completes the required school instructional hours and training, the appropriate instructor shall certify a record of completion for the student to the board.

(e) An instructor who fails to certify student completion to the board in a timely manner shall be in violation of board rules and may be subject to a fine by the board.

(f) If a student does not receive his or her license within two years after certification of completion of training, the board may require the student to complete additional hours of training before applying or reapplying for licensure.

Section 34-7B-16 Apprentice Registration.

(a) No person may be registered as an apprentice in a shop unless he or she satisfies all of the following qualifications:

- (1) Is at least 16 years old.
- (2) Has successfully completed at least 10 grades in secondary school, or the equivalent.
- (3) Has paid the applicable registration fee.

(b) Before an apprentice begins work under this chapter, the sponsor, on behalf of a potential apprentice, shall request and obtain an apprenticeship work permit from the board.

(c) An apprentice may train in a licensed shop under a current licensee who has been licensed for at least five years in the appropriate field.

(d) Within 120 days after an apprentice completes the required hours and training, the sponsor shall certify a record of completion for the apprentice to the board.

(e) A sponsor who fails to certify apprentice completion to the board in a timely manner shall be in violation of board rules and may be subject to a fine by the board.

(f) If an apprentice does not receive his or her license within two years after certification of completion of training, the board may require the apprentice to complete additional hours of training before applying or reapplying for licensure.

(g) No person who holds a current license in another state shall be issued an apprentice permit for the same type of license.

Section 34-7B-17 Qualifications of Applicants for Examination or Licensure - Barber.

(a) No person may be admitted to an examination or licensed as a Class 2 barber unless he or she possesses all of the following qualifications:

- (1) Is at least 16 years old.
- (2) Has successfully completed at least 10 grades in secondary school, or the equivalent.
- (3) Has successfully completed at least 1,000 clock hours in a licensed or registered school of barbering or 2,000 clock hours under the immediate supervision of a licensed Class 2 barber, who has held a license for at least five years, including time practicing as a barber before August 1, 2013, and as a licensed barber under this chapter before June 10, 2015.

(b) Any applicant who satisfies the qualifications in subsection (a), pays the applicable examination fee, successfully completes the applicable examination, and pays the license fee shall be issued a Class 2 barber license.

Section 34-7B-18 Qualifications of Applicants for Examination or Licensure - Cosmetologist.

(a) No person may be admitted to an examination or licensed as a cosmetologist unless he or she possesses all of the following qualifications:

- (1) Is at least 16 years old.
- (2) Has successfully completed at least 10 grades in secondary school, or the equivalent.

(3) a. Has successfully completed at least 1,500 clock hours in a licensed or registered school of cosmetology or on courses reported in credit hours. Credit hour programs must be reviewed by and approved by the board as satisfying licensure requirements.

b. In lieu of the requirements in paragraph a., has completed 3,000 hours under the immediate supervision of a cosmetologist continuously licensed under the provisions of this chapter, for at least five years before applying for an apprentice, over a period of three years.

(b) Any applicant who satisfies the qualifications in subsection (a), pays the applicable examination fee, successfully completes the applicable examination, and pays the license fee shall be issued a cosmetologist license.

Section 34-7B-19 Qualifications of Applicants for Examination or Licensure - Esthetician.

(a) No person may be admitted to an examination or licensed as an esthetician unless he or she possesses all of the following qualifications:

(1) Is at least 16 years old.

(2) Has successfully completed at least 10 grades in secondary school, or the equivalent.

(3) Has successfully completed at least 1,000 clock hours of skin care instruction in a licensed or registered school of esthetics or school of cosmetology or on courses reported in credit hours or 2,000 hours under the immediate supervision of an esthetician continuously licensed under the provisions of this chapter, for at least five years before applying for an apprentice, over a period of three years. Credit hour programs must be reviewed and approved by the board as satisfying licensure requirements.

(b) Any applicant who satisfies the qualifications in subsection (a), pays any applicable examination fee, successfully completes any applicable examination, and pays the license fee shall be issued an esthetician license.

Section 34-7B-20 Qualifications of Applicants for Examination or Licensure - Natural Hair Stylist.

(a) No person may be admitted to an examination or licensed as a natural hair stylist unless he or she satisfies all of the following qualifications:

(1) Is at least 16 years old.

(2) Has successfully completed at least 10 grades in secondary school, or the equivalent.

(3) Has successfully completed at least 210 clock hours in a licensed or registered school of cosmetology or natural hair styling or 420 clock hours in a licensed shop for a period of six months under the immediate supervision of a licensed cosmetologist or natural hair stylist, who has held a license for at least five years, including practicing as a natural hair stylist before August 1, 2013, and as a licensed cosmetologist or a natural hair stylist before August 1, 2017. The five-year requirement shall not apply to natural hair stylists operating before August 1, 2013.

(b) Any applicant who satisfies the qualifications in subsection (a), pays any applicable examination fee, successfully completes any examination, and pays the license fee shall be issued a natural hair stylist license.

(c) Any person who is working as a natural hair stylist on August 1, 2013, upon payment of the applicable license fee by January 28, 2014, shall be licensed by the board under this section. Any person licensed pursuant to this section shall be subject to this chapter and rules adopted by the board pursuant to this chapter including, but not limited to, shop requirements, sanitation procedures, and license renewal.

Section 34-7B-21 Qualifications of Applicants for Examination or Licensure - Manicurist.

(a) No person may be admitted to an examination or licensed as a manicurist unless he or she satisfies all of the following qualifications:

(1) Is at least 16 years old.

(2) Has successfully completed at least 10 grades in secondary school or the equivalent.

(3) a. Has successfully completed at least 750 clock hours of manicure instruction in a school licensed or registered under the provisions of this chapter or on courses reported in credit hours. Credit hour programs must be reviewed and approved by the board as satisfying licensure requirements.

b. In lieu of the requirements in paragraph a., has completed 1,200 hours under the immediate supervision of a manicurist continuously licensed under the provisions of this chapter for at least five years before applying for an apprentice, over a period of two years not exceeding eight hours a day or 48 hours a week.

(b) Any applicant who satisfies the qualifications in subsection (a), pays any applicable examination fee, successfully completes any applicable examination, and pays the license fee shall be issued a manicurist license.

Section 34-7B-22 Qualifications of Applicants for Examination or Licensure - Esthetician/Manicurist.

(a) No person may be admitted to an examination or licensed as an esthetician/manicurist unless he or she holds a license as an esthetician and has successfully completed at least 650 hours in nail technology in a school licensed or registered under this chapter.

(b) Any applicant who satisfies the qualifications in subsection (a), pays any applicable examination fee, successfully completes the examination, and pays the license fee shall be issued an esthetician/manicurist license.

Section 34-7B-23 Qualifications of Applicants for Examination or Licensure - Manicurist/Waxer.

(a) No person may be admitted to an examination or licensed as a manicurist/waxer unless he or she holds a license as a manicurist and has successfully completed at least 160 hours in waxing in a school licensed or registered under the provisions of this chapter.

(b) Any applicant who satisfies the qualifications in subsection (a), pays the applicable examination fee, successfully completes the examination, and pays any license fee shall be issued a manicurist/waxer license.

Section 34-7B-24 Qualifications of Applicants for Examination or Licensure - Instructor.

(a) No person may be admitted to an examination or licensed as an instructor unless he or she possesses all of the following qualifications:

- (1) Has completed at least 12 grades in secondary school, or the equivalent.
- (2) Holds a valid license in the applicable area of practice.
- (3) Satisfies either of the following requirements:
 - a. Has successfully completed at least 1,500 hours in a teacher's training course at a school licensed or registered under the provisions of this chapter.
 - b. Has completed at least one year of active experience in a shop plus 650 hours in a school licensed or registered under the provisions of this chapter.

(b) Any applicant who satisfies the qualifications in subsection (a), pays the applicable examination fee, successfully completes the applicable examination, and pays the license fee shall be issued an instructor license for the applicable area of practice.

Section 34-7B-25 Registration of Threaders.

Threaders shall register with the board and pay an original license fee by January 28, 2014. Any person licensed pursuant to this section shall be subject to this chapter and rules adopted by the board, including, but not limited to, shop requirements, sanitation procedures, and license renewal.

Section 34-7B-26 Application and Licensure Requirements to Operate School.

(a) Before being licensed by the board to operate a school, an applicant shall satisfy all of the requirements of this section.

- (1) An applicant shall submit to the board all of the following:
 - a. A bond, in the amount of fifty thousand dollars (\$50,000) to protect potential students in the event of closure.
 - b. Proof of sufficient liability insurance coverage.
 - c. A current financial statement prepared by a reputable source and, if required by the board, a letter of credit.
 - d. A list of equipment owned by the school.
 - e. A sample of student contract agreements and financial forms relating to tuition, grants, and scholarships.
 - f. Furnish affidavits from an adequate number of prospective students as approved by the board stating their intent to enroll when the school opens.
- (2) The applicant, owner, proposed dean, or proper corporate executive may be required to appear before the board.
- (3) The applicant shall satisfy the board that the building proposed to house the school is all of the following:
 - a. In compliance with all state and local zoning, health, and building codes.
 - b. Clean and well-lighted.
 - c. Large enough to accommodate the anticipated student body.
 - d. Completely segregated from any other business.
 - e. Contains sufficient equipment and supplies for the proper and complete teaching of all subjects in its proposed curriculum.

(b) To maintain current and continuing licensure under this chapter, the school, to the satisfaction of the board, shall do all of the following:

- (1) Employ one instructor and one on-call instructor for the first 20 students enrolled and in attendance at the school, and an additional instructor for each additional 20 students enrolled and in attendance at the school.
- (2) Have no more than two instructor trainees per each instructor.
- (3) Provide that the same person may not serve as the on-call instructor for more than one school.
- (4) Maintain daily, monthly, and cumulative records for each student.

(5) Maintain regular classes and instruction hours.

(6) Establish grades and conduct appropriate examinations on a timely basis.

(7) Require a school term of training for a complete course with the minimum number of hours prescribed for each term. Programs reporting by clock hours shall comply with recording rules provided in this subsection and shall also furnish the board with an official transcript for each student within 30 days after the student completes the program or terminates enrollment.

(8) Include practical demonstrations, theoretical studies, and the study of sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements applicable to any of the practices regulated by this chapter which are part of the school's curriculum.

(c) A school engaged only in the teaching of Class 2 barbers, estheticians, or manicurists is not required to provide instruction in other practices regulated by this chapter. Such a school is required to satisfy all requirements imposed upon a school of cosmetology or a school of barbering relating to instructors, attendance records, enrollment, and other matters.

(d) The sale or transfer of a school is subject to prior approval by the board if the school is to continue in operation after the sale or transfer. The board may deny the sale or transfer of a school if the owner or operator of the school is the subject of outstanding violations of this chapter or the rules of the board, or both.

Section 34-7B-27 Licensure Under Former Chapter.

The status of any person or entity properly licensed by the Alabama Board of Cosmetology under former Chapter 7A of this title, on August 1, 2013, shall continue under the Alabama Board of Cosmetology and Barbering.

Section 34-7B-28 Applicability of Rules.

The administrative rules of the board existing on August 1, 2013, which reference Chapter 7A of this title, which is repealed by Act 2013-371, shall remain in effect until amended or repealed by the board.

Section 34-7B-29 Continuation of Board.

The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, is continued pursuant to this chapter. All rights, duties, property, real or personal, and all other effects existing in the name of the Alabama Board of Cosmetology, or in any other name by which the board has been known, shall continue in the name of the Alabama Board of Cosmetology and Barbering. Any reference to the Alabama Board of Cosmetology, or any other name by which the board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Board of Cosmetology and Barbering as created in this chapter. All actions of the Alabama Board of Cosmetology lawfully done prior to August 1, 2013, by the board or by the executive director or administrative assistant are approved, ratified, and confirmed. The board as constituted on August 1, 2013, shall constitute the board under this chapter.

Section 34-7B-30 Licensure and Regulation of Mobile Salons.

(a)(1) Beginning January 1, 2022, the board may issue a license for the operation of a mobile salon to an applicant who submits an application on a form approved by the board, pays required fees as determined by rule of the board, and is in compliance with this chapter.

(2) Requirements that apply to a shop under this chapter shall apply to mobile salons, except to the extent that the requirements conflict with rules adopted by the board under subsection (b).

(b) By January 1, 2022, the board shall adopt rules to implement this section including, but not limited to, the establishment of fees and minimum specifications for the facilities, technical equipment, environment, supplies, personnel, operation, ownership, and procedures for the operation of mobile salons.

ARTICLE 2 COSMETOLOGY LICENSURE COMPACT

Section 34-7B-50 Purpose.

(a) The purpose of this compact is to facilitate the interstate practice and regulation of cosmetology with the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary burdens related to cosmetology licensure. Through this compact, the member states seek to establish a regulatory framework which provides for a new multistate licensing program. Through this new licensing program, the member states seek to provide increased value and mobility to licensed cosmetologists in the member states, while ensuring the provision of safe, effective, and reliable services to the public.

(b) This compact is designed to achieve the following objectives, and the member states ratify the same intentions, by subscribing to all of the following:

- (1) Provide opportunities for interstate practice by cosmetologists who meet uniform requirements for multistate licensure.
- (2) Enhance the abilities of member states to protect public health and safety, and prevent fraud and unlicensed activity within the profession.
- (3) Ensure and encourage cooperation between member states in the licensure and regulation of the practice of cosmetology.
- (4) Support relocating military members and their spouses.
- (5) Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of cosmetology.
- (6) Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the member states.

Section 34-7B-51 Definitions.

As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:

- (1) **ACTIVE DUTY MILITARY MEMBER.** Any individual in full-time duty status in the Armed Forces of the United States including members of the National Guard and Reserve.
- (2) **ADVERSE ACTION.** Any administrative, civil, equitable, or criminal action permitted by a member state's laws which is imposed by a state licensing authority or other regulatory body against a cosmetologist, including actions against an individual's license or authorization to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation of the licensee's practice, or any other encumbrance on a license affecting an individual's ability to participate in the cosmetology industry, including the issuance of a cease and desist order.
- (3) **ALTERNATIVE PROGRAM.** A non-disciplinary monitoring or prosecutorial diversion program approved by a member state's state licensing authority.
- (4) **AUTHORIZATION TO PRACTICE.** A legal authorization associated with a multistate license permitting the practice of cosmetology in that remote state, which shall be subject to the enforcement jurisdiction of the state licensing authority in that remote state.
- (5) **BACKGROUND CHECK.** The submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. § 20.33, from the Federal Bureau of Investigation and the agency responsible for retaining state criminal or disciplinary history in the applicant's home state.
- (6) **CHARTER MEMBER STATE.** Member states that have enacted legislation to adopt this compact where the legislation predates the effective date of this compact as defined in Section 34-7B-62.
- (7) **COMMISSION.** The government agency whose membership consists of all states that have enacted this compact, which is known as the Cosmetology Licensure Compact Commission, as defined in Section 34-7B-58, and which shall operate as an instrumentality of the member states.
- (8) **COSMETOLOGIST.** An individual licensed in his or her home state to practice cosmetology.
- (9) **COSMETOLOGY, COSMETOLOGY SERVICES, and THE PRACTICE OF COSMETOLOGY.** The care and services provided by a cosmetologist as set forth in the member state's statutes and rules in the state where the services are being provided.
- (10) **CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.** Either of the following:
 - a. Investigative information that a state licensing authority, after an inquiry or investigation that complies with a member state's due process requirements, has reason to believe is not groundless and, if proved true, would indicate a violation of that state's laws regarding fraud or the practice of cosmetology.
 - b. Investigative information that indicates that a licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the licensee has been notified and had an opportunity to respond.
- (11) **DATA SYSTEM.** A repository of information about licensees including, but not limited to, license status, investigative information, and adverse actions.

- (12) DISQUALIFYING EVENT. Any event which shall disqualify an individual from holding a multistate license under this compact, which the commission may by rule or order specify.
- (13) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of cosmetology by a state licensing authority.
- (14) EXECUTIVE COMMITTEE. A group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the commission.
- (15) HOME STATE. The member state which is a licensee's primary state of residence, and where that licensee holds an active and unencumbered license to practice cosmetology.
- (16) INVESTIGATIVE INFORMATION. Information, records, or documents received or generated by a state licensing authority pursuant to an investigation or other inquiry.
- (17) JURISPRUDENCE REQUIREMENT. The assessment of an individual's knowledge of the laws and rules governing the practice of cosmetology in a state.
- (18) LICENSEE. An individual who currently holds a license from a member state to practice as a cosmetologist.
- (19) MEMBER STATE. Any state that has adopted this compact.
- (20) MULTISTATE LICENSE. A license issued by and subject to the enforcement jurisdiction of the state licensing authority in a licensee's home state, which authorizes the practice of cosmetology in member states and includes authorizations to practice cosmetology in all remote states pursuant to this compact.
- (21) REMOTE STATE. Any member state, other than the licensee's home state.
- (22) RULE. Any rule or regulation adopted by the commission under this compact which has the force of law.
- (23) SINGLE-STATE LICENSE. A cosmetology license issued by a member state that authorizes practice of cosmetology only within the issuing state and does not include any authorization outside of the issuing state.
- (24) STATE. A state, territory, or possession of the United States and the District of Columbia.
- (25) STATE LICENSING AUTHORITY. A member state's regulatory body responsible for issuing cosmetology licenses or otherwise overseeing the practice of cosmetology in that state.

Section 34-7B-52 Member State Requirements.

(a) To be eligible to join this compact, and to maintain eligibility as a member state, a state must do all of the following:

- (1) License and regulate cosmetology.
- (2) Have a mechanism or entity in place to receive and investigate complaints about licensees practicing in that state.
- (3) Require that licensees within the state pass a cosmetology competency examination prior to being licensed to provide cosmetology services to the public in that state.
- (4) Require that licensees satisfy educational or training requirements in cosmetology prior to being licensed to provide cosmetology services to the public in that state.
- (5) Implement procedures for considering one or more of the following categories of information from applicants for licensure: Criminal history; disciplinary history; or background check. The procedures may include the submission of information by applicants for the purpose of obtaining an applicant's background check.
- (6) Participate in the data system, including through the use of unique identifying numbers.
- (7) Share information related to adverse actions with the commission and other member states, both through the data system and otherwise.
- (8) Notify the commission and other member states, in compliance with the terms of the compact and rules of the commission, of the existence of investigative information or current significant investigative information in the state's possession regarding a licensee practicing in that state.
- (9) Comply with rules adopted by the commission to administer the compact.
- (10) Accept licensees from other member states as established herein.

(b) Member states may charge a fee for granting a license to practice cosmetology.

(c) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting a multistate license to provide services in any other member state.

- (d) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.
- (e) A multistate license issued to a licensee by a home state to a resident of that state shall be recognized by each member state as authorizing a licensee to practice cosmetology in each member state.
- (f) At no point shall the commission have the power to define the educational or professional requirements for a license to practice cosmetology. The member states shall retain sole jurisdiction over the provision of these requirements.

Section 34-7B-53 Multistate License.

- (a) To be eligible to apply to his or her home state's state licensing authority for an initial multistate license under this compact, a licensee must hold an active and unencumbered single-state license to practice cosmetology in his or her home state.
- (b) Upon the receipt of an application for a multistate license, according to the rules of the commission, a member state's state licensing authority shall ascertain whether the applicant meets the requirements for a multistate license under this compact.
- (c) If an applicant meets the requirements for a multistate license under this compact and any applicable rules of the commission, the state licensing authority in receipt of the application, within a reasonable time, shall grant a multistate license to that applicant, and inform all member states of the grant of the multistate license.
- (d) A multistate license to practice cosmetology issued by a member state's state licensing authority shall be recognized by each member state as authorizing the practice thereof as though that licensee held a single-state license to do so in each member state, subject to the restrictions herein.
- (e) A multistate license granted pursuant to this compact may be effective for a definite period of time, concurrent with the licensure renewal period in the home state.
- (f) To maintain a multistate license under this compact, a licensee shall do all of the following:
- (1) Agree to abide by the rules of the state licensing authority, and the state scope of practice laws governing the practice of cosmetology, of any member state in which the licensee provides services.
 - (2) Pay all required fees related to the application and process, and any other fees which the commission may by rule require.
 - (3) Comply with any and all other requirements regarding multistate licenses which the commission may by rule provide.
- (g) A licensee practicing in a member state is subject to all scope of practice laws governing cosmetology services in that state.
- (h) The practice of cosmetology under a multistate license granted pursuant to this compact shall subject the licensee to the jurisdiction of the state licensing authority, the courts, and the laws of the member state in which the cosmetology services are provided.

Section 34-7B-54 Reissuance of a Multistate License by a New Home State.

- (a) A licensee may hold a multistate license, issued by his or her home state, in only one member state at any given time.
- (b) If a licensee changes his or her home state by moving between two member states:
- (1) The licensee shall immediately apply for the reissuance of his or her multistate license in his or her new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission.
 - (2) Upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state shall be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.
 - (3) If required for initial licensure, the new home state may require a background check as specified in the laws of that state, or the compliance with any jurisprudence requirements of the new home state.
 - (4) Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee shall be subject to the new home state requirements for the issuance of a single-state license in that state.
- (c) If a licensee changes his or her primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, then the licensee shall be subject to the state requirements for the issuance of a single-state license in the new home state.
- (d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state, and only one multistate license.
- (e) Nothing in this compact shall interfere with the requirements established by a member state for the issuance of a single-state license.

Section 34-7B-55 Authority of the Compact Commission and Member State Licensing Authorities.

(a) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of cosmetology in that state, where those laws, regulations, or other rules are not inconsistent with this compact.

(b) Insofar as practical, a member state's state licensing authority shall cooperate with the commission and with each entity exercising independent regulatory authority over the practice of cosmetology according to this compact.

(c) Discipline shall be the sole responsibility of the state in which cosmetology services are provided. Accordingly, each member state's state licensing authority shall be responsible for receiving complaints about individuals practicing cosmetology in that state, and for communicating all relevant investigative information about any adverse action to the other member states through the data system in addition to any other methods the commission may by rule require.

Section 34-7B-56 Adverse Actions.

(a) A licensee's home state shall have exclusive power to impose an adverse action against a licensee's multistate license issued by the home state.

(b) A home state may take adverse action on a multistate license based on the investigative information, current significant investigative information, or adverse action of a remote state.

(c) In addition to the powers conferred by state law, each remote state's state licensing authority shall have the power to do all of the following:

- (1) Take adverse action against a licensee's authorization to practice cosmetology through the multistate license in that member state, provided that:
 - a. Only the licensee's home state shall have the power to take adverse action against the multistate license issued by the home state; and
 - b. For the purposes of taking adverse action, the home state's state licensing authority shall give the same priority and effect to reported conduct received from a remote state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine the appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a licensee's authorization to practice within that member state.

(3) Complete any pending investigations of a licensee who changes his or her primary state of residence during the course of an investigation. The state licensing authority shall also be empowered to report the results of an investigation to the commission through the data system as described herein.

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before the court. The issuing state licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) If otherwise permitted by state law, recover from the affected licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(6) Take adverse action against the licensee's authorization to practice in that state based on the factual findings of another remote state.

(d) A licensee's home state shall complete any pending investigation of a cosmetologist who changes his or her primary state of residence during the course of the investigation. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigation to the data system.

(e) If an adverse action is taken by the home state against a licensee's multistate license, the licensee's authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose an adverse action against a licensee's multistate license shall include a statement that the cosmetologist's authorization to practice is deactivated in all member states during the pendency of the order.

(f) Nothing in this compact shall override a member state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. A licensee's multistate license shall be suspended for the duration of the licensee's participation in any alternative program.

(g) Joint investigations.

(1) In addition to the authority granted to a member state by its respective scope of practice laws or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

Section 34-7B-57 Active Military Members and Their Spouses.

Active military members, or their spouses, shall designate a home state where the individual has a current license to practice cosmetology in good standing. The individual may retain his or her home state designation during any period of service when that individual or his or her spouse is on active duty assignment.

Section 34-7B-58 Establishment and Operation of the Cosmetology Licensure Compact Commission.

(a) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Cosmetology Licensure Compact Commission. The commission is an instrumentality of the compact member states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in Section 34-7B-62.

(b) Membership, voting, and meetings.

- (1) Each member state shall have and be limited to one delegate selected by that member state's state licensing authority.
- (2) The delegate shall be an administrator of the state licensing authority of the member state or his or her designee.
- (3) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.
- (4) The commission may recommend removal or suspension of any delegate from office.
- (5) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.
- (6) Each delegate shall be entitled to one vote on all matters that are voted on by the commission.
- (7) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

(c) The commission shall do all of the following:

- (1) Establish the fiscal year of the commission.
- (2) Establish code of conduct and conflict of interest policies.
- (3) Adopt rules and bylaws.
- (4) Maintain its financial records in accordance with the bylaws.
- (5) Meet and take actions consistent with this compact, the commission's rules, and the bylaws.
- (6) Initiate and conclude legal proceedings or actions in the name of the commission; provided that the standing of any state licensing authority to sue or be sued under applicable law shall not be affected.
- (7) Maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf.
- (8) Purchase and maintain insurance and bonds.
- (9) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state.
- (10) Conduct an annual financial review.
- (11) Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
- (12) As set forth in the commission rules, charge a fee to a licensee for the grant of a multistate license and thereafter, as may be established by commission rule, charge the licensee a multistate license renewal fee for each renewal period. Nothing herein shall be construed to prevent a home state from charging a licensee a fee for a multistate license or renewals of a multistate license, or a fee for the jurisprudence requirement if the member state imposes a requirement for the grant of a multistate license.
- (13) Assess and collect fees.
- (14) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that the commission shall avoid any appearance of impropriety or conflict of interest.
- (15) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein.

- (16) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.
- (17) Establish a budget and make expenditures.
- (18) Borrow money.
- (19) Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and other interested individuals as may be designated in this compact and the bylaws.
- (20) Provide and receive information from, and cooperate with, law enforcement agencies.
- (21) Elect a chair, vice chair, secretary, treasurer, and other officers of the commission as provided in the commission's bylaws.
- (22) Establish and elect an executive committee, including a chair and a vice chair.
- (23) Adopt and provide to the member states an annual report.
- (24) Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.
- (25) Perform other functions as may be necessary or appropriate to achieve the purposes of this compact.
- (d) The executive committee.
- (1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include all of the following:
- a. Overseeing the day-to-day activities of the administration of the compact including compliance with the compact, the commission's rules and bylaws, and other duties as deemed necessary.
 - b. Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees.
 - c. Ensuring compact administration services are appropriately provided, including by contract.
 - d. Preparing and recommending the budget.
 - e. Maintaining financial records on behalf of the commission.
 - f. Monitoring compact compliance of member states and providing compliance reports to the commission.
 - g. Establishing additional committees as necessary.
 - h. Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw.
 - i. Other duties as provided in the rules or bylaws of the commission.
- (2) The executive committee shall be composed of up to seven voting members:
- a. The chair and vice chair of the commission and any other members of the commission who serve on the executive committee shall be voting members of the executive committee.
 - b. Other than the chair, vice chair, secretary, and treasurer, the commission shall elect three voting members from the current membership of the commission.
 - c. The commission may elect ex officio, nonvoting members from a recognized national cosmetology professional association as approved by the commission. The commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this section.
- (3) The commission may remove any member of the executive committee as provided in the commission's bylaws.
- (4) The executive committee shall meet at least annually.
- a. Annual executive committee meetings, as well as any executive committee meeting at which the executive committee does not take or intend to take formal action on a matter for which a commission vote would otherwise be required, shall be open to the public, except that the executive committee may meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under subdivision (f)(4).
 - b. The executive committee shall give five business days' advance notice of its public meetings, posted on its website and as determined to provide notice to individuals with an interest in the public matters the executive committee intends to address at those meetings.

- (5) The executive committee may hold an emergency meeting when acting for the commission to do any of the following:
- a. Meet an imminent threat to public health, safety, or welfare.
 - b. Prevent a loss of commission or member state funds.
 - c. Protect public health and safety.
- (e) The commission shall adopt and provide to the member states an annual report.
- (f) Meetings of the commission.
- (1) All meetings of the commission that are not closed pursuant to subdivision (4) shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.
- (2) Notwithstanding subdivision (1), the commission may convene an emergency public meeting by providing at least 24 hours' prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 34-7B-60(l). The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.
- (3) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting.
- (4) The commission may convene in a closed, non-public meeting for the commission to discuss any of the following:
- a. Non-compliance of a member state with its obligations under the compact.
 - b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.
 - c. Current or threatened discipline of a licensee by the commission or by a member state's licensing authority.
 - d. Current, threatened, or reasonably anticipated litigation.
 - e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
 - f. Accusing any individual of a crime or formally censuring any individual.
 - g. Trade secrets or commercial or financial information that is privileged or confidential.
 - h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
 - i. Investigative records compiled for law enforcement purposes.
 - j. Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
 - k. Legal advice.
 - l. Matters specifically exempted from disclosure to the public by federal or member state law.
 - m. Other matters as adopted by the commission by rule.
- (5) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and the reference shall be recorded in the minutes.
- (6) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.
- (g) Financing of the commission.
- (1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) The commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.
- (3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which shall be in a total amount sufficient

to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall adopt by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(h) Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subdivision shall be construed to protect any individual from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that individual. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that individual from retaining his or her own counsel at his or her own expense; and provided further, that the actual or alleged act, error, or omission did not result from that individual's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that individual arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the individual had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that individual.

(4) Nothing in this compact shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

Section 34-7B-59 Data System.

(a) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

(b) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(c) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information.

(2) Licensure data.

(3) Adverse actions against a license and information related thereto.

(4) Non-confidential information related to alternative program participation, the beginning and ending dates of participation, and other information related to participation.

(5) Any denial of application for licensure, and the reasons for the denial, excluding the reporting of any criminal history record information where prohibited by law.

(6) The existence of investigative information.

(7) The existence of current significant investigative information.

(8) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(d) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

(e) The existence of current significant investigative information and the existence of investigative information pertaining to a licensee in any member state shall only be available to other member states.

(f) It is the responsibility of the member states to monitor the database to determine whether adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any member state shall be available to any other member state.

(g) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(h) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

Section 34-7B-60 Rulemaking.

(a) The commission shall adopt reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of this compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(b) The rules of the commission shall have the force of law in each member state. Where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice laws governing the practice of cosmetology as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(d) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state or to any state applying to participate in the compact.

(e) Rules shall be adopted at a regular or special meeting of the commission.

(f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow individuals to provide oral and written comments, data, facts, opinions, and arguments.

(g) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission shall hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking to all of the following:

- (1) On the website of the commission or other publicly accessible platform.
- (2) To individuals who have requested notice of the commission's notices of proposed rulemaking.
- (3) In other ways as the commission may by rule specify.

(h) The notice of proposed rulemaking shall include all of the following:

- (1) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule.
- (2) If the hearing is held via telecommunication, video conference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking.
- (3) The text of the proposed rule and the reason therefor.
- (4) A request for comments on the proposed rule from any interested individual.
- (5) The manner in which interested individuals may submit written comments.

(i) All hearings shall be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(j) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(k) The commission, by majority vote of all members, shall take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(1) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(2) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(3) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (l), the effective date of the rule shall be no sooner than 45 days after the commission issuing the notice that it adopted or amended the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with five days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that shall be adopted immediately to do any of the following:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or member state funds.

(3) Meet a deadline for the adoption of a rule that is established by federal law or rule.

(4) Protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any individual for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(n) No member state's rulemaking requirements shall apply under this compact.

Section 34-7B-61 Oversight, Dispute Resolution, and Enforcement.

(a) Oversight.

(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement this compact.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any similar matter.

(3) The commission may receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in any proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or adopted rules.

(b) Default, technical assistance, and termination.

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority and each of the member states' state licensing authority.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees who hold a multistate license within that state of the termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of the notice of termination.

(7) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of the litigation, including reasonable attorney's fees.

(c) Dispute resolution.

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce this compact and the commission's rules.

(2) By majority vote as provided by commission rule, the commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal office to enforce compliance with this compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(3) A member state may initiate legal action against the commission in the United States District Court for the District of Columbia or the federal district where the commission has its principal office to enforce compliance with this compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorney's fees.

(4) No individual or entity other than a member state may enforce this compact against the commission.

Section 34-7B-62 Effective Date, Withdrawal, and Amendment.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each charter member state is materially different than the model compact statute.

a. A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in Section 34-7B-61.

b. If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven.

(2) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Section 34-7B-58(c)(24) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(4) Any state that joins the compact shall be subject to the commission's rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(b) Any member state may withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

(1) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's state licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, the withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of notice of withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with this compact.

(d) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 34-7B-63 Construction and Severability.

(a) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the adoption of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, individual, or circumstance shall not be affected thereby.

(c) Notwithstanding subsection (b), the commission may deny a state's participation in the compact or, in accordance with the requirements of Section 34-7B-61, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 34-7B-64 Consistent Effect and Conflict with Other State Laws.

(a) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with this compact.

(b) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with this compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the member states are binding in accordance with their terms.

ARTICLE 3 ESTHETICS LICENSURE COMPACT *(Effective 10/1/2026)*

Section 34-7B-80 Purpose

(a) The purpose of this compact is to facilitate the interstate practice and regulation of esthetics with the goal of improving public access to, and the safety of, esthetics services and reducing barriers related to esthetician licensure. Through this compact, the member states seek to establish a regulatory framework that provides for a new multistate licensing program. Through this new licensing program, the member states seek to provide increased value and mobility to licensed estheticians in the member states, while ensuring the provision of safe, effective, and reliable services to the public.

(b) This compact is designed to achieve the following objectives, and the member states hereby ratify the same intentions by subscribing hereto:

- (1) Provide opportunities for interstate practice by estheticians who meet uniform requirements for multistate licensure;
- (2) Enhance the abilities of member states to protect public health and safety, and prevent fraud and unlicensed activity within the profession;
- (3) Ensure and encourage cooperation between member states in the licensure and regulation of the practice of esthetics;
- (4) Support relocating military members and their spouses;
- (5) Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of esthetics; and
- (6) Provide for the licensure and mobility of the workforce in the profession.

Section 34-7B-81 Definitions.

As used in this compact, and except as otherwise provided, the following definitions govern the terms herein:

- (1) **ACTIVE DUTY.** Any individual in full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.
- (2) **ADVERSE ACTION.** Any administrative, civil, equitable, or criminal action permitted by a member state's laws which is imposed by a licensing authority or other regulatory body against an esthetician, including actions against an individual's license or authorization to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation of the licensee's practice, or any other encumbrance on a license affecting an individual's ability to participate in the esthetics industry, including the issuance of a cease and desist order.
- (3) **ALTERNATIVE PROGRAM.** A non-disciplinary monitoring or prosecutorial diversion program approved by a member state's licensing authority.
- (4) **AUTHORIZATION TO PRACTICE.** A legal authorization associated with a multistate license permitting the practice of esthetics in that remote state, which shall be subject to the enforcement jurisdiction of the licensing authority in that remote state.
- (5) **BACKGROUND CHECK.** The submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. § 20.3(d), from the Federal Bureau of Investigation and the agency responsible for retaining state criminal or disciplinary history in the applicant's home state.
- (6) **CHARTER MEMBER STATE.** Member states who have enacted legislation to adopt this compact where such legislation predates the effective date of this compact as defined in Section 34-7B-92.
- (7) **COMMISSION.** The joint government agency whose membership consists of all states that have enacted this compact, which is known as the Esthetics Licensure Compact Commission, as defined in Section 34-7B-88, and which shall operate as an instrumentality of the member states.
- (8) **CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.** Either of the following:
 - a. Investigative information that a licensing authority, after an inquiry or investigation that complies with a member state's due process requirements, has reason to believe is not groundless and, if proved true, would indicate a violation of that state's laws regarding fraud or the practice of esthetics.
 - b. Investigative information that indicates that a licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the licensee has been notified and had an opportunity to respond.
- (9) **DATA SYSTEM.** A repository of information about licensees including, but not limited to, license status, investigative information, and adverse actions.
- (10) **DISQUALIFYING EVENT.** Any event that shall disqualify an individual from holding a multistate license under this compact and which the commission, by rule or order, may specify.
- (11) **ENCUMBERED LICENSE.** A license in which an adverse action restricts the practice of esthetics by a licensee, or where the adverse action has been reported to the commission.

- (12) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of esthetics by a licensing authority.
- (13) ESTHETICIAN. An individual licensed in his or her home state to engage in the practice of esthetics as defined in this section.
- (14) ESTHETICS. The skin care and services for cosmetic purposes provided by an esthetician in a member state as set forth in the relevant statutes and rules of a member state. The practice of esthetics occurs in the member state where the client is located at the time of service.
- (15) EXECUTIVE COMMITTEE. A group of delegates elected or appointed to act on behalf of and within the powers granted to them by the commission.
- (16) HOME STATE. The member state that is a licensee's primary state of residence and where that licensee holds an active and unencumbered license to practice esthetics.
- (17) INVESTIGATIVE INFORMATION. Information, records, or documents received or generated by a licensing authority pursuant to an investigation or other inquiry.
- (18) JURISPRUDENCE REQUIREMENT. The assessment of an individual's knowledge of the laws and rules governing the practice of esthetics in a state.
- (19) LICENSEE. An individual who currently holds a license from a member state to practice as an esthetician.
- (20) LICENSING AUTHORITY. A state's administrative or regulatory body responsible for regulating the practice of esthetics, or which is responsible for issuing licenses to estheticians or otherwise overseeing the practice of esthetics in that state.
- (21) MEMBER STATE. Any state that has adopted this compact.
- (22) MULTISTATE LICENSE. A license issued and subject to the enforcement jurisdiction of the licensing authority in a licensee's home state, which authorizes the practice of esthetics in member states and includes authorizations to practice esthetics in all remote states pursuant to this compact.
- (23) REMOTE STATE. Any member state, other than the licensee's home state.
- (24) RULE. A regulation adopted by the commission under this compact, or an authorized entity, that has the force of law.
- (25) SINGLE-STATE LICENSE. A license issued by a member state which authorizes the practice of esthetics only within the issuing state and does not include any authorization outside of the issuing state.
- (26) STATE. A state, commonwealth, territory, or possession of the United States and the District of Columbia.

Section 34-7B-82 Member State Requirements.

(a) To be eligible to join this compact, and to maintain eligibility as a member state, a state must do all of the following:

- (1) License estheticians and regulate esthetics.
- (2) Have a mechanism or entity in place to receive and investigate complaints about licensees practicing in that state.
- (3) Require that licensees within the state pass a competency examination prior to being licensed to provide esthetics services to the public in that state.
- (4) Require that licensees satisfy educational or training requirements prior to being licensed to provide esthetics services to the public in that state.
- (5) Implement procedures for considering one or more of the following categories of information from applicants for licensure: (i) criminal history; (ii) disciplinary history; or (iii) background check. Such procedures may include the submission of information by applicants for the purpose of obtaining an applicant's background check as defined herein.
- (6) Participate in the data system, including through the use of unique identifying numbers.
- (7) Share information related to adverse actions with the commission and other member states, both through the data system and otherwise.
- (8) Notify the commission and other member states, in compliance with the terms of the compact and rules of the commission, of the existence of investigative information or current significant investigative information in the state's possession regarding a licensee practicing in that state.
- (9) Comply with such rules as may be enacted by the commission to administer the compact.
- (10) Accept licensees from other member states as established herein.

(b) Member states may charge a fee for granting a multistate license to practice esthetics.

(c) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting a multistate license to provide services in any other member state.

- (d) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.
- (e) A multistate license issued to a licensee by a home state to a resident of that state shall be recognized by each member state as authorizing a licensee to practice esthetics in each member state.
- (f) At no point shall the commission have the power to define the educational or professional requirements for a license to practice esthetics. The member states shall retain sole jurisdiction over the provision of these requirements.

Section 34-7B-83 Multistate License.

- (a) To be eligible to apply to his or her home state's licensing authority for an initial multistate license under this compact, a licensee must hold an active and unencumbered single-state license to practice esthetics in his or her home state.
- (b) Upon the receipt of an application for a multistate license, according to the rules of the commission, a member state's licensing authority shall ascertain whether the applicant meets the requirements for a multistate license under this compact.
- (c) If an applicant meets the requirements for a multistate license under this compact and any applicable rules of the commission, the licensing authority in receipt of the application, within a reasonable time, shall grant a multistate license to that applicant and inform all member states of the grant of the multistate license.
- (d) A multistate license to practice esthetics issued by a member state's licensing authority shall be recognized by each member state as authorizing the practice thereof as though that licensee held a single-state license to do so in each member state, subject to the restrictions herein.
- (e) A multistate license granted pursuant to this compact may be effective for a definite period of time, concurrent with the licensure renewal period in the home state.
- (f) To maintain a multistate license under this compact, a licensee must:
- (1) Agree to abide by the rules of the licensing authority, and the state scope of practice laws governing the practice of esthetics, of any member state in which the licensee provides services;
 - (2) Pay all required fees related to the application and process, and any other fees which the commission, by rule, may require; and
 - (3) Comply with any and all other requirements regarding multistate licenses which the commission, by rule, may provide.
- (g) A licensee practicing in a member state is subject to all scope of practice laws governing esthetics services in that state.
- (h) The practice of esthetics under a multistate license granted pursuant to this compact will subject the licensee to the jurisdiction of the licensing authority, the courts, and the laws of the member state in which the esthetics services are provided.

Section 34-7B-84 Reissuance of a Multistate License by a New Home State.

- (a) A licensee may hold a multistate license, issued by his or her home state, in only one member state at any given time.
- (b) If a licensee changes his or her home state by moving between two member states:
- (1) The licensee shall immediately apply for the reissuance of his or her multistate license in his or her new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission;
 - (2) Upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state shall be deactivated and all member states notified in accordance with the applicable rules adopted by the commission;
 - (3) If required for initial licensure, the new home state may require a background check as specified in the laws of the new home state or compliance with any jurisprudence requirements of the new home state; and
 - (4) Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee shall be subject to the new home state requirements for the issuance of a single-state license in that state.
- (c) If a licensee changes his or her primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, then the licensee shall be subject to the state requirements for the issuance of a single-state license in the new home state.
- (d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state and only one multistate license.
- (e) Nothing in this compact shall interfere with the requirements established by a member state for the issuance of a single-state license.

Section 34-7B-85 Authority of the Compact Commission and Member State Licensing Authorities.

- (a) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws or other rules related to the practice of esthetics in that state, where those laws or other rules are not inconsistent with the provisions of this compact.
- (b) Insofar as practical, a member state's licensing authority shall cooperate with the commission and with each entity exercising independent regulatory authority over the practice of esthetics according to the provisions of this compact.
- (c) Discipline shall be the sole responsibility of the state in which esthetics services are provided. Accordingly, each member state's licensing authority shall be responsible for receiving complaints about individuals practicing esthetics in that state and for communicating all relevant investigative information about any such adverse action to the other member states through the data system in addition to any other methods the commission, by rule, may require.

Section 34-7B-86 Adverse Actions.

- (a) A licensee's home state shall have exclusive power to impose an adverse action against a licensee's multistate license issued by the home state.
- (b) A home state may take adverse action on a multistate license based on the investigative information, current significant investigative information, or adverse action of a remote state.
- (c) In addition to the powers conferred by state law, each remote state's licensing authority shall have the power to:
- (1) Take adverse action against a licensee's authorization to practice esthetics through the multistate license in that member state, provided that:
 - a. Only the licensee's home state shall have the power to take adverse action against the multistate license issued by the home state; and
 - b. For the purpose of taking an adverse action, the home state's licensing authority shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine the appropriate action;
 - (2) Issue cease and desist orders or impose an encumbrance on a licensee's authorization to practice within that member state;
 - (3) Complete any pending investigations of a licensee who changes his or her primary state of residence during the course of such an investigation. The licensing authority shall also be empowered to report the results of such an investigation to the commission through the data system as described herein;
 - (4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located;
 - (5) If otherwise permitted by state law, recover from the affected licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee; and
 - (6) Take adverse action against the licensee's authorization to practice in that state based on the factual findings of another remote state.
- (d) A licensee's home state shall complete any pending investigation of an esthetician who changes his or her primary state of residence while the investigation is pending. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of any investigation to the data system.
- (e) If an adverse action is taken by the home state against a licensee's multistate license, the licensee's authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose an adverse action against a licensee's multistate license shall include a statement that the esthetician's authorization to practice is deactivated in all member states during the pendency of the order.
- (f) Nothing in this compact shall override a member state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. A licensee's multistate license shall be suspended for the duration of the licensee's participation in any alternative program.
- (g) Joint investigations.
- (1) In addition to the authority granted to a member state by its respective scope of practice laws or other applicable state law, a member state may participate with other member states in joint investigations of licensees.
 - (2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

Section 34-7B-87 Active Duty Military and Their Spouses.

An active duty military service member or his or her spouse shall designate a home state where the individual has a current license in good standing. The individual or spouse may retain his or her home state designation during any period of service when that individual is on active duty.

Section 34-7B-88 Establishment and Operation of the Esthetics Licensure Compact Commission.

(a) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Esthetics Licensure Compact Commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in Section 34-7B-92.

(b) Membership, voting, and meetings.

- (1) Each member state shall have and be limited to one delegate selected by that member state's licensing authority.
- (2) The delegate shall be an administrator of the licensing authority of the member state or its designee.
- (3) The commission, by rule or bylaw, shall establish a term of office for delegates and, by rule or bylaw, may establish term limits.
- (4) The commission may recommend removal or suspension of any delegate from office.
- (5) A member state's licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.
- (6) Each delegate shall be entitled to one vote on all matters that are voted on by the commission.
- (7) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference, or other similar electronic means.

(c) The commission shall have the following powers:

- (1) Establish the fiscal year of the commission.
- (2) Establish code of conduct and conflict of interest policies.
- (3) Adopt rules and bylaws.
- (4) Maintain its financial records in accordance with the bylaws.
- (5) Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws.
- (6) Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any licensing authority to sue or be sued under applicable law shall not be affected.
- (7) Maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf.
- (8) Purchase and maintain insurance and bonds.
- (9) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state.
- (10) Conduct an annual financial review.
- (11) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
- (12) As set forth in the commission rules, charge a fee to a licensee for the grant of a multistate license and thereafter, as may be established by commission rule, charge the licensee a multistate license renewal fee for each renewal period. Nothing herein shall be construed to prevent a home state from charging a licensee a fee for a multistate license or renewals of a multistate license or a fee for the jurisprudence requirement if the member state imposes such a requirement for the grant of multistate license.
- (13) Assess and collect fees.
- (14) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.
- (15) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein.
- (16) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

- (17) Establish a budget and make expenditures.
- (18) Borrow money.
- (19) Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this compact and the bylaws.
- (20) Provide and receive information from, and cooperate with, law enforcement agencies.
- (21) Elect a chair, vice chair, secretary, and treasurer and such other officers of the commission as provided in the commission's bylaws.
- (22) Establish and elect an executive committee, including a chair and a vice chair.
- (23) Adopt and provide to the participating states an annual report.
- (24) Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.
- (25) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(d) The executive committee.

- (1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:
 - a. Overseeing the day-to-day activities of the administration of the compact, including compliance with the provisions of the compact, the commission's rules and bylaws, and other such duties as deemed necessary;
 - b. Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;
 - c. Ensuring compact administration services are appropriately provided, including by contract;
 - d. Preparing and recommending the budget;
 - e. Maintaining financial records on behalf of the commission;
 - f. Monitoring compact compliance of member states and providing compliance reports to the commission;
 - g. Establishing additional committees as necessary;
 - h. Exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and
 - i. Other duties as provided in the rules or bylaws of the commission.
- (2) The executive committee shall be composed of up to seven voting members:
 - a. The chair and vice chair of the commission and any other members of the commission who serve on the executive committee shall be voting members of the executive committee;
 - b. Other than the chair and vice chair, secretary, and treasurer, the commission shall elect three voting members from the current membership of the commission; and
 - c. The commission may elect ex officio, nonvoting members from a recognized national organization as approved by the commission. The commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this section.
- (3) The commission may remove any member of the executive committee as provided in the commission's bylaws.
- (4) The executive committee shall meet at least annually.
 - a. Annual executive committee meetings, as well as any executive committee meeting during which the executive committee does not take or intend to take formal action on a matter for which a commission vote would otherwise be required, shall be open to the public, except that the executive committee may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subdivision (f)(4).
 - b. The executive committee shall give five business days advance notice of its public meetings, posted on its website, and any other means as provided in the commission's rules, to provide notice to persons with an interest in the public matters the executive committee intends to address at those meetings.

(5) The executive committee may hold an emergency meeting when acting for the commission to:

- a. Meet an imminent threat to public health, safety, or welfare;
- b. Prevent a loss of commission or participating state funds; or
- c. Protect public health and safety.

(e) The commission shall adopt and provide to the member states an annual report.

(f) Meetings of the commission.

(1) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(2) Notwithstanding subdivision (1), the commission may convene an emergency public meeting by providing at least 24-hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons the commission may dispense with notice of proposed rulemaking under Section 34-7B-90(l). The commission's legal counsel shall certify one of the reasons justifying an emergency public meeting has been met.

(3) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting.

(4) The commission may convene in a closed, nonpublic meeting for the commission to discuss the following:

- a. Noncompliance of a member state with its obligations under the compact.
- b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures.
- c. Current or threatened discipline of a licensee by the commission or by a member state's licensing authority.
- d. Current, threatened, or reasonably anticipated litigation.
- e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- f. Accusing any person of a crime or formally censuring any person.
- g. Trade secrets or commercial or financial information that is privileged or confidential.
- h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- i. Investigative records compiled for law enforcement purposes.
- j. Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
- k. Legal advice.
- l. Matters specifically exempted from disclosure to the public by federal or member state law.
- m. Other matters as adopted by the commission, by rule.

(5) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(6) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(g) Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on, and collect an annual assessment from, each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount

sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall adopt by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any member state, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(h) Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing in this subdivision shall be construed to protect any such individual from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the individual against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that individual from retaining his or her own counsel at his or her own expense; and provided further, that the actual or alleged act, error, or omission did not result from that individual's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that individual arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such individual had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that individual.

(4) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

Section 34-7B-89 Data System.

(a) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

(b) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(c) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license and information related thereto;

(4) Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation;

(5) Any denial of application for a license, and the reason for such denial, excluding the reporting of any criminal history record information where prohibited by law;

(6) The existence of investigative information;

(7) The existence of current significant investigative information; and

(8) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(d) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

(e) The existence of current significant investigative information and the existence of investigative information pertaining to a licensee in any member state shall only be available to other member states.

(f) It is the responsibility of the member states to monitor the database to determine whether adverse action has been taken against such a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any member state shall be available to any other member state.

(g) Member states that contribute information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(h) Any information submitted to the data system which is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

Section 34-7B-90 Rulemaking.

(a) The commission shall adopt reasonable rules to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(b) The rules of the commission shall have the force of law in each member state, provided that where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice laws governing the practice of esthetics as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(d) If a majority of the legislatures of the member states rejects a rule or portion of a rule by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state or to any state applying to participate in the compact.

(e) Rules shall be adopted at a regular or special meeting of the commission.

(f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(g) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform;

(2) To persons who have requested notice of the commission's notices of proposed rulemaking; and

(3) In such other ways as the commission, by rule, may specify.

(h) The notice of proposed rulemaking shall include:

(1) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(2) If the hearing is held via telecommunication, video conference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(3) The text of the proposed rule and the reason therefor;

(4) A request for comments on the proposed rule from any interested person; and

(5) The manner in which interested persons may submit written comments.

(i) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(j) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(k) The commission, by majority vote of all members, shall take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(1) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(2) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(3) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (l), the effective date of the rule shall be no sooner than 45 days after the commission adopted or amended the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with five days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately to:

a. Meet an imminent threat to public health, safety, or welfare;

b. Prevent the loss of commission or member state funds;

c. Meet a deadline for the adoption of a rule that is established by federal law or rule; or

d. Protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(n) No member state's rulemaking requirements shall apply under this compact.

Section 34-7B-91 Oversight, Dispute Resolution, and Enforcement.

(a) Oversight.

(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or adopted rules.

(b) Default, technical assistance, and termination.

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority, and each of the member states' licensing authorities.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees who hold a multistate license within that state of the termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of the notice of termination.

(g) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(h) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(i) Dispute resolution.

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact which arise among member states and between member and non-member states.

(2) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(j) Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact and the commission's rules.

(2) By majority vote as provided by commission rule, the commission may initiate legal action against a member state in default in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's laws.

(3) A member state may initiate legal action against the commission in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(4) No individual or entity other than a member state may enforce this compact against the commission.

Section 34-7B-92 Effective Date, Withdrawal, and Amendment.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

a. A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in Section 34-7B-91.

b. If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence, and the compact shall remain in effect even if the number of member states should be less than seven.

(2) Member states enacting the compact after the charter member states shall be subject to the process set forth in Section 34-7B-88(c)(24) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered actions of the commission unless specifically repudiated by the commission.

(4) Any state that joins the compact shall be subject to the commission's rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(b) Any member state may withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

(1) A member state's withdrawal shall not take effect until 180 days after the enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, the withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(d) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 34-7B-93 Construction and Severability.

(a) This compact and the commission's rulemaking authority shall be liberally construed to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the adoption of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact, and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(c) Notwithstanding subsection (b), the commission may deny a state's participation in the compact or, in accordance with the requirements of Section 34-7B-91, terminate a member state's participation in the compact if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 34-7B-94 Consistent Effect and Conflict with Other State Laws.

(a) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) Any laws, statutes, rules, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(d) The purpose of this compact is to facilitate multistate licensure for estheticians. Nothing herein shall subject a member state to any laws, rules, or policies from any other member state beyond the intended purpose of this compact.

(e) Nothing in this compact shall require any member state to adopt additional laws, rules, or policies beyond the intended purpose of this compact.

ALABAMA ADMINISTRATIVE CODE

CHAPTER 250-X-1 - ADMINISTRATION

250-X-1-.01 Disciplinary Procedures And Actions

- (1) The Board may initiate investigations as appropriate by inspections or otherwise to determine compliance with state law and the rules and regulations of the Board.
- (2) On the basis of investigative findings, the Board may file a complaint against any person or business licensed under the provisions of the Code of AL 1975, Section 34-7B, or against any other person or business in violation thereof.
- (3) The Board shall investigate written complaints filed by the public against any person or business licensed under the provisions of the Code of AL 1975, Section 34-7B, or against any other person or business in violation thereof.
- (4) The Board may require a licensee to submit a written and sworn statement to the Board in response to any complaint or investigation by the Board.
- (5) All reports of investigations of complaints shall be submitted to the Investigative Committee of the Board.
 - (a) The Investigative Committee shall be composed of one Board member, the Board's attorney and the Executive Director of the Board or the Director's designee. By vote the Board shall appoint a Board member to serve on the Investigative Committee on an annual basis.
 - (b) The Investigative Committee shall review the investigation and complaint to determine if probable cause exists for disciplinary or enforcement proceedings by the Board. The Board member participating in the probable cause determination by the Investigative Committee shall not participate in any disciplinary proceedings of the Board arising from the investigation.
 - (c) Two members shall comprise a quorum of the Investigative Committee.
 - (d) No Board member shall serve longer than two (2) consecutive annual terms on the Investigative Committee. By vote the Board may remove or replace designated Board member serving on Investigative Committee for any reason.
 - (e) By vote the Board may appoint a substitute on the Investigative Committee for any complaint in which the designated Board member has a conflict of interest or is otherwise disqualified, including involvement as a possible witness to facts involved in the investigation.

(6) The Board's attorney on behalf of the Board shall refer investigations involving possible criminal violations of state law to the Alabama Attorney General or other appropriate state or local law enforcement agency and provide assistance as necessary to assure compliance with state laws and Board rules.

250-X-1-.02 Administrative Complaint Procedures

- (1) When the Investigative Committee determines disciplinary action against a licensee is necessary, the Board shall prepare a summons and administrative complaint to be executed by the Executive Director on behalf of the Board. However, the Board may enter into settlement as referenced in paragraph 8 of Administrative Rule 250-X-1-.02 before issuance of any summons and complaint.
- (2) The Board shall serve a copy of the summons and administrative complaint on the licensee against whom the complaint has been filed. The method of service shall be either certified mail or personal service. If the Board is unable to obtain service of the summons and administrative complaint by certified mail or personal service, the Board or its attorney may serve the summons and administrative complaint by first class mail to the most recent address on file with the Board of the licensee against whom the complaint has been filed.
- (3) The summons and administrative complaint shall give notice in substantial compliance with the Alabama Administrative Procedures Act, Section 12(b)¹
- (4) Upon service of the administrative complaint, the Board shall schedule an administrative hearing to be held within two months of the date the summons and administrative complaint has been served by certified mail or personal service. The administrative hearing shall be held at the offices of the Board or other location designated by the Board.
- (5) If the person against whom the administrative complaint has been filed is a member of the Board, that Board member shall be notified in writing of the administrative charges by the Board's Executive Director and shall not participate in any proceedings or meetings related to the complaint.
- (6) In all administrative charges issued by the Board, the Board's attorney shall serve as prosecuting attorney and shall present evidence in support of the administrative complaint at the administrative hearing conducted by the Board or its Hearing Officer.

¹ Alabama Administrative Procedure Act, Section 41-22-12(b), Code of Alabama 1975, reads as follows:

(1) A statement of the time, place, and nature of the hearing;(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;(3) A reference to the particular sections of the statutes and rules involved; and (4) A short and plain statement of the matters asserted. If the agency of other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(7) Following its investigation, if the Investigative Committee determines that no probable cause exists, the investigative proceedings shall be terminated and investigation of that complaint shall be closed.

(8) At any time during the investigation process, the Investigative Committee, Executive Director, or the Board's Attorney may enter into informal settlement agreements on behalf of the Board.

(9) The Board retains the discretionary authority to invoke the administrative complaint procedures set forth in these Rules against any person in lieu of instituting criminal proceedings against the unlicensed person. This provision does not restrict in any manner the authority of other state or local law enforcement agencies to pursue criminal penalties as otherwise provided by law.

250-X-1-.03 Informal Settlement Proceedings

(1) The Board or other party to an administrative proceeding may initiate informal settlement negotiations to resolve the administrative complaint or investigation by the Board.

(2) Neither the Board nor any other party is obligated to use informal settlement procedures or to participate in informal settlement negotiations.

(3) Any informal settlement shall be to terms that are negotiated to be in the best interest of the Board.

250-X-1-.04 Consolidation of Administrative Proceedings

(1) The Board or its Hearing Officer may order the consolidation, in whole or in part, of two or more administrative proceedings whenever it appears the matters are substantially related and that such consolidation would expedite or simplify consideration of issues, and no party would be prejudiced thereby. This consolidation may include multiple cases involving the same parties or may include multiple cases involving different parties provided that other requirements of consolidation have been met.

(2) Any party may request the Board or its Hearing Officer to sever any part of an administrative proceeding that has been consolidated when it appears consolidation will not expedite or simplify consideration of issues or that the party will be prejudiced by continued consolidation of proceedings.

250-X-1-.05 Motions

(1) All motions, except those made orally on the record during an administrative hearing, shall be in writing and shall state the grounds in support of motions. All motions shall describe the relief sought and shall include any legal authority relied upon for relief. A copy of each motion filed with the Board shall be served on all parties accompanied by a certificate of service describing the method of service of the motion on other parties.

(2) The Board or its Hearing Officer may permit the non-moving party to file a response to any motion. Any response filed shall be served on other parties in the same manner as required for filing of motions.

(3) Any party may submit affidavits or other legal evidence in support of a motion or response provided such evidence is served on the other parties as an attachment to the motion or response filed with the Board.

250-X-1-.06 Pre-hearing Procedures

(1) The time requirements for conducting an administrative hearing may be waived by the filing of a written joint motion of the parties indicating an agreement to delay the proceedings and including a brief statement of the reasons for the requested delay. The Board or its Hearing Officer shall retain the discretionary authority to grant or deny the request to delay the proceedings.

(2) The Board or its Hearing Officer may require the parties to appear at a specified time and place in advance of the hearing for one or more pre-hearing conferences to consider:

- (a) The settlement of the case;
- (b) The identification and/or clarification of the contested issues;
- (c) Submission of admissions or stipulation to facts;
- (d) Stipulation to the genuineness of documents that avoid unnecessary witnesses or proof;
- (e) The identification of any facts of which official notice is proposed to be taken;
- (f) The identification of any expert witnesses expected to testify and the substance of any opinion to which the expert witness may testify;
- (g) And any other such matters that may be necessary or relevant to the determination of the issues involved in the administrative hearing.

(3) The Board or its Hearing Officer shall issue a written pre-hearing order reciting the actions taken at any pre-hearing conference, including any stipulations or agreements by the parties regarding the issues to be resolved at administrative hearing.

250-X-1-.07 Pre-hearing Discovery

(1) Pre-hearing discovery shall be permitted only upon determination by the Board or its Hearing Officer that:

- (a) Discovery will not unreasonably delay the proceedings;
 - (b) Discovery sought has significant probative value to the issues involved in the administrative hearing;
 - (c) Discovery sought will prevent fraud;
 - (d) Discovery sought will prevent undue surprise at the administrative hearing;
 - (e) And/or discovery sought will other-wise provide fundamental fairness to the parties to the administrative hearing.
- (2) All discovery sought must relate to charges contained in the administrative complaint or defenses to those charges.
- (3) The following methods of discovery are available, pursuant to the discretion of the Board or the Board's Hearing officer:
- (a) Depositions upon oral examinations of expert witnesses;
 - (b) Interrogatories to the Respondent;
 - (c) Production and copying of documents and things;
 - (d) Request for admissions to the Respondent;
 - (e) Requests for entry upon land for inspection and other purposes against any person.
- (4) All discovery should be conducted in accordance with any terms and conditions imposed by the Board or its Hearing Officer. These terms and conditions may be imposed to protect the parties or other persons from annoyance, embarrassment, oppression, or undue burden and expense. Court reporters' fees and reasonable copying costs shall be borne by the party requesting discovery.
- (5) Depositions of all parties and their employees, agents, and other persons under their control shall be conducted at the Board's offices in Montgomery, Alabama unless another location is agreed upon by all parties.

250-X-1-.09 Failure Of A Party To Appear

If a party fails to appear at a hearing after being given notice of hearing as required by these Rules, the Board or Board's Hearing Officer may proceed with hearing in absence of the party.

250-X-1-.10 Administrative Hearing Procedures

- (1) The Board may appoint a person to act on its behalf as Hearing Officer at its administrative hearings. The Hearing Officer shall preside at administrative hearings and shall rule on all questions of evidence and procedure. The Hearing Officer shall admit all evidence that is relevant, material, and which has probative value to the issues under consideration by the Board. Offers of settlement and compromise are not admissible. The Hearing Officer shall consider evidence presented and then submit a recommendation to Board, including: a procedural summary of case; findings of fact; conclusions of law; and a recommended decision on the issues included in administrative complaint including, if necessary, suggested administrative punishment pursuant to the charges in the administrative complaint. The Hearing Officer's recommendations shall be considered by the Board but are not binding on the Board. Within sixty (60) days after receipt of the Hearing Officer's recommendation, the Board shall issue an appropriate administrative order modifying, approving or rejecting the recommendation. If the hearing was conducted by the Board itself, the Board shall issue its order within sixty (60) days after receipt of the court reporter's transcript of the administrative hearing. The Board's order in all instances shall include a procedural history of the case, findings of fact, conclusions of law, and its decision regarding the issues contained within the administrative complaint, including, if necessary, the appropriate administrative punishment.
- (2) Prior to the taking of witness testimony at the administrative hearing, the Respondent or Respondents shall enter a plea of "guilty" or "not guilty" to each charge contained in the administrative complaint.
- (3) All parties shall be allowed to make a concise opening statement regarding the charges in the administrative complaint, defenses to the administrative complaint, expected testimony and evidence, and any proposed administrative punishment.
- (4) The parties shall be allowed to present evidence by direct and cross-examination. The Executive Director, or a designee acting on behalf of the Investigative Committee, shall present its evidence first followed by the other parties in the order determined by the Board or its Hearing Officer. Examination of witnesses shall not be unduly repetitious. The testimony of all parties and witnesses shall be made under oath administered by the Board or the Board's Hearing Officer.
- (5) The Board or the Board's Hearing Officer may examine and question any party or witness regarding the administrative complaint and defenses thereto.
- (6) All parties shall be allowed to make a brief closing statement summarizing the evidence presented and regarding the applicability or relevant state law and/or Board rules and regulations.
- (7) All testimony and statements given in this administrative hearing shall be electronically or stenographically recorded. Any party wishing to obtain a transcript of the hearing shall make arrangements with the court reporter to receive a copy of the transcript at their own expense.

(8) The parties shall not be bound by the strict rules of evidence prevailing in the courts. Evidence shall be submitted in accordance with the Alabama Administrative Procedures Act, Section 13.i The administrative complaint and all attachments shall be made a part of the administrative record for consideration by the Board without further authentication.

(9) The Board or its Hearing Officer may admit into evidence the deposition of any witness who is not subject to the subpoena power of the Board or who is unable to be present to testify at the hearing because of death, physical or mental illness, or other good reason at the discretion of the Board or its Hearing Officer.

(10) All exhibits that are offered into evidence, whether admitted or not, shall be made a part of the administrative record in the case and be included as part of the court reporter's original transcript of the hearing. The party who offers each exhibit shall be permitted to substitute a true copy of the exhibit for the original exhibit upon request to and permission by the Board or its Hearing Officer.

(11) All objections concerning the conduct of the hearing or the admission of evidence may be stated orally or filed in writing during the hearing. The objections and responses thereto shall include a statement of the grounds for the objection and legal authority relied upon. The ruling on the objection by the Board or the Board's Hearing Officer shall be made a part of the administrative record of the hearing. Any party may make an offer of proof regarding evidence that is not admitted and may describe the general nature of the evidence offered and not admitted as party of the administrative record of the hearing.

(12) The Board or the Board's Hearing Officer may allow the parties to submit for consideration a proposed order or recommendation which includes a procedural history, proposed findings of fact, conclusions of law, and any suggested administrative punishment. The parties shall cite the appropriate pages of the hearing transcript for any proposed findings of fact.

(13) The administrative hearing shall be otherwise conducted in compliance with the provisions and in accordance with the Alabama Administrative Procedures Act, Section 41-22-12, et. seq., Code of Ala. 1975.

250-X-1-.11 Penalties

(1) The Board may, in its discretion, issue a written public or private reprimand or remove, revoke, or suspend the license of any person who violates state law or the rules and regulations of the Board.

(2) The issuance of two or more written letters of public reprimand to a licensee may serve as probable cause for the Investigative Committee to proceed with administrative charges to seek the revocation or suspension of that person's license by the Board, pursuant to an administrative hearing described in these rules.

(3) The Board may, in addition to or in lieu of other penalties, levy and collect administrative fines for violations of state law or the rules and regulations of the Board of not more than \$ 750.00 for each violation.

Alabama Administrative Procedures Act, Section 13 reads as follows:

(1) The rules of evidence as applied in nonjury civil cases in the Circuit Courts of this state shall be followed when necessary to ascertain facts not reasonably susceptible of proof under those rules. Evidence not admissible there under may be admitted (except when precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Agencies shall give affect to the rules of privilege by law. Except as hereinafter provided, objections to evidentiary offers may be made and shall be noted in the record. Whenever any evidence is excluded as inadmissible, all such evidence existing in written form shall remain a party of record as an offer of proof. The party seeking the admission of oral testimony may make an offer of proof by means of a brief statement on the record describing the testimony excluded. All rulings on the admissibility of evidence shall be final and shall appear in the record. Subject to these requirements, when a hearing will be expedited and interests of the parties will not be prejudiced substantially, any part of the evidence may be received or may be required to be submitted in verified form; provided the adversary party shall not be denied the right of cross-examination of the witness. The testimony of parties and witnesses shall be made under oath; provided however, in the hearing of a contested case where judicial review of the case is trial de novo, the agency may announce that it shall not be necessary that objections be made during the hearing and upon such announcement, it shall not be required or necessary that objections to be made to any testimony or evidence which may be offered by either party, and on the consideration of such cases the agency shall consider only such testimony and evidence as is relevant, material, competent, and legal, and shall not consider any testimony or evidence which is irrelevant, immaterial, incompetent or illegal, whether objection shall have been made thereto or not, and whether such testimony be brought on direct, cross or re-direct examination, or is hearsay. The agency shall not be required to point out what testimony or evidence should be excluded or not considered. Either party, on submission, shall have the privilege of calling attention to any testimony or evidence which is deemed objectionable. If specific objection be made to any evidence and a ruling made thereon by the agency, this exception shall not apply to such evidence. (2) Documentary evidence otherwise admissible may be received in the form of copies of excerpts, or by incorporation by reference to material already on file with the agency. Upon request, parties shall be given an opportunity to compare the copy with the original. (3) A party may conduct cross-examination required for a full and true disclosure of the facts, except as may otherwise be limited by law. (4) Official notice may be taken of all facts of which judicial notice may be taken and of other scientific and technical facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the agency determines as party of the record of decision that fairness to the parties does not require an opportunity to contest such facts. (5) The experience, technical competence, and specialized knowledge of the agency may be utilized in the evaluation of evidence. Section 41-22-13, Code of Alabama, 1975.

CHAPTER 250-X-2 - LICENSES

250-X-2-.01 Fees

- (1) Pursuant to its legal authority, the Board may issue personal and business licenses to qualified applicants.
- (2) Business licenses may be issued to shops or schools as determined by the Board.
- (3) Personal licenses may be issued to any appropriate category of licensure as determined by the Board, and an appropriate fee shall be established for each license. Fees shall be the following:

(a) Written Examination or Reexamination	\$75
(b) Practical Examination or Reexamination	\$130
(c) Original License	\$50
(d) Personal Renewal	\$100
(e) New Shop	\$200
(f) Shop Renewal	\$150
(g) Shop Relocation	\$50
(h) Other Shop Changes:	
1. Name Change	\$25
2. Owner Change	\$25
3. If name change or owner change done at same time only one \$25 fee applies.	

(i) New School	\$300
(j) School Renewal	\$200
(k) Other School Changes:	
1. Name Change	\$25
2. Relocation	\$75
3. Ownership/Controlling Interest Change	\$25

Plus Current Financial Statement; New Owner or Controlling Stockholder to Appear Before Board.

(l) Reciprocity	\$100
(m) Apprentice	\$75
(n) Apprentice Change Master, Salon or Both	\$25
(o) Shampoo Assistant Original/Renewal	\$75
(p) Duplicate License	\$25
(q) Duplicate License for Instructors	\$25
(r) Late Charge	\$54
(s) Letter of Certification:	\$25 Each State Requested
(t) Returned Check Charge: Maximum Provided by Code .of Ala. 1975 (Currently \$30)	
(u) Open Records Request: Initial Research Fee:	\$30, plus

Labor Fees: \$20 per hour for locating, retrieving, and preparing records, with a minimum of \$20. Legal review or redaction time will not be billed.

Copying Fees: Up to \$0.50 per page for standard 8.5x11 paper copies. No per-page fee is charged for documents provided electronically.

Actual Costs: Actual costs may be charge for tangible items like flash drives or special paper sizes, provided the requester is informed in advance.

250-X-2-.02 Requirement for License

Any person providing services to the public as defined under the Code of Ala. 1975, §34-7B-1 shall meet the requirements as set forth in Code of Ala. 1975, §34-7B-7, file an application with the Board, pay appropriate fees and obtain a personal license.

CHAPTER 250-X-3 – SHOP REQUIREMENTS

250-X-3-.01 General Requirements

- (1) Proper application, payment of applicable fee and physical inspection and approval of premises by an authorized member of the Board staff are required to receive a license for a shop.
- (2) Applicant for a shop must provide proof that it will operate in a location properly zoned by the appropriate governing authority.
- (3) Shop entrance and exit must comply with federal, state and local building codes.
- (4) Shop must be adequately ventilated to allow proper air circulation.
- (5) Premises, including walls, floors, workstations, furniture and equipment must be kept clean and free from dust. Trash must not be allowed to accumulate between clients.
- (6) Shop must be adequately and safely lighted.
- (7) Shop must have adequate toilet facilities either on premises or within 300 feet of entrance with at least one water closet and one sink equipped with hot and cold water. Exceptions to the 300 foot rule for toilet may be granted to shops located in shopping malls. Toilet must be equipped with proper tissue, soap dispenser with soap or other hand cleanser, waste receptacle and sanitary towels or electric wall-mounted hand dryer. Toilet/lavatory must be adequately lighted, ventilated and clean at all times.
- (8) A shop may be located in a residence where not prohibited by any governing authority. Such shop must be separated from living quarters by a permanent, finished, ceiling-high partition. A separate shop entrance from living quarters entrance and a toilet/lavatory facility with a separate entrance from living quarters must be provided. Toilet/lavatory must comply with requirements of Section 250-X-3-.01(7).
- (9) The use of a shop as a living, dining or sleeping quarters is prohibited.
- (10) Shop shall display licenses and permits consistent with the following guidelines:
 - (a) Shop license must be displayed at the reception area near entrance. (Code of Ala. 1975, §34-7B-7(d)(4))
 - (b) Personal licenses must be posted near individual work stations.
 - (c) The most recent inspection report must be posted near shop license.
 - (d) Apprentice permits, examination permits and student permits must be posted near the appropriate work station.
- (11) Shop must have a copy of the most recent laws and rules of the Board readily available for employees and patrons.
- (12) No licensee shall perform any service outside the scope of practice authorized by the license held.
- (13) No licensee shall perform any service authorized by a license issued by the Board in a facility not licensed by the Board, except
 - (a) when necessary due to the illness or other physical or mental incapacitation of the recipient of the service, and
 - (b) when performed by a licensee in the employment of a licensed shop, and
 - (c) when appointments are made through a licensed shop for the service.

250-X-3-.02 Products Sanitation and Care

- (1) No licensee shall conduct services at any location which does not meet proper health, safety and sanitation requirements. Compliance with rules of this chapter does not infer compliance with other requirements of federal, state, and local laws, codes, ordinances, and regulations.
- (2) Possession or storage of any equipment, supplies or product associated with any act of barbering or cosmetology will be prima facie evidence of use.
- (3) No licensee shall use any equipment, supplies or product banned for use by the United States Food and Drug Administration or other federal, state, or local governmental agency for barbering or cosmetology purposes.
- (4) No licensee shall use styptic pencils.
- (5) No licensee shall use methyl methacrylate or any other product considered poisonous or unsafe.
- (6) No licensee shall use any drill or other equipment, supply, or product for any purpose other than that for which it was intended. Only drills marked by the manufacturer "For Human Nails" are acceptable.
- (7) No Licensee shall use any craft or hobby tools or modified craft or hobby tools in providing services.
- (8) No licensee shall perform any service outside the scope of the Board's regulatory authority. The Board's scope of licensure is confined to non-invasive services performed on the epidermis, specifically the stratum corneum and must not alter, cut or damage living cells.

- (9) No licensee shall use callous razors in any practice of cosmetology or manicure.
- (10) No licensee shall perform services on the skin or scalp of any person which is broken, inflamed, cut, abraded, eroded, or infected.
- (11) No licensee may perform eyebrow tinting with a product which contains aniline derivative.
- (12) No licensee shall practice photo rejuvenation, permanent makeup, electrolysis, tattoo, or any other act outside the regulatory authority of the Board.
- (13) No person with an infectious or communicable disease may work in a salon licensed by the Board.
- (14) The practice of natural hairstyling is limited to cleansing, extending, locking, braiding or arranging without cutting, relaxing, removing, or applying permanent waving or chemical treatments to the natural hair.
- (15) The scope of waxing for manicurist/waxer is limited to treatment above the neck.
- (16) Roll on wax applicators shall be classed as single use items.
- (17) All sanitized instruments and sanitary disposable articles must be stored in clean, closed containers free of other supplies.
- (18) Cosmetics or preparations used on clients must be kept in closed containers at all times when not in use.
- (19) Shop must use containers for professional products which are designed to prevent contamination of the unused portion. All creams and bulk substances must be removed from containers with spatulas or clean tools. Bulk supplies which may be contaminated by unsanitized tools or spatulas during preparation or application of single service portions must be discarded.
- (20) Shop must use wet sanitizers with hospital grade or EPA approved disinfectant. A wet sanitizer is any receptacle with a proper cover large enough to completely immerse items to be sanitized which contains an approved disinfectant. A hospital grade or EPA approved disinfectant shall be defined as:
- (a) For all combs, brushes, tools, metal implements, instruments with a cutting edge and implements which have not come into contact with blood or body fluids: a disinfectant which indicates on its label that it has been registered with the Environmental Protection Agency as a hospital grade bactericide, vermicide and fungicide.
 - (b) For all combs, brushes, tools, metal implements, implements with a cutting edge and implements which have come into contact with blood or body fluids: a disinfectant which indicates on its label that it has been registered with the EPA as a hospital grade tuberculocidal.
- (21) All tools, implements, supplies, linens and equipment must be safely stored. Pre-sanitized tools, implements, linens and equipment must be stored in an enclosed sanitary cabinet or covered container. After use on each patron, implements and tools and soiled linens must be deposited in a closed receptacle separate from those which are clean and pre-sanitized.
- (22) All chemicals and products for patron use must be properly labeled and identified.
- (23) All sanitizing products and chemicals for patron use or cleaning must be used and stored according to the manufacturer's directions and in a manner consistent with public safety and health interests. Flammable chemicals must be stored in a flame-retardant cabinet or in a well-ventilated storage area away from combustible materials. Chemicals such as oxidizers, catalysts and solvents must be segregated in storage.
- (24) Chemicals requiring mixing must be mixed in a well-ventilated area at least twenty-five feet from an open flame or electrical device. Chemical saturated towels and chemical waste must be removed from work and storage areas and placed in covered containers.
- (25) Material safety data sheets (MSDS) defining product content, hazards precautions and first aid/medical treatment should be on containers and must be available upon request for products considered dangerous to public health.
- (26) Any comb, brush, tool or implement which cannot be cleaned and sanitized is prohibited after initial use. Single-use articles and disposable supplies must be disposed of immediately after use in a covered container.
- (27) Any disposable material which has come in contact with blood or body fluids shall be disposed of in a plastic bag.
- (28) All combs, brushes and implements must be sanitized before use on any patron.
- (29) No combs, brushes, tools or implements may be carried in licensee's pockets.
- (30) Pedicure vats must be cleansed and sanitized after each service to a patron.
- (31) During barber, cosmetology, esthetics, or natural hair services a proper sanitary cover must be placed around patron's neck to avoid direct contact with protective cape.
- (32) Shop must maintain an adequate supply of linens and products for proper hygiene.
- (33) Shop must be insect, rodent and animal free except for guide or service animals of visually handicapped or otherwise physically disabled persons. Fish in sanitary and properly maintained aquariums are permitted.

(34) Shop must keep on premises a first aid kit which must be replenished as necessary.

250-X-3-.03 Shops

(1) Shops are required to have equipment, furnishings and implements only for the services they provide.

(2) Shops providing barber services must have at least the following equipment and supplies:

- (a) One shampoo bowl if this service is provided.
- (b) One sink near work stations
- (c) One barber chair or all-purpose chair
- (d) One work station and mirror
- (e) Proper containers for clean and soiled towels
- (f) One covered trash container

(3) Shops providing cosmetology services must have at least the following equipment and supplies:

- (a) One shampoo bowl
- (b) One sink near work stations
- (c) One shampoo chair or all-purpose chair
- (d) Sufficient hair drying facilities
- (e) One covered trash container
- (f) For cosmetology shops also offering manicure, one manicure table with light and chair.
- (g) For shops also offering esthetics, one facial chair and one magnifying glass.

(4) Shops providing esthetics services must at least the following equipment or services:

- (a) One facial chair or all-purpose chair
- (b) One magnifying glass
- (c) One sink in the work area, or at least within 5 feet of the entrance/exit of the work area.
- (d) One covered trash container

(5) Shops providing Manicure/Nail services must have at least the following equipment or services:

- (a) One manicure table with proper light
- (b) One manicure chair
- (c) One sink near work stations
- (d) One covered trash container

(6) Shops providing Natural Hair stylist services have at least the following equipment or services:

- (a) One shampoo bowl
- (b) One all-purpose chair
- (c) One hair dryer
- (d) One sink near work stations
- (e) One covered trash container

(7) Shops providing threading services must have at least the following equipment and supplies:

- (a) One all-purpose chair
- (b) One sink near work stations

250-X-3-.07 Unlicensed Personnel

Any person, shop or corporation employing any unlicensed person to practice when a license is required by this chapter shall be guilty of a violation of this chapter and may be subject to disciplinary action as decided by the Board, which may include but not be limited to a fine as provided in the Code of Ala. 1975, Section 34-7B-10.

250-X-3-.08 Inspections

- (1) All shops and schools licensed by the Board are subject to periodic inspections by Board staff to monitor compliance with Alabama law and Board rules and regulations.
- (2) Any portion of a multi-purpose facility licensed by the Board must comply with the same regulations and inspection requirements as any other shop licensed by the Board
- (3) For inspection purposes, shops or schools with no license when one is required by law will be issued a score of zero and may be subject to disciplinary action as decided by the Board, which may include but not be limited to a fine as provided in the Code of Ala. 1975, §34-7B-10(c).
- (4) For inspection purposes, shops or schools with unlicensed personnel when a license is required by law will be issued a score of zero and may be subject to disciplinary action as decided by the Board, which may include but not be limited to a fine as provided in the Code of Ala. 1975, §34-7B-10(c).
- (5) Shops or schools issued a score of less than 80 for any violation except for license violations on an inspection report shall be re-inspected for compliance, and any shop or school receiving a score of less than 80 on a re-inspection will be in violation of the laws and regulations of the Board and may be subject to disciplinary action as decided by the Board, which may include but not be limited to a fine as provided in the Code of Ala. 1975, §34-7B-10-(c).
- (6) Any deficiency noted on shop or school inspection reports must be corrected or the points for that deficiency may be increased on future inspections.
- (7) Any shop or school closed by Board action because of violations must post in a conspicuous location outside the facility a sign furnished by the Board giving the reason for such closure.

CHAPTER 250-X-4 - APPRENTICES

250-X-4-.01 Requirements.

- (1) Apprentices must apply for a permit and pay the applicable fee before beginning work.
- (2) Apprentices must train in a shop licensed by the Board under a licensed sponsor who holds the same type license.
- (3) The sponsor must be licensed during the entire period of apprenticeship.
- (4) No sponsor may train more than one apprentice at a time, and the Board must be immediately notified of any change in apprentice sponsorship.
- (5) Apprentices must pay an additional registration fee when changing sponsor.
- (6) Apprentices are limited to three (3) changes in sponsor during training.
- (7) Barber apprentices and manicure apprentices are allowed two (2) years to complete training.
- (8) Cosmetology and esthetic apprentices are allowed three (3) years to complete training.
- (9) Natural Hair Stylist apprentices are allowed six (6) months to complete training.
- (10) Apprentices must meet requirements outlined in the Code of Ala. 1975, Section 34-7B-16. In addition to practical training, sponsors must provide apprentices with a copy of a Board approved textbook for theory study.
- (11) Shops with apprentices or student trainees must display a clear and legible sign not less than 8" X 10" in the reception area or at work stations advising the public that services are offered by apprentices or student trainees.
- (12) Shops and sponsors are responsible for keeping a daily, monthly and accumulated total of earned apprentice hours, and sponsors must submit monthly and accumulated hours to the Board office by the fifteenth (15th) day of the month after the month in which hours are earned.
- (13) Apprentice hours received in the Board office with a postmark date later than the fifteenth (15th) day of the month after the month in which hours are earned will not be credited, and both shop and sponsoring licensee will be in violation of Board regulations and subject to a fine as provided in the Code of Ala. 1975, Section 34-7B-10.
- (14) Apprentices who have their apprenticeship interrupted by military service may reenroll in an apprenticeship program within one year of completion of their tour of duty and receive credit for previous hours earned.
- (15) A person is allowed to complete an apprenticeship only one time per an apprenticeship type.

(16) An apprentice may have a primary sponsor and additional secondary sponsors beginning January 1, 2025. All sponsors must meet the requirements outlined in Code of Ala. 1975, Section 34-7B-16. At least one sponsor must be present at all times when the apprentice is performing services.

(17) The primary sponsor is responsible for maintaining and submitting apprentice hours to the Board. The names of all secondary sponsors should be included on the apprentice attendance records and a copy of all attendance records should be maintained in the shop.

250-X-4-.02 Apprentice Permits

(1) Shop owners and sponsors are responsible for returning temporary permits and total hours earned for discontinued apprentices.

(2) Apprentice permits are not transferable between sponsors or shops. Apprentices must apply to the Board for a new permit involving any change in shop or sponsor and pay the applicable fee.

(3) Cosmetology and esthetician apprentices must complete their training within three (3) years.

(4) Barber and manicure apprentices must complete their training within two (2) years.

(5) Natural Hair Stylist apprentices must complete their training within six (6) months.

(6) No student may be issued an apprentice permit.

250-X-4-.03 Apprentice Curricula

(1) Barber Apprentices must complete a curriculum of not less than the following requirements:

- 200 hrs. History, Law, Image, Management
- 300 hrs. Cutting, Shaping, Styling
- 150 hrs. Shampooing, Rinses
- 200 hrs. Sciences, Anatomy
- 100 hrs. Skin, Scalp, Hair
- 250 hrs. Shaving, Design, Hairpieces
- 100 hrs. Chemical Waving
- 200 hrs. Hair Coloring
- 100 hrs. Relaxing
- 200 hrs. Unassigned
- 2,000 HOURS TOTAL

(2) Cosmetology apprentices must complete a curriculum of not less the following requirements:

- 450 hrs. Sanitation/Sterilization/Allied Sciences
- 150 hrs. Skin, Facials, and Make-Up
- 225 hrs. Manicure, Nails
- 150 hrs. Shampoos, Rinses
- 300 hrs. Coloring, Bleach
- 225 hrs. Haircutting
- 595 hrs. Hairstyling (Finger Waving, Styling, Hair, Pressing, Thermal Waving)
- 525 hrs. Permanent Waving
- 380 hrs. Unassigned
- 3,000 HOURS TOTAL

(3) Esthetician apprentices must complete a curriculum of not less than the following requirements:

- 200 hrs. Bacteriology and Sanitation, Personal Hygiene, Public Health
- 200 hrs. History of Skin, Cell, Tissue
- 200 hrs. Dermatology, Structure, Functions, Types, Color, Elasticity, Disorders
- 100 hrs. Structure/Function Human Systems 100 hrs. Skin Types, Color, Nutrition
- 200 hrs. Facial Treatments, Massage, Analysis, Preparation, Manipulations
- 150 hrs. Equipment, Electrical Current Facial Treatments, Benefits, Safety
- 150 hrs. Other Facial Treatments, Purpose and Effects, Safety
- 75 hrs. Hair Removal, Depilatories, Tweezing, Waxing
- 200 hrs. Makeup, Supplies and Implements, Preparation, Safety Procedures
- 75 hrs. Body Wraps, Purpose and Effects, Types of Treatment, Supplies
- 125 hrs. Business/ Management Practices, Salon and Client Development

225 hrs. Unassigned
2,000 HOURS TOTAL

(4) Manicure apprentices must complete a curriculum of not less than the following requirements:

180 hrs. Bacteria, Infections
120 hrs. Sanitation and Disinfection
180 hrs. Anatomy, Skin, Nails, Diseases and Disorders
30 hrs. Nail Products
100 hrs. Client Consultation, Professional Image
220 hrs. Manicure, Pedicure
150 hrs. Acrylic Nails
220 hrs. Unassigned
1,200 HOURS TOTAL

(5) Natural Hair Stylist apprentices must complete a curriculum of not less than the following requirements:

20 hrs. Shampooing
270 hrs. Braiding, weaving, extending, locking
130 hrs. Science and Sanitation
420 HOURS TOTAL

CHAPTER 250-X-5 - SCHOOLS

250-X-5-.01 School Licensing

(1) Any person, firm, corporation, or association which either directly or indirectly receives compensation for teaching any branch of cosmetology, except for apprentice training, shall be classified as a school of cosmetology or barbering and will be required to comply with all provisions and rules and regulations of the Board.

(2) All applications for opening a school must be submitted to the Board with the proper license fee at least ninety (90) days before the school is expected to open.

(3) All schools must be inspected by an authorized representative of the Board and approved by the Board before receiving a license.

(4) If a school relocates it must furnish a floor plan and evidence of insurance acceptable to the Board, and the new location must be inspected for compliance with Board regulations before beginning operations.

(5) If the ownership of a school changes in a way that affects the controlling interest, an updated financial statement must be furnished to the Board and the controlling owner or stockholder must appear before the board.

(6) Name changes, location changes or ownership changes may be subject to a fee to cover administrative costs.

(7) School licenses and all instructor licenses must be displayed in a conspicuous place in school office.

250-X-5-.02 School Requirements

(1) The Board must be furnished a statement by the proper zoning authority that the school will be located in an area approved for operation of a school. If there is no appropriate zoning authority, a statement to that effect must be furnished to the Board.

(2) A personal financial statement is required to open and operate a school.

(3) A bond in the amount of \$ 50,000 in favor of the State of Alabama underwritten by a company authorized to do business in Alabama is required to open and maintain a school. Code of Ala. 1975, §34-7B-26-1(a).

(4) A liability insurance policy for at least five hundred thousand (\$500,000) dollars is required to open and maintain a school.

(5) Any existing school which wishes to expand operations at the same physical location must notify the Board in writing and maintain student and instructor requirements provided in this section.

(6) Each school must furnish the Board a copy of its standard contract for students.

(7) Each school must furnish the Board a copy of all financial forms relating to tuition, grants and scholarships.

(8) Any school terminating operations must:

(a) Inform the Board at least thirty (30) working days prior to anticipated date of termination;

- (b) Provide certified student records to the Board in a format approved by the Board on or before the last day of operation;
 - (c) Provide each current student a certified transcript of hours completed, and for which the school has been compensated;
 - (d) Refund any unearned tuition to students;
 - (e) Transfer to new owner all certified student records if the school is being sold or transferred.
- (9) All schools must maintain at least 1,200 square feet inside wall dimensions of floor space to accommodate twenty (20) students. For each additional student over twenty, an additional fifteen square feet of floor space is required.
- (10) Schools must be completely segregated from any other type business by a solid wall from ceiling to floor without an opening of any type.
- (11) Booths in work areas must be open and provide a clear view of students at work.
- (12) Schools must be housed in a facility that is clean, properly lighted and ventilated and complies with all applicable health and building codes.
- (13) An inventory of all equipment to be used in the school must be provided to the Board.
- (14) Schools with less than twenty (20) students must maintain on staff at least one full-time instructor and one on-call instructor. For each additional twenty (20) students or fraction thereof, one additional full-time instructor must be provided on staff.
- (15) The same person cannot be the on-call instructor for two schools.

250-X-5-.03 School Curriculum

- (1) All schools must establish and maintain a course of study consistent with standards set by the Board. Public schools are expected to set curricula under guidelines of their governing authority consistent with Board policies.
- (2) Students will receive credit for Theory and Practical education conducted on-site at a properly licensed school, or through hybrid learning programs for Theory and Practical education conducted at a properly licensed school.
- (a) Students may obtain distance learning for up to 50% of the total course work.
 - (b) Each school offering distance learning programs should determine the number of theory and/or practical hours of instruction based on the course of study in accordance with the schools' established curriculum.
 - (c) Documentation of attendance must be maintained to include distance learning hours and are subject to inspection by the Board.
 - (d) Students must be notified upon enrolling in a distance learning program that distance learning courses may not be accepted for reciprocity or accepted for eligibility of licensure in other states. A signed and dated disclaimer must be included in the student file.
 - (e) If an institution offers a distance learning program, the distance learning policy must be in compliance with the NACCAS Policy on Distance Education, Policy VI.02.
- (3) The Board will accept hours from public institutions for credit hour programs if properly certified by a licensed instructor. Code of Ala. 1975, §34-7B-18(3)a.
- (4) Day schools must conduct at least six hours of theory classes each week.
- (5) Night schools must conduct at least three hours of theory classes each week.

250-X-5-.04 School Instructors

- (1) All services performed for the general public by instructors and instructor trainees must be without charge for demonstration purposes only, with students observing, and must directly relate to the practical curriculum offered by schools in the appropriate field.
- (2) Instructors may demonstrate work only in their appropriate field.
- (3) Instructors and school owners are jointly responsible for notifying the Board when an instructor transfers to another school or is terminated for any reason.
- (4) If an instructor who is necessary to maintain minimum school requirements transfers or is terminated, the school must replace that instructor within thirty (30) days of the date such transfer or termination occurs. A properly licensed instructor must be present at all times a school is operating.
- (5) Instructor trainees must have the equivalent of twelve (12) grades in school, hold a current license and be properly registered with the Board.
- (6) Instructor trainees must either:
- (a) Complete 1,500 hours of instructor training in a registered or licensed school in the appropriate field;

(b) Or document at least one year of full time work as a licensee in the appropriate field in a shop licensed in the appropriate field, and afterward complete 650 hours of instructor training in a licensed or registered school in the appropriate field.

- (7) Instructor trainees may instruct only in the presence of a licensed instructor.
- (8) Before enrolling as an instructor trainee an applicant must hold license in appropriate field.
- (9) Instructor trainees must pass appropriate examination to be licensed as an instructor.
- (10) Instructor trainees are responsible for scheduling their own examinations.
- (11) Each school must have one instructor for every two instructor trainees enrolled.
- (12) Instructors who teach in school and practice in a shop must post a license in each location. Duplicate license is subject to a copy fee. Only one license fee is applicable for such instructors.
- (13) A student may not receive credit for courses completed in a school which that person owns or is a principal.

250-X-5-.06 General Rules For Schools

- (1) Student enrolment records must be received by the Board within thirty (30) days after students enroll. Any hours earned before the Board receives proper enrolment forms will not be credited.
- (2) All schools must keep a record of daily attendance, daily, monthly and cumulative totals of hours earned by students, and furnish the Board a certified copy of hours after students finish training or leave school.
- (3) Private schools are required to send student daily, monthly and cumulative attendance records to the board office by the 15th day of the month following the month in which hours are earned.
- (4) Students may not receive credit for more than forty-eight (48) clock hours earned in one week, including any make up hours.
- (5) Schools are not allowed to promise students guaranteed employment after completion of training
- (6) No student may be called from theory class to perform service for the public.
- (7) Any demonstration of new processes or products to students must be made in the presence of instructors on staff at the school.
- (8) No school may prepare food for resale.
- (9) No school may charge public for student services before students complete 15% of their training.
- (10) No school may pay a student, instructor trainee or instructor for service performed on the public.
- (11) All schools must hold both written and practical examinations on a regular basis, including content of Board law and regulations.
- (12) No school may prohibit an authorized representative of the Board from conducting an inspection of the school premises, personnel or student records at any time during regular business hours.
- (13) Schools are allowed to set their own rules for absenteeism and tardiness.
- (14) When students complete appropriate hours of training, schools must submit a record of completion form certifying students for examinations.
- (15) Barber, Cosmetology, Esthetician, and Manicure students must become licensed within two (2) years from record of completion date of original training or complete 375 hours of school training before applying or reapplying for examination. Code of Ala. 1975, §34-7B-15(f).
- (16) Natural Hair Stylist students must become licensed within two (2) years from record of completion date or original training or complete 75 hours of school training before applying or reapplying for examination. Code of Ala. 1975, §34-7B-15(f)
- (17) No student may be enrolled in more than one school at the same time.
- (18) Schools may use students to perform services for the public for a fee and advertise for such services provided that:
 - (a) Any advertisement states in bold legible print that students are performing the services; and
 - (b) In all areas where students are performing services for the public, legible signs of appropriate size must be posted notifying public that students are being used to perform services.

250-X-5-.07 School Equipment And Supplies

- (1) Schools must provide a dispensing room which contains lavatory or sink, bottles and containers distinctly and correctly labeled, a large wet sterilizer, adequate supplies of clean towels, linens.

- (2) Schools must provide a separate room for demonstration and study equipped with adequate visual teaching aids, chairs and /or desks for student use.
- (3) Schools must provide a reference library stocked with up to date books and materials recommended by the Board for instruction. A copy of the most recent version of Board's law and regulations with any amendments must also be included in library.
- (4) Schools must provide a wet sanitizer at each student work station.
- (5) Schools must provide adequate lockers for student use.
- (6) School restroom may not be used for storage.
- (7) Schools must provide adequate office equipment for maintaining student records.

250-X-5-.08 Barber Schools

- (1) The following minimum equipment and supplies are required for a barber school to become licensed:
 - (a) Three (3) shampoo bowls
 - (b) Three (3) barber chairs or all purpose chairs
 - (c) One sink
 - (d) Adequate drying equipment
 - (e) Reference books, charts, supplies and equipment necessary for required curriculum.

250-X-5-.09 Cosmetology Schools

- (1) The following minimum equipment and supplies are required for a school of cosmetology to become licensed:
 - (a) Five (5) shampoo bowls
 - (b) Three (3) facial chairs or all purpose chairs
 - (c) One sink
 - (d) Six (6) dryers
 - (e) Two (2) manicure tables
 - (f) Six (6) styling chairs
 - (g) Six (6) mannequins
 - (h) Reference books, charts and equipment necessary for required curriculum.
 - (i) An adequate quantity of cosmetology, manicuring, esthetics, sanitation sterilization supplies necessary for required curriculum.

250-X-5-.10 Manicure Schools

- (1) The following minimum equipment and supplies are required for a school of manicure to become licensed:
 - (a) Six (6) manicure tables
 - (b) Six (6) manicure chairs
 - (c) One sink
 - (d) Reference books, charts and equipment necessary to teach required curriculum.
 - (e) An adequate quantity of manicure, nail technology, sanitation and sterilization supplies necessary for required curriculum.

250-X-5-.11 Esthetics Schools

- (1) The following minimum equipment and supplies are required for an esthetics school to become licensed:
 - (a) Three (3) facial treatment chairs, hydraulic chairs or treatment tables.
 - (b) Three (3) esthetician stools.
 - (c) Three (3) facial vaporizers
 - (d) Three (3) Woods lamps
 - (e) Three (3) footed magnifying lamps

- (f) One (1) electric wax heater
- (g) Three (3) utility tables or one adequate sized continuous counter top
- (h) Three (3) high frequency apparatuses
- (i) One (1) galvanic or faradic/sinusoidal apparatus
- (j) One sink
- (k) Reference books, charts and equipment necessary for curriculum.

250-X-5-12 Student Requirements

(1) To enroll in school, a student must:

- (a) Be at least sixteen (16) years old, documented by birth certificate, school records, driver's license, or insurance policy at least 5 years old.
- (b) Furnish proof of having completed 10 grades in school or the equivalent.

(2) Students who complete 70% of their training may receive a permit to work in a licensed shop in the appropriate field when school is not in session. All other training must be physically conducted at a properly licensed school.

(3) Hours earned in a shop by students may not be credited toward required training hours.

(4) Permits for students who work in shops will expire six months after date of issue.

(5) Students may not be issued an apprentice permit to work in a shop.

250-X-5-13 Natural Hair Stylist Schools

The following minimum equipment and supplies are required for a natural hair stylist school to become licensed:

- (a) Three (3) shampoo bowls.
- (b) Three (3) all purpose chairs.
- (c) Adequate drying equipment.
- (d) One sink.
- (e) Reference books, charts and equipment necessary for required curriculum.
- (f) An adequate quantity of sanitation and sterilization supplies necessary for required curriculum.

CHAPTER 250-X-6 – EXAMINATIONS

250-X-6-01 Candidate Examinations

(1) Candidates for licensure must meet requirements of this chapter, make application, pay the appropriate examination fee and pass the appropriate examination.

(2) Candidates furnishing proof of eligibility for licensure examination must receive a temporary work permit before performing services for the public.

(3) Candidates must pass all required examinations within twenty-four months of original examination application date (eligibility period) or candidate must reapply to test.

(4) Candidates are eligible to retake an examination as soon as results for the prior attempt are released, unless the eligibility period has expired. If the eligibility period has expired, then the candidate must reapply to test, and any previously passed examination credit will be forfeited.

(5) Candidates for licensure must furnish their own supplies and implements for any practical examination.

(6) A grade of at least 70% is required to pass licensure examinations, except for instructor examinations which require a grade of at least 80% to pass.

(7) Candidates who cancel a scheduled examination or fail to appear for a scheduled examination must pay a rescheduling fee unless the cancellation or failure to appear was caused by an emergency or act of God.

(8) No member of the Board may attend rater training for candidate examinations or actively participate in rating candidates.

CHAPTER 250-X-7 – MOBILE SALONS

250-X-7-.01 Definitions

A mobile salon is a shop, as defined in Section 34-7B-1 (23), where barbering or cosmetology is performed. Only a properly licensed person who is not an apprentice, exam candidate, or a student may operate a mobile shop.

250-X-7-.02 Application, License Fee, And Renewal Fee

An application to license a mobile salon shall be submitted on forms approved by the Board and accompanied by an application and submission of the applicable license fee. Upon receipt of the application, an inspection of the mobile salon by an inspector or authorized representative from the Board will be scheduled.

(1) An application to operate a mobile salon shall include:

- (a) The name, address and license number of the owner or licensee in charge,
- (b) The name under which the mobile salon will operate;
- (c) The types of cosmetology or barbering that will be performed in the mobile salon;
- (d) The applicable mobile salon license fee;
- (e) A blue print or drawing showing the layout of the floor plan and location of all equipment to be used;
- (f) Copies of all registration and insurance certificates showing that a mobile salon complies with all applicable requirements of the Alabama Law Enforcement Agency Department of Motor Vehicles for the inspection, registration and insurance certificates required of motorized vehicles.

(2) An application for a renewal of a mobile salon license shall include:

- (a) Any update or change in information previously provided to the Board in the most recent application or renewal;
- (b) The mobile salon license renewal fee.
- (c) Copies of all registration and insurance certificates showing that a mobile salon complies with all applicable requirements of the Alabama Law Enforcement Agency Department of Motor Vehicles for the inspection, registration and insurance certificates required of motorized vehicles.

250-X-7-.03 Minimum Specifications For Facilities

- (1) Each mobile salon shall contain sufficient equipment in working order to enable it to perform all services offered competently and efficiently;
- (2) Each mobile salon shall have a covered galvanized, stainless steel or other non-corrosive metal container for purposes of depositing hair clippings and other waste materials;
- (3) All furniture shall be anchored to the unit.
- (4) The mobile salon shall prominently display at all times the most recent license issued by the Board showing the name of the mobile salon.
- (5) The mobile salon shall have a sign stating "No services may be provided while this mobile salon is in motion" in letters no less than one (1) inch high, displayed in a conspicuous place;
- (6) The mobile salon shall have and use stabilizing jacks;
- (7) The mobile salon shall be legally parked in a fixed position and fully stationary (not in motion) when rendering services to customers;
- (8) Customers shall not be exposed to any dangerous conditions inside a mobile salon resulting from vehicle emissions or vehicle maintenance.

250-X-7-.04 Service Equipment Required

- (1) In lieu of any equipment required for operation of a shop for cosmetology, barbering, or natural hair styling, a mobile salon shall be required to have:
- (a) One (1) shampoo bowl with hot and cold running water in work area
 - (b) One (1) shampoo chair or all purpose chair;
 - (c) One (1) hair dryer;
 - (d) One (1) work station and mirror;
 - (e) One (1) enclosed storage area for clean towels;
 - (f) One (1) covered and labeled container for soiled towels;
 - (g) One (1) covered and labeled trash container maintained in clean condition;

- (h) One (1) covered wet disinfecting unit large enough to completely immerse items
 - (i) One (1) work station (standard size) for each operator;
 - (j) One (1) blood spill kit.
- (2) In lieu of any equipment required for operation of a shop, a mobile salon offering esthetics services shall be required to have:
- (a) One (1) sink which provides hot and cold running water in the work area;
 - (b) One (1) reclining facial chair/table or all-purpose chair;
 - (c) One (1) hands free magnifying lamp;
 - (d) One (1) enclosed storage area for clean towels;
 - (e) One (1) covered and labeled container for soiled towels;
 - (f) One (1) covered and labeled trash container maintained in a sanitary condition;
 - (g) One (1) wet disinfecting unit for equipment used, with a cover and large enough to completely immerse items;
 - (h) One (1) blood spill kit;
- (3) In lieu of any equipment required for operation of a shop, a mobile salon offering manicure/nail services shall be required to have:
- (a) One (1) sink which provides hot and cold running water in the work area;
 - (b) One (1) manicure station with adequate light, per manicurist;
 - (c) One (1) wet disinfecting unit for equipment used, with a cover and large enough to completely immerse items;
 - (d) One (1) foot bath if pedicures are offered;
 - (e) One (1) blood spill kit.

(4) The executive director of the Board may, in his/her discretion, waive one or more of the foregoing equipment requirements to accommodate mobile salons offering limited services. If services offered change, the mobile salon is required to complete a new application and receive a new license.

250-X-7-.05 Environment

- (1) All chemicals shall be stored in cabinets with safety catches and shall be stored separate and apart from other articles or equipment.
- (2) A mobile salon shall have a fresh water tank holding a sufficient amount of potable fresh water to perform the day's business. If the potable fresh water supply is depleted, operations must cease until the supply is replenished.
- (3) A mobile salon shall have a self contained, flush chemical toilet with holding tank;
- (4) The wastewater holding tank and chemical holding tank of a mobile salon shall be adequate capacity and discharge shall be disposed of in a sanitary sewer system at legal discharge points that comply with federal, state, local and municipal law or regulation;
- (5) A mobile salon shall have a water heater that provides fresh hot water continuously and on demand.
- (6) No services may be performed outside the mobile salon or while it is in motion.
- (7) A mobile salon may not be used as a residence or for any other purpose besides providing cosmetology or barbering services.
- (8) A mobile salon must be registered, inspected, and approved by the Board before it can be operated as a mobile salon.

250-X-7-.06 Personnel

- (1) Any person licensed by the Board who intends to offer cosmetology services in a mobile salon shall register with the Board by completing a registration form provided by the Board and shall be approved by the Board before providing services in a mobile salon;
- (2) While providing services in a mobile salon, every such licensee must have his or her original license and must have in his or her possession a copy of the approved registration for mobile salon services and a government issued photo identification;
- (3) All persons registering to provide mobile salon services shall provide a permanent mailing address, telephone number and email address;
- (4) A registration to provide services in a mobile salon is valid only for the person named on the approved registration and is not transferable or assignable;

250-X-7-.07 Operation

- (1) A mobile salon shall comply with all health and safety requirements and with all other requirements of the Alabama Cosmetology and Barber Board for a shop, except as modified by this section or as otherwise indicated.
- (2) An inspector may inspect a mobile salon any time the shop is open for business any number of times per year.
- (3) A mobile salon that refuses an inspection will receive a score of 0 and be subject to a hearing to suspend or revoke the business license and the personal license of the person refusing the inspection.
- (4) A mobile salon shall submit to the Board, upon request, in a manner specified by the Board, an itinerary for a requested time period showing the dates, exact locations and times service is to be provided.
- (5) A mobile salon shall obtain applicable local licenses or permits to provide mobile services in each city or town.
- (6) A mobile salon business license holder shall maintain a permanent mailing address in Alabama, other than a P.O. Box. The Board shall be notified in writing of any change of mailing address within 10 calendar days of the change.
- (7) The mobile salon shall receive all Board office correspondence through the permanent mailing address.
- (8) If the owner of the mobile salon changes, a new mobile salon license is required. Prior to operating the mobile salon, the new owner shall apply for a new mobile salon license and pay all fees for such new license.

250-X-7-.08 Effective Date

The effective date of this chapter is January 1, 2022 in compliance with Act 2021-406.