

1 AN ACT relating to the Kentucky Board of Cosmetology.

2 WHEREAS, the Kentucky Board of Cosmetology has exceeded its authority in its
3 treatment of its licensees, particularly in its approach to licensed nail technicians; and

4 WHEREAS, the board has completely shut down licensees' businesses in an
5 arbitrary and capricious manner, leaving the affected business owners without a means of
6 income and with no immediate recourse; and

7 WHEREAS, the board has failed to properly implement or enforce employment
8 standards for the employees of the board, which has resulted in unnecessary threats of the
9 use of deadly force in the presence of nail salon customers; and

10 WHEREAS, the board's actions have caused undue hardship for a significant
11 number of its licensees, many of whom have legally emigrated from their home countries
12 to the Commonwealth to have their chance at the American dream; and

13 WHEREAS, the board has clearly demonstrated that it is no longer a useful and
14 trustworthy occupational licensing authority, and that it is now causing more harm than
15 good for the Commonwealth; and

16 WHEREAS, the General Assembly finds that the Kentucky Board of Cosmetology
17 should be abolished;

18 NOW, THEREFORE,

19 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

20 ➔Section 1. KRS 48.315 is amended to read as follows:

21 (1) The General Assembly may provide in a budget bill for the transfer to the general
22 fund for the purpose of the general fund all or part of the agency funds, special
23 funds, or other funds established under the provisions of KRS 15.430; 21.347;
24 21.540; 21.560; 42.500; 47.010; 48.010(15)(g); 56.100; 61.470; 64.345; 64.350;
25 64.355; 95A.220; 136.392; 138.510; 161.420; 161.430; 164A.020; 164A.110;
26 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 248.540; 248.550;
27 278.130; 278.150; 286.1-485; 304.35-030; 311.450; 311.610; 312.019; 313.022;

1 314.161; 315.195; 316.210; 317.530; ~~317A.080;~~ 319.131; 320.360; 321.320;
2 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190;
3 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160;
4 334A.120; 335.140; 342.122; 342.480, etc.

5 (2) The transfer of moneys from the agency funds, special funds, or other funds to the
6 general fund provided for in subsection (1) of this section shall be for the period of
7 time specified in the budget bill.

8 (3) Any provisions of any statute in conflict with the provisions of subsections (1) and
9 (2) of this section are hereby suspended or modified. Any suspension or
10 modification shall not extend beyond the duration of the budget bill.

11 ➔Section 2. KRS 164.945 is amended to read as follows:

12 As used in KRS 164.945 to 164.947, unless the context otherwise requires:

13 (1) (a) "College" means any educational facility or institution maintained or
14 conducted by any person, association, partnership, corporation, or trust and
15 operating as an institute, junior college, college, university, or entity of
16 whatever kind which awards a degree, diploma, or other statement of
17 recognition purporting to indicate a level of collegiate attainment beyond
18 secondary school graduation. This definition includes private colleges located
19 in Kentucky, private colleges located outside of Kentucky but which operate
20 in Kentucky, and public colleges located outside of Kentucky but which
21 operate in Kentucky.

22 (b) The term "college" does not include state-supported colleges and universities
23 authorized by KRS 164.100, 164.290, 164.580, and 164.810, nor does it
24 include colleges licensed or approved for establishment and operation under
25 the statutory authority given to the Kentucky Board of Barbering under KRS
26 317.430, ~~the Kentucky Board of Cosmetology under KRS 317A.030,~~ the
27 Kentucky Commission on Proprietary Education under KRS 165A.340, or the

1 State Board of Nursing under KRS 314.121.

2 (2) "Degree" means any academic or honorary title of designation, mark, appellation,
3 series of letters, numbers or words, such as, but not limited to, associate, bachelors,
4 masters, doctorate, or fellow, which signifies, purports, or is generally taken to
5 signify satisfactory completion of the requirements of an academic, educational, or
6 professional program of study beyond the secondary school level.

7 (3) "Diploma" means a certificate, transcript, report, document, or title of designation,
8 mark, appellation, series of letters, numbers, or words which signifies, purports, or
9 is generally taken to signify attendance, progress, or achievement in an academic
10 program.

11 ➔Section 3. KRS 165A.310 is amended to read as follows:

12 As used in this chapter:

13 (1) "Agent" means any person employed by a proprietary school to act as agent,
14 solicitor, broker, or independent contractor to procure students for the school by
15 solicitation of enrollment in any form made at any place other than the main office
16 or principal place of business of the school;

17 (2) "CDL" means a commercial driver's license as defined in KRS 281A.010;

18 (3) "CDL driver training" means a course of study that complies with the provisions of
19 KRS 332.095 governing the instruction of persons in the operation of commercial
20 motor vehicles;

21 (4) "CDL driver training school" means any person, firm, partnership, association,
22 educational institution, establishment, agency, organization, or corporation, with the
23 exception of an entry level driver training provider, that offers CDL driver training
24 to persons desiring to obtain a Kentucky CDL in order to operate a commercial
25 motor vehicle and for which a fee or tuition is charged;

26 (5) "Commercial motor vehicle" has the same meaning as in KRS 281A.010;

27 (6) "Commission" means the Kentucky Commission on Proprietary Education;

- 1 (7) "Entry level driver training" means a federally mandated course of instruction for
2 new CDL applicants as outlined in 49 C.F.R. secs. 380.600 to 380.609;
- 3 (8) "Entry level driver training provider" means an entity that is certified by the Federal
4 Motor Carrier Safety Administration as a training provider under 49 C.F.R. secs.
5 380.700 to 380.725 that is limited solely to providing entry level driver training;
- 6 (9) "Formal complaint" means a written statement filed on a form specified by the
7 commission in which the complainant alleges that a school has violated a Kentucky
8 statute or administrative regulation and has negatively impacted the complainant,
9 and resolution is requested by the commission;
- 10 (10) "License" means authorization issued by the commission to operate or to contract to
11 operate a proprietary school in Kentucky as described in this chapter and does not
12 reflect accreditation, supervision, endorsement, or recommendation by the
13 commission;
- 14 (11) "Person" means an individual, corporation, business trust, estate, partnership,
15 unincorporated association, two (2) or more of any of the foregoing having a joint
16 or common interest, or any other legal or commercial entity;
- 17 (12) "Proprietary school" or "school" means a privately owned educational institution,
18 establishment, agency, organization, or person maintained on either a for-profit or
19 not-for-profit basis, offering or administering a plan, course, or program of
20 instruction in business, trade, technical, industrial, or related areas for which a fee
21 or tuition is charged whether conducted in person, by mail, or by any other method,
22 and does not include:
- 23 (a) A school or educational institution supported entirely or partly by taxation
24 from either a local or state source;
- 25 (b) A parochial, denominational, or eleemosynary school or institution;
- 26 (c) A training program which offers instruction for payment by participants
27 primarily in pursuit of a hobby, recreation, or entertainment, and does not

- 1 result in the granting of postsecondary credits nor lead to an industry-
2 recognized credential, academic certificate, or degree;
- 3 (d) A course or courses of instruction or study sponsored by an employer for the
4 training and preparation of its own employees for the benefit of the employer
5 and without charge to the employee; or
- 6 (e) A school or educational institution licensed or approved by or a course or
7 courses of study or instruction sponsored by the Kentucky Board of Barbering
8 established by KRS 317.430, ~~the Kentucky Board of Cosmetology~~
9 ~~established by KRS 317A.030,~~ the Kentucky Board of Nursing established
10 by KRS 314.121, the Kentucky Board of Embalmers and Funeral Directors
11 established by KRS 316.170, or the Kentucky Council on Postsecondary
12 Education established by KRS 164.011;
- 13 (13) "Resident" means any person who has established Kentucky as his or her state of
14 domicile. Proof of residency shall include but not be limited to a deed or property
15 tax bill, utility agreement or utility bill, or rental housing agreement;
- 16 (14) "School year" is beginning the first day of July and ending the thirtieth day of June
17 next following, except when approval shall be suspended or canceled pursuant to
18 KRS 165A.350; and
- 19 (15) "Statement of quality assurance" means a statement required by the commission
20 from a non-degree granting institution, in a form and manner determined by the
21 commission, that attests to the institution meeting the minimum standards required
22 for receiving and maintaining a license.
- 23 ➔Section 4. KRS 309.352 is amended to read as follows:
- 24 KRS 309.350 to 309.364 shall not preclude:
- 25 (1) Persons duly licensed, registered, or certified as massage therapists in another state
26 or territory, the District of Columbia, or a foreign country teaching a course related
27 to massage therapy or consulting with a person licensed under KRS 309.350 to

- 1 309.364;
- 2 (2) Students enrolled in a program recognized by the board and completing a clinical
3 requirement for graduation while under the supervision of a board-licensed massage
4 therapist or other licensed health-care professional as defined by the board in
5 administrative regulation;
- 6 (3) A person administering a massage to members of the person's immediate family;
- 7 (4) Persons who restrict manipulation of the soft tissues of the human body to the
8 hands, feet, or ears, and do not hold themselves out to be massage therapists;
- 9 (5) Persons who use procedures within the scope of practice of their profession, which
10 has established standards and ethics, provided that their services use touch, words,
11 and directed movement to deepen awareness of existing patterns of movement in
12 the body as well as to suggest new possibilities of movement while engaged, but
13 who are not designated or implied to administer massage or to be massage
14 therapists. These practices include, but are not limited to, the Feldenkrais Method
15 and the Trager Approach;
- 16 (6) Persons engaged within the scope of practice of a profession with established
17 standards and ethics in which touch is limited to what is essential for palpation and
18 affecting of the human energy system, provided that their services are not
19 designated or implied to be massage or massage therapy. These practices include
20 but are not limited to polarity therapy;
- 21 (7) Persons duly licensed, certified, or registered in another state or territory, the
22 District of Columbia, or a foreign country when incidentally in this state to provide
23 service as a part of an emergency response team working in conjunction with
24 disaster relief officials or as part of a charity event, athletic event, or artistic
25 performance;
- 26 (8) Students participating in massage therapy classes or continuing education while in
27 the classroom or practicing on a classmate and not holding themselves out as

- 1 massage therapists or accepting compensation for the practice; or
- 2 (9) Practitioners of the following occupations and professions regulated by state law
- 3 while engaging in the practices for which they are duly licensed and while not
- 4 holding themselves out to be massage therapists:
- 5 (a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS
- 6 Chapter 311;
- 7 (b) Chiropractors regulated under KRS Chapter 312;
- 8 (c) Registered nurses and practical nurses regulated under KRS Chapter 314;
- 9 (d) Barbers~~[, —cosmetologists, —and —estheticians]~~ regulated under KRS
- 10 Chapter~~[Chapters]~~ 317~~[and 317A, respectively]~~;
- 11 (e) Occupational therapists regulated under KRS Chapter 319A; and
- 12 (f) Physical therapists regulated under KRS Chapter 327.

13 ➔Section 5. KRS 317.420 is amended to read as follows:

- 14 (1) No person shall engage in the practice of "barbering" for other than cosmetic
- 15 purposes nor shall any person engage in barbering for the treatment of physical or
- 16 mental ailments, except that the provisions of this chapter shall not apply to:
- 17 (a) Persons authorized by the law of this state to practice medicine, chiropody,
- 18 optometry, dentistry, chiropractic, nursing, or embalming when incidental
- 19 practices of barbering are performed by them in the normal course of the
- 20 practice of their profession;
- 21 (b) Commissioned medical or surgical personnel of the United States Armed
- 22 Forces performing incidental practices of barbering in the course of their
- 23 duties; or
- 24 (c) Barbering services performed at an institution operated by or under contract to
- 25 the Department of Corrections or the Department of Juvenile Justice.
- 26 (2) Except as provided in subsection (1) of this section, no person shall engage in the
- 27 practice of barbering for the public generally or for consideration without the

- 1 appropriate license required by this chapter.
- 2 (3) No person, unless duly and properly licensed pursuant to this chapter, shall:
- 3 (a) Teach barbering;
- 4 (b) Operate a barber shop;
- 5 (c) Conduct or operate a school for barbers; or
- 6 (d) Lease or rent booth space as an independent contract owner.
- 7 (4) No person shall aid or abet any person in violating the provisions of this section,
- 8 nor shall any person engage or employ for consideration any person for the
- 9 performance of any practice licensed by this chapter unless the person to perform
- 10 such practice holds and displays the appropriate license therefor.
- 11 (5) Except as provided in this chapter, no person or business shall:
- 12 (a) Advertise barbering services, unless the person or business and the personnel
- 13 it employs are licensed under this chapter;
- 14 (b) Advertise as a barber shop, unless all persons in the shop practicing barbering
- 15 services are licensed under this chapter. Any barber practicing in a shop
- 16 licensed as both a barber shop and a **shop providing another personal care**
- 17 **service that does not require a healthcare provider as defined in KRS**
- 18 **311.821**~~[salon licensed under KRS Chapter 317A]~~ may display an image, that
- 19 is at least four (4) inches high, of a barber pole at his or her station; or
- 20 (c) Use or display a barber pole for the purpose of advertising barbering services
- 21 to the public unless it:
- 22 1. Has a barber shop license; and
- 23 2. Employs a barber licensed under this chapter.
- 24 (6) A person holding an active barber license from the board and who practices in a
- 25 shop licensed by the board may render services for pay or otherwise to:
- 26 (a) A person suffering from a terminal illness who is receiving the services of a
- 27 hospice program either at home or at a hospice inpatient unit; or

1 (b) A person who is deceased and in the care of a funeral establishment.

2 ➔Section 6. KRS 324B.030 is amended to read as follows:

- 3 (1) The Department of Professional Licensing in the Public Protection Cabinet shall
4 provide administrative services, technical assistance, and advice to the following
5 boards and commissions at the request of the individual boards or commissions, all
6 of which maintain their identity and their full authority for making policy decisions
7 in the fields that they regulate: the State Board of Accountancy, the Kentucky
8 Board of Architects, the Kentucky Board of Barbering, ~~the Kentucky Board of~~
9 ~~Cosmetology,~~ the State Board of Podiatry, the Kentucky State Board of
10 Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of
11 Embalmers and Funeral Directors, the State Board of Registration for Professional
12 Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky
13 Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners,
14 the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State
15 Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the
16 Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the Kentucky
17 Board of Landscape Architects, the State Board of Medical Licensure, the Board of
18 Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for
19 Nursing Home Administrators, the Kentucky Licensing Board for Specialists in
20 Hearing Instruments, the Kentucky Board of Social Work, the Kentucky Board of
21 Emergency Medical Services, and any other boards and commissions that are
22 created to license, certify, register, or otherwise regulate any occupational or
23 professional category.
- 24 (2) The department may also provide administrative services to a board or commission
25 that is created to license, certify, register, or otherwise regulate any occupational or
26 professional category if these administrative services are deemed to be preferable or
27 required after the review process conducted under KRS 324B.040.

1 (3) To the extent that the department provides administrative services, the respective
2 boards and commissions are relieved of the power and duty to provide the services
3 for themselves. The department shall charge each board or commission a reasonable
4 amount for administrative services provided pursuant to subsection (1) of this
5 section. The department may employ persons previously employed by boards or
6 commissions.

7 (4) The department may receive complaints against the conduct of licensees granted
8 licensure by the boards and commissions assigned to the department for
9 administrative purposes. The department shall cause these complaints to be reduced
10 to writing and forwarded to the appropriate board or commission for investigation
11 and a determination of the validity of the complaint. The department shall keep a
12 record of all complaints received by it and forwarded to a board or commission.

13 (5) Any board or commission listed in subsection (1) of this section, shall accept
14 personal checks in payment of license renewal fees.

15 ➔Section 7. The following KRS sections are repealed:

16 317A.010 Definitions for chapter.

17 317A.020 Scope of chapter -- Licensure requirements -- Legal actions brought by board
18 -- Emergency orders -- Board duties.

19 317A.030 Board of Cosmetology -- Membership -- Compensation.

20 317A.040 Board personnel -- Administration.

21 317A.050 Qualifications for licenses and permits -- Temporary event services
22 permit.

23 317A.060 Administrative regulations.

24 317A.062 Administrative regulations establishing fees.

25 317A.065 Licensee to maintain updated information with board -- Administrative
26 regulations.

27 317A.070 Hearings -- Appeals.

- 1 317A.080 Kentucky Board of Cosmetology trust and agency fund -- Disposition of
2 fees.
- 3 317A.090 Requirements for schools of cosmetology, esthetic practices, and nail
4 technology.
- 5 317A.100 Reciprocal licensing -- Administrative regulations -- Continuing education.
- 6 317A.105 Cosmetology Licensure Compact.
- 7 317A.120 Examinations by board.
- 8 317A.130 Sanitation requirements and prohibited practices -- Practices under
9 supervision of physician.
- 10 317A.140 Grounds for fine, reprimand, probation, suspension, revocation, or refusal to
11 issue or renew license or permit.
- 12 317A.145 Complaint procedure -- Investigation -- Action against violator --
13 Inspections.
- 14 317A.150 Fee exemptions.
- 15 317A.155 Cosmetologists, estheticians, limited stylists, and nail technicians must
16 practice in licensed establishments -- Services to hospice patients, deceased persons
17 in the care of funeral establishments, and persons suffering from attested medical
18 conditions.
- 19 317A.990 Penalties.
- 20 ➔Section 8. This Act takes effect on January 1, 2025.
- 21 ➔Section 9. The Kentucky Board of Cosmetology trust and agency fund
22 established in KRS 317A.080 shall be closed by January 1, 2025. After all encumbrances
23 against the fund have been paid, the remaining moneys in the Kentucky Board of
24 Cosmetology trust and agency fund shall be transferred to the general fund.