

By: Representatives Stevens, Frierson,
Clarke

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 811

1 AN ACT TO CREATE AND EMPOWER A STATE BOARD OF BARBERING AND
2 COSMETOLOGY TO GOVERN THE BARBERING AND COSMETOLOGY PROFESSIONS;
3 TO REQUIRE THE BOARD TO RECOMMEND TO THE LEGISLATURE BEFORE
4 DECEMBER 1, 2007, A SINGLE, UNIFIED LICENSING PROGRAM FOR BARBERS
5 AND COSMETOLOGISTS IN ORDER TO OBTAIN THE NECESSITY OF HAVING
6 SEPARATE LICENSES FOR THOSE PROFESSIONALS; TO AMEND SECTIONS
7 73-5-7, 73-5-8, 73-5-11, 73-5-12, 73-5-15, 73-5-17, 73-5-19,
8 73-5-25, 73-5-27, 73-5-33, 73-5-35, 73-5-41, 73-5-45, 73-7-2,
9 73-7-13, 73-7-31, 73-7-63 AND 75-60-5, MISSISSIPPI CODE OF 1972,
10 TO CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTIONS 73-7-27
11 AND 73-7-29, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF
12 CERTAIN FINES AND FEES IMPOSED UPON COSMETOLOGISTS AND SALONS; TO
13 REPEAL SECTION 73-5-1, MISSISSIPPI CODE OF 1972, WHICH CREATES AND
14 EMPOWERS THE STATE BOARD OF BARBER EXAMINERS, AND SECTION 73-7-1,
15 MISSISSIPPI CODE OF 1972, WHICH CREATES AND EMPOWERS THE STATE
16 BOARD OF COSMETOLOGY; AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** (1) There is created and empowered the State
19 Board of Barbering and Cosmetology, which shall be composed of
20 five (5) licensed barbers and five (5) licensed cosmetologists
21 appointed by the Governor, with the advice and consent of the
22 Senate. One (1) barber and one (1) cosmetologist shall be
23 appointed from each congressional district as constituted on
24 January 1, 2004, and one (1) barber and one (1) cosmetologist
25 shall be appointed from the state at large. All members shall
26 serve terms of four (4) years, and shall continue to serve until
27 their successors are duly qualified. In any case where a vacancy
28 occurs due to resignation, removal or death, the Governor shall
29 appoint a member to complete the unexpired balance of the vacating
30 member's term. Any member who misses two (2) consecutive meetings
31 of the board shall be deemed to have vacated his/her position and
32 a vacancy shall occur to which the Governor shall make an
33 appointment.

34 (2) To be eligible for appointment, a barber or
35 cosmetologist must have been licensed in the state for five (5)
36 years, and have at least ten (10) years' active experience in
37 barbering or cosmetology immediately preceding appointment. No
38 more than two (2) members shall be graduates of the same barbering
39 or cosmetology school, and no member shall have any financial
40 interest in, or be an instructor in, a school of barbering or
41 cosmetology.

42 (3) The board shall select a chair, who shall serve for one
43 (1) year. The chair shall rotate between licensed barbers and
44 cosmetologists on an annual basis. The board shall meet monthly,
45 and at such other times as determined necessary by the chair.

46 (4) Whenever the terms "State Board of Barber Examiners" or
47 "State Board of Cosmetology" appear in any law, rule, regulation
48 or document, those terms shall mean the State Board of Barbering
49 and Cosmetology. The State Board of Barbering and Cosmetology
50 shall be the State Board of Barber Examiners and the State Board
51 of Cosmetology, and shall have all powers and duties conferred
52 upon those boards by law. As used in Section 73-5-3 et seq. and
53 Section 73-7-2 et seq., the term "board" means the State Board of
54 Barbering and Cosmetology.

55 (5) Before December 1, 2007, the State Board of Barbering
56 and Cosmetology shall recommend to the Legislature a single,
57 unified licensing program for barbers and cosmetologists in order
58 to obviate the necessity of having separate licenses for those
59 professionals. This recommendation shall include all fees
60 necessary to generate revenues necessary to regulate the
61 professions, and shall also recommend any necessary changes in
62 board structure.

63 (6) This section shall stand repealed from and after July 1,
64 2008.

65 **SECTION 2.** Section 73-5-7, Mississippi Code of 1972, is
66 amended as follows:

67 73-5-7. (1) The board * * * shall have authority to make
68 reasonable rules and regulations for the administration of the
69 provisions of this chapter. * * * However, * * * any and all
70 rules and regulations relating to sanitation shall, before
71 adoption by the board, have the written approval of the State
72 Board of Health. The board * * * shall adopt regulations for the
73 guidance of registered barbers in the operation of a shop and in
74 the practice of barbering except, however, it shall be optional
75 with the individual barber as to whether he or she uses a mug.
76 Any member of the board * * * shall have the authority to enter
77 upon and inspect any barbershop or barber school at any time
78 during business hours. A copy of the rules and regulations of
79 the * * * board * * * shall be furnished to the owner or manager
80 of each shop and barber school affected by this chapter, and that
81 copy shall be posted in a conspicuous place in the barbershop or
82 barber school.

83 (2) The board shall have authority to establish rules and
84 regulations governing schools of barbering in this state except
85 those schools operated by a state institution of higher learning
86 or by a public community or junior college. The board shall have
87 further authority to establish curriculum for those regulated
88 schools of barbering in this state.

89 Each regulated school of barbering shall submit the following
90 to the board before enrolling students:

91 (a) The address of proposed school, and the type and
92 size of building in which the school is to be located;

93 (b) The names and addresses of owners and officers of
94 the school, and the names, addresses and instructor license number
95 of managers, supervisors and instructors of the school;

96 (c) A list of equipment and teaching aids; and

97 (d) A copy of the contract to be used between the
98 school and the student.

99 All regulated schools of barbering in the State of
100 Mississippi shall be required to maintain a surety bond in the
101 amount of Twenty-five Thousand Dollars (\$25,000.00) to ensure that
102 if a school ceases operation, * * * all unused tuition fees will
103 be refunded to the students concerned. This bond shall remain in
104 effect for the duration of the school's operation.

105 (3) The board * * * shall adopt rules and regulations
106 establishing a procedure for the processing and investigation of
107 complaints filed with the board. The board shall keep records of
108 all complaints, and those records shall indicate the action taken
109 on the complaints.

110 (4) The board * * * shall keep a record of its proceedings
111 relating to the issuance, refusal, suspension and revocation of
112 certificates of registration. The record shall also contain the
113 name, place of business and the residence of each registered
114 barber, and the date and number of his certificate of
115 registration. The record shall be open to public inspection at
116 all reasonable times.

117 **SECTION 3.** Section 73-5-8, Mississippi Code of 1972, is
118 amended as follows:

119 73-5-8. Any person is qualified to receive a certificate of
120 registration as a barber instructor who:

121 (a) Is twenty-one (21) years of age or older;

122 (b) Is of good moral and temperate habits;

123 (c) Is able to read, write and speak English;

124 (d) Possesses a high school education or its
125 equivalent;

126 (e) Has successfully completed not less than fifteen
127 hundred (1500) hours at a barbering school approved by the * * *
128 board * * * and holds a valid certificate of registration to
129 practice barbering;

130 (f) Has not less than two (2) years of active
131 experience as a registered barber;

132 (g) Has passed a satisfactory examination conducted by
133 the board to determine his fitness to practice as a barber
134 instructor; and

135 (h) Has successfully completed not less than six
136 hundred (600) hours of barber instructor training at a school
137 approved by the board.

138 All persons who have received a certificate of registration
139 as a barber instructor from the board before July 1, 2002, shall
140 be considered to have met the requirements of this section, and
141 all those certificates of registration shall be renewable as
142 otherwise provided in this chapter.

143 The board will implement an active and inactive instructor
144 license. In order to renew an active license, instructors holding
145 an active license shall be required to submit proof of twelve (12)
146 hours of continuing education each year to the board * * *. That
147 education shall be acquired in classes or trade shows teaching
148 materials that are approved by the board. Instructors holding an
149 inactive license shall be required to submit proof of twelve (12)
150 hours continuing education before upgrading to an active status.

151 **SECTION 4.** Section 73-5-11, Mississippi Code of 1972, is
152 amended as follows:

153 73-5-11. (1) To be eligible for enrollment at a barbering
154 school approved by the board * * *, a person shall have a high
155 school education or its equivalent, and/or shall have
156 satisfactorily passed the ability-to-benefit examinations approved
157 by the U.S. Department of Education.

158 (2) Any person is qualified to receive a certificate of
159 registration to practice barbering:

160 (a) Who is qualified under the provisions of this
161 chapter;

162 (b) Who is of good moral character and temperate
163 habits;

164 (c) Who has completed not less than fifteen hundred
165 (1500) hours at a barbering school approved by the * * *
166 board * * *; and

167 (d) Who has passed a satisfactory examination conducted
168 by the board * * * to determine his fitness to practice barbering.

169 (3) A temporary permit to practice barbering until the next
170 examination is given may be issued to a student who has completed
171 not less than fifteen hundred (1500) hours at a barbering school
172 approved by the board * * *. In no event shall a person be
173 allowed to practice barbering on a temporary permit beyond the
174 date the next examination is given, except because of personal
175 illness.

176 **SECTION 5.** Section 73-5-12, Mississippi Code of 1972, is
177 amended as follows:

178 73-5-12. Any cosmetologist who can read, write and speak
179 English and has successfully completed not less than fifteen
180 hundred (1500) hours in an accredited school of cosmetology, and
181 holds a valid, current license, shall be eligible to take the
182 barber examination to secure a certificate of registration as a
183 barber upon successfully completing five hundred (500) hours in a
184 barber school approved by the board * * *.

185 All fees for application, examination, registration and
186 renewal thereof shall be the same as provided for in this chapter.

187 **SECTION 6.** Section 73-5-15, Mississippi Code of 1972, is
188 amended as follows:

189 73-5-15. Each applicant for an examination shall:

190 Make application to the board * * * on blank forms prepared
191 and furnished by the board, the application to contain proof under
192 the applicant's oath for the particular qualifications of the
193 applicant; and,

194 Furnish to the board, at the time of the filing of the
195 application, two (2) five inch (5") X three inch (3") signed
196 photographs of the applicant, one (1) to accompany the

197 application, and one (1) to be returned to the applicant to be
198 presented to the board when the applicant appears for examination;
199 and,

200 Pay to the board the required fee.

201 Each application or filing made under this section shall
202 include the social security number(s) of the applicant in
203 accordance with Section 93-11-64.

204 **SECTION 7.** Section 73-5-17, Mississippi Code of 1972, is
205 amended as follows:

206 73-5-17. The board * * * shall conduct examinations of
207 applicants for certificates of registration to practice as
208 registered barbers not less than three (3) times a year, which
209 examination shall be had in some town or city selected by the
210 examining board. Examinations of applicants for certificates of
211 registration as barber instructors shall be conducted at a time
212 and place selected by the examining board.

213 The examination of applicants for certificates of
214 registration as registered barbers shall include both a practical
215 demonstration and a written and oral test, and shall embrace the
216 subjects usually practiced in a duly licensed shop of Mississippi
217 under the direct and personal supervision of a registered barber.
218 The examination of applicants for certificates of registration as
219 barber instructors shall include such subjects as the board deems
220 necessary to determine the applicant's fitness to practice as a
221 barber instructor.

222 **SECTION 8.** Section 73-5-19, Mississippi Code of 1972, is
223 amended as follows:

224 73-5-19. Whenever the applicable provisions of this chapter
225 have been complied with, the board * * * shall issue a certificate
226 of registration as a registered barber or barber instructor, as
227 the case may be.

228 **SECTION 9.** Section 73-5-25, Mississippi Code of 1972, is
229 amended as follows:

230 73-5-25. (1) The board * * * may refuse to issue, or may
231 suspend definitely or indefinitely, or revoke any certificate of
232 registration for any one or a combination of the following causes:

233 (a) Conviction of a felony shown by a certified copy of
234 the judgment of court in which the conviction is had, unless upon
235 a full and unconditional pardon of the convict, and upon
236 satisfactory showing that the convict will in the future conduct
237 himself in a law-abiding way.

238 (b) Gross malpractice or gross incompetency.

239 (c) Continued practice by a person knowingly having an
240 infectious or contagious disease.

241 (d) Advertising, practicing or attempting to practice
242 under a trade name or name other than one's own.

243 (e) Habitual drunkenness or habitual addiction to the
244 use of morphine, cocaine or habit forming drug.

245 (f) Immoral or unprofessional conduct.

246 (g) Violation of regulations that may be prescribed as
247 provided for in Section 73-5-7 and the commission of any of the
248 offenses set forth in Section 73-5-43.

249 (2) In addition to the causes specified in subsection (1) of
250 this section, the board shall be authorized to suspend the
251 certificate of registration of any person for being out of
252 compliance with an order for support, as defined in Section
253 93-11-153. The procedure for suspension of a certificate for
254 being out of compliance with an order for support, and the
255 procedure for the reissuance or reinstatement of a certificate
256 suspended for that purpose, and the payment of any fees for the
257 reissuance or reinstatement of a certificate suspended for that
258 purpose, shall be governed by Section 93-11-157 or 93-11-163. If
259 there is any conflict between any provision of Section 93-11-157
260 or 93-11-163 and any provision of this chapter, the provisions of
261 Section 93-11-157 or 93-11-163, as the case may be, shall control.

262 **SECTION 10.** Section 73-5-27, Mississippi Code of 1972, is
263 amended as follows:

264 73-5-27. The board * * * may neither refuse to suspend or
265 revoke, nor revoke or suspend any certificate of registration as a
266 registered barber or barber instructor, for any of the causes
267 enumerated in this chapter, unless the holder of the certificate
268 has been given at least twenty (20) days' notice, in writing by
269 registered mail, signed by the president and secretary of the
270 board * * *, setting forth the charges against the holder of the
271 certificate and naming the time and place for a hearing upon the
272 charge or charges, and a public hearing thereof by the
273 board * * *.

274 Upon the hearing of any such charge or charges, the board may
275 issue all subpoenas for all necessary witnesses for and against
276 the accused, and require their attendance upon the hearing, may
277 administer oaths, and may procure by process the production of all
278 necessary books and papers, bearing or touching upon the charges
279 against the accused.

280 **SECTION 11.** Section 73-5-33, Mississippi Code of 1972, is
281 amended as follows:

282 73-5-33. (1) The board shall issue a license for each
283 barbershop in operation in the State of Mississippi, and the board
284 shall prescribe the rules and regulations and circulate the
285 information necessary to obtain a license for the barbershop. A
286 fee of not more than Fifteen Dollars (\$15.00) for each chair
287 manned by a registered barber located in the shop shall be
288 required for the issuance of the license, and the same fee shall
289 be required for a renewal of the license to the shop, the renewal
290 due on the anniversary date of each year. A fee of not more than
291 Twenty-five Dollars (\$25.00) in addition to the regular renewal
292 fee shall be required for restoration of any license that has
293 expired for more than thirty (30) days. Any barbershop license
294 having passed the second year anniversary date, in delinquency,

295 shall be required to have a new shop inspection and shall
296 hereafter pay an initial fee of not more than Forty-five Dollars
297 (\$45.00) in addition to all other fees required for restoration.

298 (2) All barbershop owners shall be responsible for employing
299 only licensed barbers in the shop. Any barbershop owner found by
300 the board * * * to employ an unlicensed barber or barbers shall be
301 fined One Hundred Fifty Dollars (\$150.00) payable into the State
302 General Fund, and shall be subject to closure until those
303 violations are corrected. Any barbershop operating within the
304 State of Mississippi without a license after July 1, 1968, shall
305 be subjected to closing by a proper order of a court of competent
306 jurisdiction upon a proper showing that it has failed to comply
307 with the terms of this chapter.

308 (3) The board may assess against any barbershop owner found
309 to employ an unlicensed barber or barbers any of the following
310 costs that are expended by the board in the conduct of a
311 proceeding for violation of subsection (2): court filing fees,
312 court costs and the cost of serving process. Any monies collected
313 by the board under this subsection (3) shall be deposited into the
314 special fund operating account of the board.

315 (4) All new barbershops or change of ownership or location
316 of barbershops shall * * * pay an initial fee of not more than
317 Twenty-five Dollars (\$25.00) in addition to all other fees
318 required before beginning business. The fee shall not be
319 transferable upon change of ownership or location.

320 (5) All licensees shall notify the * * * board * * * of the
321 location of the barbershop at which they are employed.

322 **SECTION 12.** Section 73-5-35, Mississippi Code of 1972, is
323 amended as follows:

324 73-5-35. All barber schools operated in this state shall pay
325 an annual license fee of One Hundred Dollars (\$100.00) and the
326 same fee shall be required for renewal of the license to each such
327 school on July 1 of each year. A fee of not more than Twenty-five

328 Dollars (\$25.00) shall be required for restoration of an expired
329 license that has been expired for a period of at least thirty (30)
330 days of the renewal date.

331 The license to operate those schools shall be issued by the
332 board * * * after approval by the board. This license shall not
333 be transferable for any cause and must be renewed annually.

334 All barber schools operated in this state shall be under the
335 direct supervision of a registered barber instructor at all times.

336 **SECTION 13.** Section 73-5-41, Mississippi Code of 1972, is
337 amended as follows:

338 73-5-41. The following persons are exempt from the
339 provisions of this chapter, wholly in the proper discharge of
340 their professional duties, to wit:

341 Persons authorized by the law of Mississippi to practice
342 medicine and surgery.

343 Commissioned medical or surgical officers of the United
344 States Army, Navy or Marine hospital service.

345 Registered nurses.

346 Cosmetologists * * *.

347 The provision of this section shall not be construed to
348 authorize any of the persons exempted to shave, trim the beard, or
349 cut the hair of any person, or perform any other act that
350 constitutes barbering, for cosmetic purposes, with the exception
351 of persons licensed under Section 73-7-1 et seq.

352 **SECTION 14.** Section 73-5-45, Mississippi Code of 1972, is
353 amended as follows:

354 73-5-45. Sections 73-5-1 through 73-5-43, Mississippi Code
355 of 1972, which provide for the licensure and regulation of
356 barbers, shall stand repealed as of July 1, 2004.

357 **SECTION 15.** Section 73-7-2, Mississippi Code of 1972, is
358 amended as follows:

359 73-7-2. As used in this chapter, the following terms shall
360 have the meanings ascribed herein unless the context otherwise
361 requires:

362 (a) "Board" means the State Board of Barbering and
363 Cosmetology.

364 (b) "Cosmetology" means any one (1) or a combination of
365 the following practices if they are performed on a person's head,
366 face, neck, shoulder, arms, hands, legs or feet for cosmetic
367 purposes:

368 (i) Cutting, clipping or trimming hair.

369 (ii) Styling, arranging, dressing, curling,
370 waving, permanent waving, straightening, cleansing, bleaching,
371 tinting, coloring or similarly treating hair.

372 (iii) Cleansing, stimulating, manipulating,
373 beautifying or applying oils, antiseptics, clays, lotions or other
374 preparations, either by hand or by mechanical or electrical
375 apparatus.

376 (iv) Arching eyebrows or tinting eyebrows and
377 eyelashes.

378 (v) Removing superfluous hair by the use of
379 depilatories.

380 (vi) Manicuring and pedicuring.

381 (c) "Cosmetologist" means a person who for
382 compensation, whether direct or indirect, engages in the practice
383 of cosmetology.

384 (d) "Esthetics" means any one (1) or a combination of
385 the following practices:

386 (i) Massaging the face or neck of a person.

387 (ii) Trimming eyebrows.

388 (iii) Tinting eyelashes or eyebrows.

389 (iv) Waxing, stimulating, cleaning or beautifying
390 the face, neck, arms or legs of a person by any method with the

391 aid of the hands or any mechanical or electrical apparatus, or by
392 the use of a cosmetic preparation.

393 The term "esthetics" shall not include the diagnosis,
394 treatment or therapy of any dermatological condition.

395 (e) "Esthetician" means any person who, for
396 compensation, either direct or indirect, engages in the practice
397 of esthetics.

398 (f) "Instructor" means a person licensed to teach
399 cosmetology, or manicuring and pedicuring, or esthetics, or
400 wigology, or all of those, under this chapter, and shall include
401 those persons engaged in the instruction of student instructors.

402 (g) "Manicuring and pedicuring" means any one (1) or a
403 combination of the following practices:

404 (i) Cutting, trimming, polishing, coloring,
405 tinting, cleansing or otherwise treating a person's nails.

406 (ii) Applying artificial nails.

407 (iii) Massaging or cleaning a person's hands,
408 arms, legs or feet.

409 (h) "Manicurist" means a person who for compensation,
410 either direct or indirect, engages in the practice of manicuring
411 and pedicuring.

412 (i) "Master cosmetologist" means a person holding a
413 cosmetology license who has completed the minimum course of
414 continuing education prescribed by Section 73-7-14.

415 (j) "Salon" means an establishment operated for the
416 purpose of engaging in the practice of cosmetology, or manicuring
417 and pedicuring, or esthetics, or wigology, or all of those.

418 (k) "School" means an establishment, public or private,
419 operated for the purpose of teaching cosmetology, or manicuring
420 and pedicuring, or esthetics, or wigology, or all of those.

421 (l) "Wigology" means a service to a wig or hairpiece in
422 any one (1) or combination of the following:

423 (i) Arranging, dressing, waving or curling.

- 424 (ii) Cleaning.
- 425 (iii) Bleaching or coloring.
- 426 (iv) Cutting and shaping.
- 427 (m) "Wig specialist" means a person who, for
- 428 compensation, either direct or indirect, engages in the practice
- 429 of wigology.

430 **SECTION 16.** Section 73-7-13, Mississippi Code of 1972, is

431 amended as follows:

432 73-7-13. (1) The board shall admit to examination for a

433 cosmetology license any person who has made application to the

434 board in proper form, has paid the required fee, and who (a) is at

435 least seventeen (17) years of age, (b) can read, write and speak

436 English, (c) has successfully completed no less than fifteen

437 hundred (1500) hours over a period of no less than nine (9) months

438 in an accredited school of cosmetology, and (d) has a high school

439 education or its equivalent.

440 The board may, in its discretion, issue to any student who

441 has completed the prescribed hours in an accredited school in

442 Mississippi a temporary permit until such time as the next

443 examination may be held, but the student shall be issued only one

444 (1) temporary permit. Application for an examination and license

445 shall be accompanied by two (2) recent head photographs of the

446 applicant. No temporary permit will be issued an applicant from

447 any other state to operate a beauty salon or school of cosmetology

448 in this state unless in case of emergency.

449 Applicants for the cosmetologist examination, after having

450 satisfactorily passed the prescribed examination, shall be issued

451 a cosmetology license which until June 30, 2001, shall be valid

452 for one (1) year, and after July 1, 2001, shall be valid for two

453 (2) years, and all those licenses shall be subject to renewal.

454 Any barber who can read, write and speak English and has

455 successfully completed no less than fifteen hundred (1500) hours

456 in an accredited barber school, and who holds a current valid

457 certificate of registration to practice barbering and who holds a
458 current valid license, is eligible to take the cosmetology
459 examination to secure a cosmetology license upon successfully
460 completing five hundred (500) hours in an accredited school of
461 cosmetology. All fees for application, examination, registration
462 and renewal thereof shall be the same as provided for
463 cosmetologists.

464 (2) Each application or filing made under this section shall
465 include the social security number(s) of the applicant in
466 accordance with Section 93-11-64.

467 (3) Any licensed cosmetologist, esthetician, manicurist or
468 wigologist who is registered but not actively practicing in the
469 State of Mississippi at the time of making application for
470 renewal, may apply for registration on the "inactive" list. The
471 "inactive" list shall be maintained by the board and shall set out
472 the names and post office addresses of all persons registered but
473 not actively practicing in this state, arranged alphabetically by
474 name and also by the municipalities and states of their last known
475 professional or residential address. Only the cosmetologists,
476 estheticians, manicurists and wigologists registered on the
477 appropriate list as actively practicing in the State of
478 Mississippi shall be authorized to practice those professions.
479 For the purpose of this section, any licensed cosmetologist,
480 esthetician, manicurist or wigologist who has actively practiced
481 his or her profession for at least three (3) months of the
482 immediately preceding license renewal period shall be considered
483 in active practice. No cosmetologist, esthetician, manicurist or
484 wigologist shall be registered on the "inactive" list until the
485 person has furnished a statement of intent to take that action to
486 the board. Any licensed cosmetologist, esthetician, manicurist or
487 wigologist registered on the "inactive" list shall not be eligible
488 for registration on the active list until either of the following
489 conditions have been satisfied:

490 (a) Written application shall be submitted to the * * *
491 board * * * stating the reasons for the inactivity and setting
492 forth such other information as the board may require on an
493 individual basis and completion of the number of clock hours of
494 continuing education as approved by the board; or

495 (b) Evidence to the satisfaction of the board shall be
496 submitted that they have actively practiced their profession in
497 good standing in another state and have not been guilty of conduct
498 that would warrant suspension or revocation as provided by
499 applicable law; and

500 (c) Payment of the fee for processing the inactive
501 license.

502 **SECTION 17.** Section 73-7-27, Mississippi Code of 1972, is
503 amended as follows:

504 73-7-27. (1) Any complaint may be filed with the board by a
505 member or agent of the board or by any person charging any
506 licensee of the board with the commission of any of the offenses
507 enumerated in subsection (2) of this section. The complaint shall
508 be in writing, signed by the accuser or accusers, and verified
509 under oath, and the complaints shall be investigated as set forth
510 in Section 73-7-7. If, after the investigation, the board through
511 its administrative review agents determines that there is not
512 substantial justification to believe that the accused licensee has
513 committed any of the offenses enumerated, it may dismiss the
514 complaint or may prepare a formal complaint proceeding against the
515 licensee as hereinafter provided. When used with reference to any
516 complaint filed against a licensee herein, the term "not
517 substantial justification" means a complaint that is frivolous,
518 groundless in fact or law, or vexatious, as determined by
519 unanimous vote of the board. If there is a dismissal, the person
520 filing the accusation and the accused licensee shall be given
521 written notice of the board's determination. If the board
522 determines there is reasonable cause to believe the accused has

523 committed any of those offenses, the secretary of the board shall
524 give written notice of that determination to the accused licensee
525 and set a day for a hearing as provided in subsection (3) of this
526 section.

527 (2) The board shall have the power to revoke, suspend or
528 refuse to issue or renew any license or certificate provided for
529 in this chapter, and to fine, place on probation and/or otherwise
530 discipline a student or licensee or holder of a certificate, upon
531 proof that the person: (a) has not complied with or has violated
532 any of the rules and regulations promulgated by the board; (b) has
533 not complied with or has violated any of the sections of this
534 chapter; (c) has committed fraud or dishonest conduct in the
535 taking of the examination herein provided for; (d) has been
536 convicted of a felony; (e) has committed grossly unprofessional or
537 dishonest conduct; (f) is addicted to the excessive use of
538 intoxicating liquors or to the use of drugs to such an extent as
539 to render him or her unfit to practice in any of the practices or
540 occupations set forth in this chapter; (g) has advertised by means
541 of knowingly false or deceptive statements; or (h) has failed to
542 display the license or certificate issued to him or her as
543 provided for in this chapter; or (i) has been convicted of
544 violating any of the provisions of this chapter. A conviction of
545 violating any of the provisions of this chapter shall be grounds
546 for automatic suspension of the license or certificate of the
547 person.

548 (3) The board shall not revoke, suspend or refuse to issue
549 or renew any license or certificate, or fine, place on probation
550 or otherwise discipline any person in a disciplinary matter except
551 after a hearing of which the applicant or licensee or holder of
552 the certificate affected shall be given at least twenty (20) days'
553 notice in writing, specifying the reason or reasons for denying
554 the applicant a license or certificate of registration, or in the
555 case of any other disciplinary action, the offense or offenses of

556 which the licensee or holder of a certificate of registration is
557 charged. The notice may be served by mailing a copy thereof by
558 United States first class certified mail, postage prepaid, to the
559 last known residence or business address of the applicant,
560 licensee or holder of a certificate. The hearing on the charges
561 shall be at such time and place as the board may prescribe.

562 (4) At the hearings, all witnesses shall be sworn by a
563 member of the board, and stenographic notes of the proceedings
564 shall be taken. Any party to the proceedings desiring it shall be
565 furnished with a copy of those stenographic notes upon payment to
566 the board of such fees as it * * * prescribes, not exceeding,
567 however, the actual costs of transcription.

568 (5) The board may issue subpoenas for the attendance of
569 witnesses and the production of books and papers. The process
570 issued by the board shall extend to all parts of the state and
571 that process shall be served by any person designated by the board
572 for that service. The person serving the process shall receive
573 such compensation as may be allowed by the board, not to exceed
574 the fee prescribed by law for similar services. All witnesses who
575 shall be subpoenaed, and who shall appear in any proceedings
576 before the board, shall receive the same fees and mileage as
577 allowed by law.

578 (6) Where in any proceeding before the board, any
579 witness * * * fails or refuses to attend upon subpoena issued by
580 the board, * * * refuses to testify, or * * * refuses to produce
581 any books and papers, the production of which is called for by the
582 subpoena, the attendance of the witness and the giving of his
583 testimony and the production of the books and papers shall be
584 enforced by any court of competent jurisdiction of this state, in
585 manner as are enforced the attendance and testimony of witnesses
586 in civil cases in the courts of this state.

587 (7) The board shall conduct the hearing in an orderly and
588 continuous manner, granting continuances only when the ends of

589 justice may be served. The board shall, within sixty (60) days
590 after conclusion of the hearing, reduce its decision to writing
591 and forward an attested true copy thereof to the last known
592 residence or business address of the applicant, licensee or holder
593 of a certificate, by way of United States first class certified
594 mail, postage prepaid. The applicant, licensee, holder of a
595 certificate, or person aggrieved shall have the right of appeal
596 from an adverse ruling, or order, or decision of the board to the
597 chancery court upon forwarding notice of appeal to the board
598 within thirty (30) days after the decision of the board is mailed
599 in the manner here contemplated. An appeal will not be allowed if
600 notice of appeal, together with the appeal bond hereinafter
601 required, is not * * * forwarded to the board within the
602 thirty-day period. Appeal shall be to the chancery court of the
603 county and judicial district of the residence of the appellant, or
604 to the Chancery Court of the First Judicial District of Hinds
605 County, Mississippi, at the election of the appellant. The notice
606 of appeal shall elect venue, unless the appellant is a nonresident
607 of the State of Mississippi, in which event the board shall
608 certify all documents and evidence directly to the Chancery Court
609 of the First Judicial District of Hinds County for further
610 proceedings. The appeal shall thereupon be heard in due course by
611 the court, which shall review the record and make its
612 determination thereon.

613 (8) The appellant shall, together with the notice of appeal,
614 forward to and post with the board a satisfactory bond in the
615 amount of Five Hundred Dollars (\$500.00) for the payment of any
616 costs that may be adjudged against him.

617 (9) If there is an appeal, the court shall dispose of the
618 appeal and enter its decision promptly. The hearing on the appeal
619 may, in the discretion of the chancellor, be tried in vacation.
620 If there is an appeal, the appeal may, in the discretion of and on
621 motion to the chancery court, act as a supersedeas. However, any

622 fine imposed by the board under the provisions of this chapter
623 shall not take effect until after the time for appeal has expired,
624 and an appeal of the imposition of such a fine shall act as a
625 supersedeas.

626 (10) Any fine imposed by the board upon a licensee or holder
627 of a certificate shall be in accordance with the following
628 schedule:

629 (a) For the first violation, a fine of not less than
630 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty
631 Dollars (\$250.00) for each violation.

632 (b) For the second and each subsequent violation, a
633 fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more
634 than Five Hundred Dollars (\$500.00) for each violation.

635 The power and authority of the board to impose the fines
636 under this section shall not be affected or diminished by any
637 other proceeding, civil or criminal, concerning the same violation
638 or violations.

639 (11) In addition to the reasons specified in subsection (2)
640 of this section, the board shall be authorized to suspend the
641 license of any licensee for being out of compliance with an order
642 for support, as defined in Section 93-11-153. The procedure for
643 suspension of a license for being out of compliance with an order
644 for support, and the procedure for the reissuance or reinstatement
645 of a license suspended for that purpose, and the payment of any
646 fees for the reissuance or reinstatement of a license suspended
647 for that purpose, shall be governed by Section 93-11-157 or
648 93-11-163, as the case may be. Actions taken by the board in
649 suspending a license when required by Section 93-11-157 or
650 93-11-163 are not actions from which an appeal may be taken under
651 this section. Any appeal of a license suspension that is required
652 by Section 93-11-157 or 93-11-163 shall be taken in accordance
653 with the appeal procedure specified in Section 93-11-157 or
654 93-11-163, as the case may be, rather than the procedure specified

655 in this section. If there is any conflict between any provision
656 of Section 93-11-157 or 93-11-163 and any provision of this
657 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
658 case may be, shall control.

659 **SECTION 18.** Section 73-7-29, Mississippi Code of 1972, is
660 amended as follows:

661 73-7-29. The board shall assess fees in the following
662 amounts and for the following purposes:

663 (a) Application for examination and reexamination -
664 cosmetologist, manicurist, esthetician, or wig specialist.. \$35.00

665 (b) Application for in-state instructor
666 examination and reexamination..... 50.00

667 (c) Application for out-of-state instructor
668 examination, processing..... 55.00

669 (d) Until June 30, 2001, cosmetologist,
670 manicurist, esthetician, or wig specialist license,
671 original and renewal..... 25.00

672 From and after July 1, 2001, biennial original
673 license and renewal..... 50.00

674 (e) Until June 30, 2001, master cosmetologist
675 license..... 35.00

676 From and after July 1, 2001, biennial original license
677 and renewal..... 70.00

678 (f) Cosmetologist, manicurist, esthetician, or
679 wig specialist by reciprocity, processing..... 55.00

680 (g) Until July 1, 2001, instructor license,
681 original and renewal..... 40.00

682 After July 1, 2001, biennial original license
683 and renewal..... 80.00

684 (h) Delinquent renewal penalty - cosmetologist,
685 manicurist, esthetician, wig specialist and instructor:

686 Sixty (60) days to one (1) year..... 50.00

687 plus license fee

688 Over one (1) year to three (3) years, per year..... 100.00
689 plus license fee
690 (i) Salon application..... 50.00
691 (j) Salon reinspection..... 35.00
692 (k) Salon change of ownership or location
693 or both..... 50.00
694 (l) Until June 30, 2001, salon license renewal... 30.00
695 From and after July 1, 2001, biennial salon license
696 renewal..... 60.00
697 (m) Salon delinquent renewal penalty -
698 Sixty (60) days to one (1) year..... 50.00
699 plus license fee
700 Over one (1) year..... 100.00
701 plus license fee
702 (n) Application for a new school..... 300.00
703 (o) New school reinspection..... 100.00
704 (p) School change of ownership..... 300.00
705 (q) School relocation..... 300.00
706 (r) Until June 30, 2001, school license renewal. 75.00
707 From and after July 1, 2001, biennial school license
708 renewal..... 150.00
709 (s) School delinquent renewal penalty -
710 Sixty (60) days to one (1) year..... 100.00
711 plus license fee
712 (t) Duplicate license or lost renewal form..... 10.00
713 (u) Penalty for insufficient fund checks..... 20.00
714 (v) Affidavit processing..... 15.00
715 (w) Inactive license fee..... 15.00
716 (x) Renewal of inactive license..... 15.00

717 The board may charge additional fees for services that the
718 board deems appropriate to carry out its intent and purpose.
719 These additional fees shall not exceed the cost of rendering the
720 service.

721 The board may authorize any licensee to renew his or her
722 license for a two-year period until June 30, 2001, after which all
723 licenses shall be renewed biennially pursuant to the above fee
724 schedule.

725 The board is fully authorized to make refunds of any deposits
726 received by the board for services that are not rendered, and may
727 refund any underpayments or overpayments of fees to licensees or
728 applicants.

729 **SECTION 19.** Section 73-7-31, Mississippi Code of 1972, is
730 amended as follows:

731 73-7-31. Nothing in this chapter shall apply to:

732 (a) Hairdressing, manicuring or facial treatments given
733 in the home to members of family or friends for which no charge is
734 made.

735 (b) Persons whose practice is limited to the
736 application of cosmetic products to another person in connection
737 with the sale, or attempted sale, of those products at retail,
738 without compensation from the other person other than the regular
739 retail price of the merchandise.

740 (c) Barbers * * *.

741 **SECTION 20.** Section 73-7-63, Mississippi Code of 1972, is
742 amended as follows:

743 73-7-63. Sections 73-7-1 through 73-7-37 and 73-7-51 through
744 73-7-61, Mississippi Code of 1972, which provide for the licensure
745 and regulation of cosmetologists, shall stand repealed as of July
746 1, 2005.

747 **SECTION 21.** Section 75-60-5, Mississippi Code of 1972, is
748 amended as follows:

749 75-60-5. The provisions of this chapter do not apply to the
750 following categories of courses, schools or colleges:

751 (a) Tuition-free courses or schools conducted by
752 employers exclusively for their own employees;

753 (b) Schools, colleges, technical institutes, community
754 colleges, junior colleges or universities under the jurisdiction
755 of the Board of Trustees of State Institutions of Higher Learning
756 or the State Board for Community and Junior Colleges;

757 (c) Schools or courses of instruction under the
758 jurisdiction of the State Board of Barbering and
759 Cosmetology * * *;

760 (d) Courses of instruction required by law to be
761 approved or licensed, or given by institutions approved or
762 licensed, by a state board or agency other than the Commission on
763 Proprietary School and College Registration; however, a school so
764 approved or licensed may apply to the Commission on Proprietary
765 School and College Registration for a certificate of registration
766 to be issued in accordance with the provisions of this chapter;

767 (e) Correspondence courses;

768 (f) Nonprofit private schools offering academic credits
769 at primary or secondary levels, or conducting classes for
770 exceptional education as defined by regulations of the State
771 Department of Education;

772 (g) Private nonprofit colleges and universities or any
773 private school offering academic credits at primary, secondary or
774 postsecondary levels;

775 (h) Courses of instruction conducted by a public school
776 district or a combination of public school districts;

777 (i) Courses of instruction conducted outside the United
778 States;

779 (j) A school that offers only instruction in subjects
780 that the Commission on Proprietary School and College Registration
781 determines are primarily for avocational, personal improvement or
782 cultural purposes and that does not represent to the public that
783 its course of study or instruction will or may produce income for
784 those who take that study or instruction;

785 (k) Courses conducted primarily on an individual
786 tutorial basis, where not more than one (1) student is involved at
787 any one (1) time, except in those instances where the Commission
788 on Proprietary School and College Registration determines that the
789 course is for the purpose of preparing for a vocational objective;

790 (1) Kindergartens or similar programs for preschool-age
791 children.

792 **SECTION 22.** Section 73-5-1, Mississippi Code of 1972, which
793 creates and empowers the State Board of Barber Examiners, and
794 Section 73-7-1, Mississippi Code of 1972, which creates and
795 empowers the State Board of Cosmetology, are repealed.

796 **SECTION 23.** This act shall take effect and be in force from
797 and after July 1, 2004.