



BILL NO. 119

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act Respecting Cosmetology

CHAPTER 39
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 6, 2012**

The Honourable Marilyn More
Minister of Labour and Advanced Education

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting Cosmetology

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Cosmetology Act*.
- 2 In this Act,
 - (a) “Association” means the Cosmetology Association of Nova Scotia;
 - (b) “Board” means the Board of Directors of the Association;
 - (c) “by-laws” means a resolution of the Board passed by two thirds of the voting members present at a meeting of the Association at which such resolution is presented;
 - (d) “cosmetologist” means a person who is licensed pursuant to this Act to practise cosmetology and includes a person who holds a specific licence or a temporary licence;
 - (e) “cosmetology” means
 - (i) the provision of haircare, by the act of cutting, colouring, lightening, tinting, straightening, curling, drying, shaving or by any other act prescribed by the regulations, using mechanical, chemical or other means,
 - (ii) the affixing of eyelashes,
 - (iii) the application of non-permanent make-up,
 - (iv) the provision of nail care, by the act of manicuring, pedicuring, artificial nail enhancement or by any other act prescribed by the regulations,
 - (v) the removal of hair by the act of waxing, shaving, sugaring, tweezing or using cosmetic preparations, creams, oils or similar preparations or compounds or by any other act prescribed by the regulations, or
 - (vi) the provision of skin care by any act prescribed by the regulations;
 - (f) “director” means an elected member of the Board;
 - (g) “Executive Director” means the Executive Director of the Association;
 - (h) “former Act” means Chapter 5 of the Acts of 1995-1996, the *Cosmetology Act*;
 - (i) “licence” means a licence to practise cosmetology issued in accordance with this Act and the by-laws and includes a specific or a temporary licence;
 - (j) “master cosmetologist” means a person who meets the requirements for becoming a master cosmetologist as set out in the by-laws;
 - (k) “master cosmetologist instructor” means a person who meets the requirements for becoming a master cosmetologist instructor as set out in the by-laws;
 - (l) “member” means a person who is registered in the Register as holding a valid licence or permit;
 - (m) “Minister” means the Minister of Labour and Advanced Education;

(n) “passing score” means such score as is from time to time prescribed by the by-laws as being required to pass the Board cosmetology examinations;

(o) “permit” means a permit issued in accordance with this Act and the by-laws permitting cosmetology services to be practised in a certain fixed place or on a mobile basis;

(p) “Register” means the register of members of the Association;

(q) “salon” means a place where cosmetology is practised on a permanent or ongoing basis and includes a room in a school where practical instruction and training is given or a room in a private residence;

(r) “school” means

(i) a college as defined in the *Community Colleges Act*, or

(ii) a private career college as defined in the *Private Career Colleges Regulation Act* that is operated by a person who holds a valid certificate of registration issued pursuant to that Act,

where students receive occupational training in the practice of cosmetology;

(s) “specific licence” means a licence issued pursuant to this Act and limited to one or more practice areas;

(t) “temporary licence” means a temporary licence issued pursuant to this Act.

3 (1) For the purpose of this Act, a person practises cosmetology if that person engages in cosmetology for fee, gain, or expectation of reward or remuneration.

(2) No person shall practise cosmetology in any capacity or hold himself, herself or itself out as being entitled to practise cosmetology in any capacity unless that person is licensed to do so pursuant to this Act.

(3) A person who holds a permit or a licence is required to be a member of the Association.

4 A person to whom this Act applies shall comply with all applicable provisions of this Act, the regulations and the by-laws including any standards or policies established, adopted or incorporated by reference.

5 (1) This Act does not apply to

(a) a person registered to practise medicine pursuant to the *Medical Act*;

(b) a person registered to practise nursing pursuant to the *Registered Nurses Act* or the *Licensed Practical Nurses Act*;

(c) a person registered to practise dentistry or dental surgery pursuant to the *Dental Act*;

(d) a person registered as a dispensing optician pursuant to the *Dispensing Opticians Act*;

(e) a person registered as a chiropractor pursuant to the *Chiropractic Act*;

- (f) a person registered as a pharmacist pursuant to the *Pharmacy Act*;
- (g) a person registered as a dental technologist pursuant to the *Dental Technicians Act*;
- (h) a person licensed in the practice of denturism pursuant to the *Denturist Act*;
- (i) a person registered as a physiotherapist pursuant to the *Physiotherapy Act*;
- (j) a person registered as an occupational therapist pursuant to the *Occupational Therapists Act*;
- (k) a person who is a massage therapist;
- (l) a person who is a reflexology practitioner;
- (m) a person who is a personal care worker pursuant to the *Homes for Special Care Act*;
- (n) a homemaker providing services pursuant to the *Homemakers' Services Act*;
- (o) a barber practising barbering pursuant to the *Registered Barbers Act*; or
- (p) any other person exempted by the regulations.

(2) Notwithstanding subsection 3(2), nothing in this Act prohibits a person from engaging in the activities of a cosmetologist if the activity is necessarily incidental to that person's occupation or profession.

6 The Cosmetology Association of Nova Scotia created by the former Act is hereby continued as a body corporate.

7 The objects of the Association are to

- (a) ensure public safety and minimize the risk to the public and those engaged in the practice of cosmetology;
- (b) establish, maintain and develop standards of sanitation, hygiene and inspection for salons, schools and other premises where cosmetology is practised;
- (c) establish, maintain and develop standards for qualification and entry into the practice of cosmetology;
- (d) establish, maintain and develop standards for curriculum and occupational training requirements for the cosmetology industry;
- (e) regulate the practice of cosmetology and govern its members in accordance with this Act, the regulations and the by-laws;
- (f) promote the interests of the cosmetology industry to government and the general public; and
- (g) administer this Act and perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

8 In addition to any other power conferred by this or any other Act, the Association may do such things as it considers appropriate to advance the objects of the Association and, without limiting the generality of the foregoing, may

- (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;
- (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (c) engage such agents, employees, consultants, contractors and professional or other services as it considers necessary and expedient;
- (d) expend the money of the Association in the advancement of its objects in such manner as it considers expedient;
- (e) establish and maintain such offices and agencies it considers expedient;
- (f) invest and deal with any money and funds of the Association that are not immediately required in such manner as it considers expedient;
- (g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the Association;
- (h) borrow money for the use of the Association on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the Association and pledge or sell such securities for such sums or at such prices as it considers expedient;
- (i) enter into and carry out agreements beneficial to the operation of the Association on such terms and conditions as it considers advisable; and
- (j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i).

9 (1) There shall be a Board of Directors of the Association consisting of nine directors elected by the Association members at the annual meeting.

(2) Every member in good standing is eligible to be nominated as and vote for a director in accordance with the by-laws.

(3) Directors shall be elected for a term of office in accordance with the by-laws.

(4) The Board shall elect from amongst its directors a Chair in accordance with the by-laws.

10 The directors shall be

- (a) paid such remuneration; and
- (b) reimbursed for such reasonable expenses necessarily incurred in the performance of their duties,

as the Board determines in accordance with the by-laws.

11 The Board may exercise all the powers and shall perform all the duties of the Association with respect to any matters that the Association may in the by-laws delegate to it.

12 (1) The Board may appoint such committees as it considers necessary to assist in carrying out its duties pursuant to the Act.

(2) The Board may appoint

- (a) a Discipline Committee;
- (b) a Review Committee;
- (c) standing Committees; and
- (d) *ad hoc* committees.

(3) The committees shall perform such functions as are set out in this Act and in the by-laws.

(4) The committees shall follow the procedures set out in the by-laws.

(5) Committee members shall be

- (a) paid such remuneration; and
- (b) reimbursed for such reasonable expenses necessarily incurred in the performance of their duties,

as the Board determines in accordance with the by-laws.

13 (1) The Board shall appoint an Executive Director and determine the term of office and the duties of the Executive Director.

(2) The Executive Director has, subject to the control and direction of the Board, charge of the conduct of the business of the Association.

(3) The Executive Director may delegate any function assigned to the Executive Director by this Act and the by-laws.

(4) The Board may designate a person to act in the place of the Executive Director due to the absence or the incapacity of the Executive Director.

(5) The Executive Director is a non-voting member of the Board.

14 The Board may authorize the hiring or engaging of any staff, consultants or contractors to conduct the business of the Association and may set the terms of employment of such persons.

15 (1) There must be an annual general meeting of the Association at such time and place as set out in the by-laws.

(2) The by-laws must prescribe the form and content of the notice of annual meeting.

(3) Special meetings of the Association may be held at such time and place and upon such notice as prescribed in the by-laws.

(4) The auditor shall be recommended by the Board but is subject to the approval of the Association at the annual meeting.

(5) An annual report as prescribed in the by-laws, including the audited financial statements, must be distributed at or before the annual meeting for review by the members.

16 (1) At the request of the Minister, the Board shall prepare and submit to the Minister a report of the activities and operation of the Board during the preceding fiscal year.

(2) The report must include the audited financial statements and any other information the Minister requests.

17 (1) Subject to the approval of the Minister, the Board may make by-laws, not inconsistent with this Act,

(a) respecting the holding of an annual general meeting and special meetings of the Association, including the notice for such meetings, the time, place and content of such meetings, the quorum, the procedures to be followed and the manner of voting;

(b) respecting remuneration and expenses payable to persons sitting on the Board and any committees established for the purpose of attending to the business of the Association;

(c) establishing the eligibility criteria for election to the Board;

(d) establishing the timing and the manner of election to the Board;

(e) respecting the term of office of directors and members of Board committees, the manner in which vacancies may be filled and the manner for removing directors and committee members;

(f) respecting the election of the Board Chair;

(g) prescribing the role of the Board Chair, the Board and its committees;

(h) respecting the powers delegated to the Board by the Association;

(i) respecting the holding of Board meetings, including required meetings, the notice of such meetings, the quorum and procedure to be followed and the manner of voting;

(j) respecting the establishment of, and quorum for, committees as appointed by the Board and providing for the holding and conduct of meetings of such committees;

(k) respecting the functions of committees;

(l) providing for the audit of the Association;

- (m) providing for the establishment of the fiscal year of the Association;
- (n) respecting the content and form of the annual report;
- (o) prescribing the criteria and qualifications required by members to obtain a licence and become members of the Association;
- (p) prescribing the form of licences;
- (q) prescribing the form of the Register and the information to be maintained on the Register;
- (r) prescribing membership categories;
- (s) regulating the practice of cosmetology;
- (t) prescribing the hours of school training required to apply for a licence;
- (u) prescribing the criteria required and the process for obtaining a school permit;
- (v) prescribing the form and content of examinations;
- (w) prescribing the actions inspectors may take and the sanctions inspectors may impose;
- (x) establishing complaint and disciplinary processes;
- (y) prescribing the type of information, including sanctions, to be disclosed to the public and to other licensing bodies in respect of a disciplinary proceeding;
- (z) prescribing application forms and processes;
- (za) prescribing requirements for licences and permits and the renewal and re-issuance thereof;
- (zb) prescribing penalties for late licence and permit renewal applications;
- (zc) respecting member retraining and continuing occupational training requirements;
- (zd) respecting school curriculum and programming;
- (ze) prescribing requirements for a master cosmetologist instructor licence and for a specific master cosmetologist instructor licence;
- (zf) prescribing the form and content of examinations;
- (zg) prescribing the passing score for examinations;
- (zh) establishing processes to appeal an examination score that falls below the passing score;
- (zi) respecting the qualifications, duties, remuneration and expenses for examiners;
- (zj) establishing the form of inspector report including recommended actions and sanctions;
- (zk) respecting the qualifications, duties, remuneration and expenses of inspectors;
- (zl) establishing standards of practice;

(zm) establishing standards for sanitation and hygiene for premises and equipment of salons, schools and other premises where cosmetology is practised;

(zn) establishing the form of undertaking required by the Act;

(zo) prescribing the procedures for filing, processing and disposing of a complaint, including notice of date, time and place of hearing or submission filing dates for paper reviews;

(zp) prescribing the procedures for filing, processing and disposing of an appeal, including notice of date, time and place of hearing or submission filing dates for paper reviews;

(zq) respecting evidence of satisfactory previous school training;

(zr) establishing practice areas for specific licences;

(zs) establishing examination appeal procedures;

(zt) prescribing the method of notifying parties of a decision;

(zu) establishing and approving a code of ethics and professional conduct;

(zv) respecting the delegation of the Executive Director's functions;

(zw) respecting proof that a licence held from another province of Canada is sufficient to obtain a Provincial licence in the same capacity;

(zx) governing such other matters as the Board considers necessary or advisable for the effective discharge of its function or the exercise of its powers;

(zy) respecting all other things necessary or advisable for the administration of the affairs of the Association.

(2) The Board may make by-laws not inconsistent with this Act respecting the fees payable by applicants and members of the Association.

(3) All by-laws of the Board must be available during regular business hours for inspection by any person, free of charge.

18 For the purpose of Section 17, the Association may establish, adopt or incorporate by reference into the by-laws any standards or policies to be adhered to in the practice of cosmetology if

(a) the by-laws clearly identify the standard or policy being established, adopted or incorporated by reference; and

(b) a copy of the standard or policy

(i) is available on the Association's website, or

(ii) can be obtained or consulted in paper copy by written request to the Executive Director.

19 (1) The Governor in Council may make regulations

(a) prescribing any act to be used for the provision of hair care;

- (b) prescribing any act to be used for the removal of hair;
- (c) prescribing any act to be used for the provision of skin care;
- (d) prescribing any act to be used for the provision of nail care;
- (e) exempting persons or classes of persons from the application of this Act;
- (f) exempting an act from the application of this Act;
- (g) prescribing a service to be included in the definition of cosmetology;
- (h) respecting the content of Board reports of activities and operations for the Minister;
- (i) defining any word or expression used but not defined in this Act;
- (j) further defining any word or expression defined in this Act;
- (k) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

REGISTRATION, LICENSING AND PERMITS

20 (1) The Association shall keep a Register in which must be entered the name, address and type of licence or permit issued to each person pursuant to this Act.

(2) The Register shall include such other information as may be required by the by-laws.

(3) The Board shall cause to be kept a record available to the public showing

- (a) the name and registration number of every member;
- (b) any conditions or restrictions on the person's licence if the Executive Director determines it is in the public interest to have such conditions or restrictions available to the public; and
- (c) any registration conditions or restrictions imposed on a member that are not otherwise subject to a publication ban.

21 (1) The membership categories are

- (a) a cosmetologist;
- (b) a student of cosmetology enrolled in a school;
- (c) a salon permit holder;
- (d) a school operator; and
- (e) any other category as set out in the by-laws.

(2) A member's membership category shall be inscribed in the Register.

22 The Board shall register every person as a member of the Association who has applied for and met all of the criteria for registration as set out in the by-laws.

23 (1) The Executive Director shall issue a licence in a form prescribed by the by-laws to a person who meets the criteria as set out in this Act and the by-laws authorizing persons to practise cosmetology in the Province.

(2) The Executive Director may impose conditions or restrictions on a licence with the consent of the member if such conditions or restrictions are necessary in the interest of the public.

(3) Where conditions or restrictions are imposed by the Executive Director pursuant to subsection (2), the Executive Director shall issue the licence with conditions or restrictions.

24 (1) Every person who applies to the Executive Director for a licence to practise cosmetology

(a) shall complete and submit an application form as prescribed by the by-laws;

(b) shall pay the fee prescribed by the by-laws;

(c) must provide proof that the person has completed the required occupational training or work experience for the type of licence being applied for in accordance with subsection (2); and

(d) must obtain a passing score on the Association's examinations held pursuant to this Act.

(2) Before taking an examination referred to in clause (1)(d), a person shall provide evidence satisfactory to the Board, as prescribed by the by-laws, that the person

(a) has been trained as a student in cosmetology in a school, for no less than the prescribed number of hours of theory and practical instruction set out in the by-laws, under the supervision of a master cosmetologist instructor; or

(b) has sufficient work experience in the capacity for which the licence is sought to write the examination without further occupational training.

25 (1) A person may be licensed to practise cosmetology in one or more of the following capacities:

(a) a cosmetologist limited to hairdressing or esthetics;

(b) a master cosmetologist limited to hairdressing or esthetics;

(c) a master cosmetologist instructor limited to hairdressing or esthetics;

(d) a specific licence, including a specific master instructor licence, limited to one or more practice areas as set out in the by-laws.

(2) A person may apply for a temporary licence in one or more of the capacities listed in section (1) in accordance with the requirements set out at Section 28.

26 (1) Every student enrolled in a course of study in cosmetology in the Province must hold a student permit issued by the Executive Director.

(2) Students shall apply for a student permit within 30 days of the beginning of their course.

(3) A student enrolled in practical training or school instruction shall display the student permit in a place clearly visible to the public at the location where cosmetology is practised.

(4) The instructor or the salon operator shall ensure the student complies with the display requirements referred to in subsection (3).

27 No person shall engage in the instruction of cosmetology in a school unless the person

(a) holds a master cosmetologist instruction licence; or

(b) holds a specific master instructor licence,

issued by the Executive Director in accordance with the by-laws.

28 (1) Upon paying the fee prescribed in the by-laws, a person may apply for a temporary licence to practise cosmetology if that person

(a) as a student has completed the necessary occupational training and examination requirements for a licence and is awaiting the examination results;

(b) is licensed to practise cosmetology in another jurisdiction and has commenced the application process for a licence to practise in the Province; or

(c) is licensed to practise cosmetology in another jurisdiction and seeks to practise cosmetology in the Province solely on a short-term basis.

(2) The Executive Director may issue a temporary licence for a specified period in accordance with the criteria prescribed by the by-laws.

(3) The Executive Director may extend the specified period of a temporary licence.

(4) Notwithstanding the licence renewal provisions set out in subsections 35(2) to (4), a temporary licence may only be renewed in accordance with the by-laws.

(5) The Executive Director may impose conditions or restrictions on a temporary licence if such conditions or restrictions are necessary in the interest of the public.

(6) Where the Executive Director imposes conditions or restrictions pursuant to subsection (5), such conditions or restrictions are not licensing sanctions.

(7) The Executive Director shall enter in the Register the names of all persons holding a temporary licence and the names of all persons holding a temporary licence with conditions or restrictions.

(8) A person who holds a temporary licence shall display the licence in a place clearly visible to the public at the location where cosmetology is practised.

29 (1) A person licensed to practise cosmetology in another province of Canada may apply to the Executive Director for a licence in the same capacity in the Province.

(2) Subject to verification by the Executive Director, an applicant referred to in subsection (1) must provide proof as required by the by-laws that the licence held from another jurisdiction is sufficient to obtain a Provincial licence in the same capacity.

(3) Upon meeting the requirements in subsection (2), the person applying for a licence pursuant to subsection (1) is exempt from the requirements of clauses 24(1)(c) and (d) and subsection 24(2).

30 (1) No person shall operate a school unless that person holds a permit to do so issued pursuant to this Act.

(2) Every person who applies for a permit to operate a school shall

- (a) complete and submit an application form as prescribed by the by-laws;
- (b) pay the fee prescribed by the by-laws; and
- (c) satisfy any additional requirements set out in the by-laws.

(3) The Executive Director shall issue a permit to operate a school to a person who meets the criteria as set out in subsection (2) and in the by-laws.

31 (1) No person shall operate a salon unless that person holds a permit to do so issued pursuant to this Act.

(2) Every person who applies for a permit to operate a salon

- (a) shall complete and submit an application form as prescribed by the by-laws;
- (b) shall pay the fee prescribed by the by-laws;
- (c) shall provide an undertaking in the form prescribed by the by-laws, requiring the person to ensure that all cosmetologists employed or otherwise engaged by the person at the salon will fulfil their professional responsibilities pursuant to this Act; and
- (d) must satisfy any additional requirements set out in the by-laws.

(3) The Executive Director shall issue a permit to operate a salon to a person who meets the criteria set out in subsection (2) and in the by-laws.

32 (1) No person shall transport equipment to different locations for the purpose of providing mobile cosmetology services unless the person holds a mobile services permit.

(2) Every person who applies for a mobile services permit

- (a) shall complete and submit an application form as prescribed by the by-laws;
- (b) shall pay the fee prescribed by the by-laws;
- (c) must satisfy any additional requirements set out in the by-laws.

(3) The Executive Director shall issue a mobile services permit to a person who meets the criteria set out in subsection (2) and in the by-laws.

33 No person shall operate a salon where cosmetology is practiced unless

- (a) that person holds a licence to practise as a cosmetologist; or
- (b) that person employs at that salon a person who holds a licence to practise as a cosmetologist.

34 No person shall practise cosmetology in a private residence unless

- (a) the practice is carried on in a room or rooms that are used exclusively for the practice of cosmetology; or
- (b) the practice is authorized pursuant to a mobile services permit.

35 (1) Unless otherwise authorized in writing by the Executive Director, every licence and permit holder shall display the licence and permit in a place clearly visible to the public at the location where cosmetology is practised.

(2) Unless otherwise provided in this Act, any licence or permit issued by the Executive Director remains in force until the end of the calendar year in which it was issued and may be renewed by following the process set out in the by-laws.

(3) Where a person does not renew a licence or permit within two months of its expiry date, the person's name shall be removed from the Register and the licence or permit may not be renewed until such time as the person has paid to the Association the annual renewal fees and any penalties for each year or part thereof from the date of expiry of the licence or permit to the date of renewal, and continues to meet the licence or permit requirements.

(4) Where the licence of any person has lapsed for a period of three years or more, the Board may, before issuing to that person a licence or renewal, require that person to complete such training, examination or period of work service under the supervision of another cosmetologist as may be prescribed by the by-laws.

36 No person other than a cosmetologist licensed under this Act may use the designation "cosmetologist", "licensed cosmetologist" or "registered cosmetologist".

TRAINING AND EXAMINATIONS

37 Only a school as defined in this Act is authorized to offer a course of study in cosmetology.

38 (1) Subject to the approval of the Board, the Executive Director may appoint one or more examiners to assist in the conduct of examinations of persons who wish to practise cosmetology.

(2) The qualifications and duties of examiners must be prescribed by the by-laws.

(3) Each examiner shall be paid such remuneration and reimbursed for such reasonable and necessary expenses incurred by the examiner in the performance of the examiner's duties as the Board determines.

39 (1) The Association shall conduct examinations in cosmetology at least three times a year, throughout the Province, at such times and places as the Board determines.

(2) Every person required to take an examination pursuant to this Act shall receive no less than 30 days' notice of the time and place of the examination.

(3) The form and conduct of the examinations must be set out in the by-laws.

(4) Where a person fails to attain a passing score on an examination, that person may, within 30 days of receipt of the examination results, appeal in writing to the Board by following the procedures prescribed by the by-laws.

(5) On reviewing an appeal made pursuant to subsection (4), the Board may

(a) uphold or vary the result; or

(b) direct the person to take a new examination to be graded by a different examiner or a different group of examiners.

(6) A person who fails to attain a passing score on an examination may apply to the Board to be re-examined and may be re-examined no more than three times.

(7) A person who fails three times to attain a passing score on an examination may not apply to be examined again until such time as the person satisfies the Board that the person has enrolled in an exam preparation course offered or approved by the Board.

INSPECTIONS

40 (1) The Board may authorize the hiring or engaging of qualified persons as inspectors to perform the duties and functions conferred by this Act, including the inspection of any premises and equipment in the Province where cosmetology is practised.

(2) The qualifications required to be an inspector must be set out in the by-laws.

41 (1) Inspectors may

(a) inspect schools, salons or other premises where cosmetology is practised;

(b) enter and inspect during business hours premises in which cosmetology is practised or advertised as being practised;

- (c) require the production of any relevant documents or records for inspection and copying;
- (d) inspect equipment used to practise cosmetology;
- (e) inquire into matters that relate to compliance with the requirements of this Act.

(2) It is an offence to refuse access to an inspector or to interfere with an inspector in the exercise of a power granted pursuant to this Act.

(3) An Inspector shall prepare and submit to the Board a report for each inspection containing any necessary recommendations made to the Executive Director for appropriate action or sanction as set out in the by-laws.

(4) Notwithstanding clause (1)(b), an inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant of the place; or
- (b) pursuant to an order to enter and inspect obtained pursuant to Section 42.

42 (1) Notwithstanding anything contained in this Act, where a judge of the Supreme Court of Nova Scotia is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 41; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to premises that are locked or otherwise inaccessible,

(ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,

(iii) a person has prevented the inspector from doing anything set out in Section 41 or denied the inspector access to any thing, as a result of which the inspector is unable to do anything set out in Section 41,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 41, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 41,

(v) it is unpractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 41 without the order might defeat the purpose of that Section or cause an adverse effect,

the judge may issue an order authorizing the inspector to do anything set out in Section 41 that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which must not be more than 30 days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice.

DISCIPLINE AND APPEALS

43 The purpose of the disciplinary process is to ensure the protection of the public and to maintain and preserve the integrity of the practice of cosmetology.

44 In Sections 45 to 60,

(a) “complaint” means a notice in writing made pursuant to subsection 47(1) indicating the possible violation of this Act, the regulations or the by-laws, by a member or other person and may include violations such as

- (i) practising cosmetology without a valid licence,
- (ii) practising cosmetology without a valid permit, or
- (iii) engaging in professional misconduct;

(b) “disciplinary process” means the process as described in the Act and in the by-laws respecting disciplinary proceedings;

(c) “member” means, unless the context other requires, a person whose name is or was entered on the Register;

(d) “professional misconduct” includes such conduct or acts relevant to the practice of cosmetology that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and, without limiting the generality of the foregoing, includes

- (i) failing to maintain the standards for the practice of cosmetology due to incompetence or incapacity,
 - (ii) failing to fulfil all professional responsibilities under this Act and the by-laws, and
 - (iii) failing to comply with the *Safe Body Art Act* and the regulations made pursuant to that Act;
- (e) “respondent” means the member who is the subject of a complaint.

45 (1) A member may be subject to the discipline process in accordance with this Act and the by-laws for violating the Act, the regulations or the by-laws including

- (a) practising cosmetology without a valid licence or valid permit; and
- (b) engaging in professional misconduct.

(2) Where a member ceases to be licensed or hold a valid permit for any reason, the member remains subject to the jurisdiction of the Board for the purpose of the disciplinary process if the subject-matter of the complaint arises out of the person's conduct while licensed or while holding a valid permit.

- 46 (1)** A complaint may be initiated by
- (a) a member;
 - (b) any body corporate or association;
 - (c) an inspector hired or engaged pursuant to Section 40;
 - (d) a committee of the Association; or
 - (e) any other person.

(2) Where the Board and the complainant so agree, a complaint may be withdrawn.

47 (1) A complaint must be made in writing within two years of the incident giving rise to the complaint.

(2) Subject to subsection (3), a complaint must be signed.

(3) A complaint may be submitted electronically if it is signed electronically by the complainant or the complainant's identity is verified by the Executive Director.

- 48 (1)** Upon receipt of the complaint, the Executive Director may
- (a) make any inquiries necessary to address the complaint;
 - (b) conduct a preliminary investigation to gather facts from the complainant and the respondent;
 - (c) take all necessary steps to address the complaint.

(2) Within 30 days of receipt of the complaint, the Executive Director shall

- (a) dismiss the complaint in accordance with subsection (5);
- (b) informally resolve the complaint and take no further action if the complaint is satisfactorily resolved in accordance with the objects of the Association; or
- (c) refer the complaint to the Discipline Committee.

(3) The Executive Director shall provide a decision in writing to the respondent and the complainant.

(4) The written decision referred to in subsection (3) shall be sent by registered mail, personal service or such other method as provided for by the by-laws.

- (5) The Executive Director may dismiss a complaint if
 - (a) it is outside the jurisdiction of the Association;
 - (b) it is frivolous or vexatious;
 - (c) it is absent supportive facts; or
 - (d) the incident giving rise to the complaint arose more than two years before the date of the complaint.

49 (1) Subject to subsection (2), the Board shall appoint on an *ad hoc* basis a Discipline Committee comprising such number of members and other persons as determined by the Board.

(2) No director may serve as a member of the Discipline Committee.

(3) The Discipline Committee shall consider complaints referred to it by the Executive Director pursuant to clause 48(2)(c) in accordance with the by-laws.

(4) The Discipline Committee shall investigate any complaint referred to it by the Executive Director.

- (5) The Discipline Committee may request that an inspector investigate
 - (a) the practice of an individual cosmetologist;
 - (b) the cosmetology activities taking place in a salon, in a school or in another premises;
 - (c) the hygiene and degree of sanitation of a salon, a school or the equipment used to offer mobile cosmetology services.

50 (1) Following an investigation or the receipt of an inspector's report, the Discipline Committee shall advise the respondent of the findings in writing and provide an opportunity for the respondent to respond to the findings in accordance with this Section.

(2) The Discipline Committee may, in accordance with the procedures set out in the by-laws, conduct a review by

- (a) holding an oral hearing; or
- (b) considering written submissions only.

(3) The respondent and the complainant may jointly request the type of review in accordance with subsection (2) to be conducted by the Discipline Committee.

(4) A notice containing such information as required by the by-laws, shall be forwarded to the respondent and the complainant at least 30 days before the review.

- (5) Each party before the Discipline Committee has the right to
 - (a) be represented by legal counsel who is a member in good standing of the Nova Scotia Barristers' Society;

- (b) present evidence, make submissions and, on an oral hearing, cross-examine witnesses; and
- (c) receive written reasons for a decision within a reasonable time.

(6) Evidence is not admissible before the Discipline Committee unless the opposing party has been given notice in accordance with the by-laws before the hearing and

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and
- (c) in the case of evidence of any other witness, the identity of the witness.

(7) Notwithstanding subsection (6), the Discipline Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (6) and may make directions it considers necessary to ensure that a party is not prejudiced.

(8) The Discipline Committee shall provide a decision in writing to the complainant and the respondent.

(9) The written decision referred to in subsection (8) shall be sent by registered mail, personal service or such other method as provided for by the by-laws.

51 (1) The Discipline Committee may, by order, take any action that is not inconsistent with this Act, the regulations or the by-laws, including one or more of the following:

- (a) issue a written reprimand;
- (b) require that a cosmetologist undergo additional occupational training or examination;
- (c) suspend or revoke a licence;
- (d) subject to subsection (2), suspend or revoke a permit;
- (e) impose sanitation or hygienic requirements in accordance with the by-laws;
- (f) require the disciplined member pay all or part of the cost of the discipline process, including the inspection costs and legal fees incurred by or on behalf of the Association.

(2) Notwithstanding anything else in this Act, a school permit may not be suspended or revoked without the prior approval of a person designated by the Minister.

(3) The Discipline Committee shall dismiss the complaint if no disciplinary measures are required.

52 (1) Subject to subsection (2), the Board shall appoint on an *ad hoc* basis a Review Committee comprising such number of members or other persons as determined by the Board.

(2) No director or member of the Discipline Committee in the matter before the Review Committee may serve as a member of the Review Committee.

(3) A complainant may, in accordance with the by-laws, file an appeal of the Executive Director's decision

- (a) made pursuant to clause 48(2)(a) or (b); or
- (b) regarding registration or licensing,

to the Review Committee no later than 30 days after service of the Executive Director's decision.

(4) A complainant or respondent may appeal a decision of the Discipline Committee to the Review Committee in accordance with the by-laws no later than 30 days after service of the Discipline Committee decision.

(5) The Review Committee may, in accordance with the procedures set out in the by-laws, conduct a review by

- (a) holding an oral hearing; or
- (b) considering written submissions only.

(6) The respondent and the complainant may jointly request the type of review in accordance with subsection (2) to be conducted by the Review Committee.

(7) A notice containing such information as required by the by-laws, must be forwarded to the respondent and the complainant at least 30 days prior to the review.

(8) The parties before the Review Committee have the right to

- (a) be represented by legal counsel who is a member in good standing of the Nova Scotia Barristers' Society;
- (b) present evidence, make submissions and, on an oral hearing, cross-examine witnesses; and
- (c) receive written reasons for a decision within a reasonable time.

(9) Evidence is not admissible before the Review Committee unless the opposing party has been given notice in accordance with the by-laws before the hearing and

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or
- (c) in the case of evidence of any other witness, the identity of the witness.

(10) Notwithstanding subsection (9), the Review Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (9) and may make directions it considers necessary to ensure that a party is not prejudiced.

(11) The Review Committee may, by order, confirm, vary, or reverse the decision appealed from or make any decision the Executive Director or Discipline Committee was empowered to make pursuant to this Act.

53 The Executive Director shall report all complaints, decisions and appeals to the Board.

54 (1) All complaints received or under investigation, all information gathered in the course of the disciplinary process and all proceedings and decisions of the Executive Director, the Discipline Committee, and the Review Committee that are not open to or available to the public in accordance with this Act, the regulations or the by-laws must be kept confidential by any person who possesses such information.

(2) Notwithstanding subsection (1) but subject to subsections (3) and (4), where it is consistent with the objects of the Association,

(a) a Discipline Committee or a Review Committee may direct the Executive Director to disclose to law enforcement authorities any information about possible criminal activity on the part of a member that is obtained during an investigation pursuant to this Act;

(b) a Discipline Committee or a Review Committee may authorize the Executive Director to release specific information to a specific person;

(c) a Discipline Committee or a Review Committee may direct the Executive Director to disclose information with respect to the complaint to an extra-provincial cosmetology regulatory body if it is relevant and concerns the fitness of the member for membership in the extra-provincial cosmetology regulatory body; and

(d) the Board may direct the Executive Director to disclose information with respect to a complaint for the purpose of the administration of this Act or to comply with the objects of the Association.

(3) Where information sought to be disclosed under subsection (2) includes a member's personal health information, or treatment provided by any health provider, such information must not be disclosed.

(4) A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Discipline Committee or the Review Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the Association, including any information gathered in the course of an investigation, or produced for the Discipline Committee or the Review Committee.

(5) Subsection (4) does not apply to documents or records that have been made available to the public by the Association.

(6) Unless otherwise determined by a court of competent jurisdiction, a decision of the Discipline Committee or the Review Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act.

(7) The Discipline Committee or the Review Committee may impose a publication ban on any or all parts of proceedings conducted by the committee, or the decision rendered by the committee, if the committee considers it appropriate.

55 (1) A complainant or respondent may appeal on an error of law from the findings of the Review Committee to the Nova Scotia Court Appeal.

(2) A notice of appeal must be filed with the Nova Scotia Court of Appeal and served upon the other party no later than 30 days after service of the Review Committee decision.

(3) The record on appeal from the findings of the Review Committee consist of a copy of the entire record of the proceedings, the decision of the Review Committee and the evidence before the committee certified by the chair of the Review Committee.

(4) The *Nova Scotia Civil Procedure Rules* governing appeals to the Nova Scotia Court of Appeal that are not inconsistent with this Act apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Review Committee takes effect immediately unless the Court of Appeal grants a stay of the order being appealed.

56 (1) Where the licence of a person has been suspended or revoked for a period of more than 90 days, that person may apply to the Executive Director for re-licensing after 90 days from the date of the suspension or revocation.

(2) Where the person referred to in subsection (1) satisfies the Executive Director that

- (a) the person is qualified to hold the licence;
- (b) the person has complied with any conditions of re-licensing;
- (c) the person has paid all fees or any other amounts owing to the Association; and
- (d) the person has met all the Board requirements for re-licensing,

the Executive Director may issue a licence to the person.

57 (1) Where a permit has been suspended or revoked for a period of more than 90 days, the person who holds or held the permit may apply to the Executive Director to have the permit re-issued after 90 days from the date of the suspension or revocation.

(2) Where an applicant satisfies the Executive Director that the matters that resulted in the suspension or revocation of the permit have been resolved or rectified, the Executive Director may issue a permit to the applicant.

58 (1) Upon re-issuing a licence or a permit, the Executive Director shall issue the licence or permit as it existed, including any conditions or restrictions, prior to being suspended or revoked, if the criteria for issuing the licence or permit are met.

(2) A fee in accordance with the by-laws is payable on the application for the re-issuance of a licence or permit.

(3) Where action has been taken pursuant to subsections (1) and (2), the Executive Director shall

- (a) make the appropriate entries in the Register;
- (b) where registering bodies in other Canadian cosmetology jurisdictions have previously been informed of the suspension or revocation, notify such registering bodies of the lifting of such suspension or revocation; and
- (c) notify such other persons as directed by the Committee that initially imposed the suspensions or revocation.

59 (1) Subject to any publication bans in existence, where a licence or permit is revoked by the Discipline Committee or the Review Committee, the Executive Director shall

- (a) make such entries on the Register as set out in the by-laws;
- (b) cause to be published such information in an Association newsletter as is prescribed by the by-laws;
- (c) cause to be published such information as is prescribed by the by-laws on an Association website and in a newspaper circulating in the community where the member resides; and
- (d) notify other cosmetologist licensing bodies as set out in the by-laws.

(2) The publication costs arising by implementing subsection (1) must be paid by the former holder of the licence or permit.

60 Any documents required to be served on or provided to a respondent, to a complainant or any other individual are deemed to be served or provided if

- (a) the intended recipient or his or her counsel acknowledges receipt of the document;
- (b) a delivery receipt is provided by Canada Post;
- (c) an affidavit of service is provided; or
- (d) the Executive Director provides satisfactory evidence that all reasonable efforts to effect service have been exhausted.

61 (1) Every person who

- (a) practises cosmetology in contravention of any condition or restriction contained in the person's licence;
- (b) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act, the regulations or the by-laws; or
- (c) otherwise contravenes this Act, the regulations or the by-laws,

is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

(2) The *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act, the regulations or the by-laws.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the Association must be paid to the Association.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Executive Director or a person authorized by the Executive Director.

(5) In a prosecution of an offence contrary to this Act, the regulations or the by-laws, the onus to prove that a person accused of an offence has the right to use a designation protected by this Act is on the person accused.

(6) Where a contravention of the Act, the regulations or the by-laws by a person continues for more than one day, the offender is guilty of a separate offence for each day that the contravention continues.

62 (1) In the event of a threatened or a continuing contravention of this Act, the regulations or the by-laws, the Association may file an application to be heard by a judge of the Nova Scotia Supreme Court for an injunction to restrain the person from continuing or committing the contravention and, where the judge considers it to be just, the judge may grant such injunction.

(2) A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a contravention of this Act, the regulations or the by-laws.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section.

63 (1) No action for damages or other relief lies against the Board, the Executive Director, any committee member, an inspector or any officer or employee of the Association,

(a) for any act or failure to act or any proceeding initiated or taken in good faith under this Act, or in carrying out the duties or obligations under this Act;

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless such disclosure is made with malice.

(3) No member of the Board, the Executive Director, any committee member, an inspector or any officer or employee of the Association is personally liable for any of the debts or liabilities of the Association unless such person expressly agrees to be liable.

TRANSITION AND REPEAL

64 On the coming into force of this Act, the Board shall issue a cosmetologist licence to each person holding a junior cosmetologist licence issued pursuant to the former Act, and the person's registration status shall be changed accordingly in the Register.

65 (1) Every person holding a valid cosmetologist licence, specific licence or temporary licence in any capacity pursuant to the former Act, immediately before the coming into force of this Act, is deemed to be a cosmetologist licensed in the same capacity pursuant to this Act until the licence expires, is suspended or is revoked.

(2) Every person holding a valid salon permit pursuant to the former Act, immediately before the coming into force of this Act, is deemed to be a salon permit holder pursuant to this Act until the permit expires, is suspended or is revoked.

(3) Every person holding a valid school permit pursuant to the former Act, immediately before the coming into force of this Act, is deemed to be a school permit holder pursuant to this Act until the permit expires, is suspended or is revoked.

(4) Every member in good standing of the Association pursuant to the former Act, immediately before the coming into force of this Act, is deemed to be a member in the same membership category pursuant to this Act until the membership expires or is suspended or revoked.

(5) Every student enrolled in a course of study in cosmetology in the Province, immediately before the coming into force of this Act, must apply for a student permit within 30 days of the coming into force of this Act.

66 (1) Notwithstanding anything else in this Act, the composition of the Board under the former Act is continued for 60 days after the coming into force of this Act.

(2) During the 60-day period after the coming into force of this Act, the Association shall hold elections for a new Board under this Act, and the new Board takes office upon the expiry of the 60-day period.

(3) Notwithstanding anything else in this Act, the Provincial Examining and Licensing Committee established under the former Act is continued for 60 days after the coming into force of this Act and is then dissolved.

67 Notwithstanding Sections 13 and 14 of this Act, the Executive Director and any staff, consultants or contractors hired by the Association under the former Act shall continue their duties as determined by the Board.

68 Nothing in this Act affects any ongoing review, investigation or proceeding initiated under the former Act that was lawfully commenced before the coming into force of this Act.

69 **Section 35 of Chapter 44 of the Acts of 2011, the *Safe Body Art Act*, is repealed.**

70 **Chapter 5 of the Acts of 1995-1996, the *Cosmetology Act*, is repealed.**

71 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
