

## BILL 8

### **An Act to Incorporate the Cosmetology Association of New Brunswick**

WHEREAS the New Brunswick Hairdressers' Association prays that it be enacted as hereinafter set forth;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows :

1 This Act may be cited as the *Cosmetology Act*.

2(1) In this Act,

- (a) "Association" means the Cosmetology Association of New Brunswick;
- (b) Amended May 30, 2007.
- (c) "Board of Directors" means the Board of Directors of the Association;
- (d) "by-laws" means the by-laws of the Association;
- (e) "Committee" means the Provincial Examining and Licensing Committee established pursuant to this Act;
- (f) "cosmetology" means
  - (i) the cutting, bleaching, colouring, dressing, curling, waving or permanently waving, cleansing or the performance of similar work upon the hair of any person either by hand or by the use of any mechanical application or appliances or the preparation of wigs and artificial hair pieces;
  - (ii) the manicuring or pedicuring of the nails of a person or the massaging (for relaxation only), cleansing or beautifying of the scalp, face, neck, arms, or legs of a person either by hand or by the use of any mechanical application or appliance or by the use of cosmetic preparations, creams, artificial light or similar preparations or compounds;
- (g) "Hairdresser" means a cosmetologist who is a licensed member of the New Brunswick Hairdressers' Association;
- (h) "Licensed Cosmetologist" means a person who is licensed pursuant to this Act;

- (i) “member” means a person who has met the required qualifications and has been licensed in accordance with the by-laws;
  - (j) “Provincial Office” means the Provincial Office of the Association;
  - (k) “Registrar” means the Registrar of the Association.
- 2(2)** For the purpose of this Act, a person practices cosmetology where that person engages in cosmetology for fee, gain or reward.
- 3** There is hereby established a body corporate to be known as the Cosmetology Association of New Brunswick.
- 4** The objects of the Association are to promote and improve the education and training of its members and to maintain efficient and sanitary service and facilities for the public.
- 5** The membership of the Association consists of every licensed cosmetologist.
- 6** A person may be granted a licence to practise cosmetology in one or more of the following capacities:
- (a) a specific cosmetologist;
  - (b) an aesthetician;
  - (c) a hairstylist;
  - (d) a cosmetologist instructor;
  - (e) a hairstylist assistant.
- 7(1)** Subject to this section, no person shall practice cosmetology in any capacity or hold out as being entitled to practice cosmetology in any capacity unless that person holds a licence issued pursuant to this Act permitting that person to practice cosmetology in that capacity.
- 7(2)** Each person who was, immediately before the coming into force of this Act, the holder of a valid licence issued by the New Brunswick Hairdressers’ Association will be granted a hairstylist licence under this Act.
- 7(3)** Amended May 30, 2007.

- 7(4)** Each person who was, immediately before the coming into force of this Act, rightfully in the business of cosmetology as defined by subparagraph 2(1)(f)(i) of this Act and who can show proof of training and/or documented experience in their occupation shall be granted a hairstylist licence under this Act.
- 7(5)** Each person who was immediately before the coming into force of this Act, rightfully in the business of cosmetology as defined by subparagraph 2(1)(f)(ii) of this Act and who can show proof of training and/or documented experience in their occupation shall be granted a hairstylist licence under this Act.
- 8(1)** No person shall operate a place of business where cosmetology is practised unless that person holds a licence to practise cosmetology or employs at that place a person who holds such a licence.
- 8(2)** No person shall practise cosmetology in a residence unless the practice is carried on in a room or rooms that are exclusively for the practice of cosmetology.
- 8(3)** Facilities providing cosmetology services not already licensed under the Hairdressers' Act will be and will continue to be licensed under present conditions for as long as the facility is maintained by the present owner.
- 9(1)** There shall be a Board of Directors of the Association that has such powers and shall perform such duties as are conferred or imposed on it by this Act or the by-laws.
- 9(2)** The Board of Directors shall be composed of such persons who are elected or appointed as follows:
- (a) eleven members, including officers, elected at large at the annual meeting;
  - (b) four members to be appointed by the Board of Directors to ensure proper balance on the Board of Directors in terms of regional and specific group representation;
  - (c) one member from the aestheticians group, to be elected by their own members at the annual meeting.
- 9(3)** Five members of the Board of Directors shall constitute a quorum.
- 10** The officers of the Association shall be a president, vice-president, secretary and treasurer who shall be elected by the membership at the annual meeting.
- 11(1)** The Board of Directors may appoint an Executive Director to carry on the affairs of the Association who will act as its Registrar.

- 11(2)** The duties and remuneration of the Executive Director shall be established by the Board of Directors.
- 11(3)** The Executive Director shall hold office at the pleasure of the Board of Directors.
- 12(1)** The members present at an annual meeting of the Association shall constitute a quorum.
- 12(2)** The quorum for special meetings of the Association shall be fifty (50) members.
- 13** The Provincial Office of the Association shall be located in the City of Fredericton.
- 14** The persons who are presently serving as the officers and directors of the New Brunswick Hairdressers' Association and one representative of the group of aestheticians, who shall act as a co-president, shall constitute the Provisional Board of Directors whose duty it shall be to prepare and call the first annual or special meeting and to conduct the affairs of the Association in the interval.
- 15** The first annual meeting of this Association shall be within twelve months of the coming into force of this Act.
- 16(1)** Subject to subsection (2), the Association may exercise such powers as are necessary or conducive to attaining the purposes of this Act and, without restricting the generality of the foregoing, may
- (a) invest in such securities as are authorized by law for the investment of trust funds any money of the Association not required to defray expenses incurred pursuant to this Act and any income derived from the investments is part of the income of the Association;
  - (b) acquire and take by purchase, donation, devise, bequest or otherwise, real and personal property and hold, enjoy, sell, mortgage, exchange, lease, let, improve and develop the same and erect and maintain buildings and structures.
- 16(2)** Except as provided in this Act, neither the Association nor the Committee may, by by-law or otherwise, regulate, govern, increase or in any manner interfere with the prices charged for services provided in the practice of cosmetology or the opening and closing hours of any establishment that is carried on for the purpose of the practice of cosmetology.
- 17** The Association may enact by-laws at any special or annual meeting of the Association for the purpose of carrying out its objects and without restricting the generality of the foregoing, may enact by-laws dealing with the following matters:
- (a) the conditions under which membership in the Association is held;

- (b) the conduct of meetings;
- (c) the composition and powers of the Board of Directors;
- (d) the duties and administrative practices of the Provincial Examination and Licensing Committee;
- (e) the seal of the Association;
- (f) the rules of debate;
- (g) the conduct and discipline of members and students, including suspension;
- (h) the fee structure for members of the Association;
- (i) the licensing of instructional staff;
- (j) the admission of student to the study of cosmetology;
- (k) the fees and travelling expenses for members of the Board of Directors and its committees;
- (l) all other matters necessary to more fully carry out the objects of the Association.

**18(1)** There shall be an examining and licensing committee in cosmetology to be known as the Provincial Examining and Licensing Committee.

**18(2)** The Committee consists of

- (a) five licensed cosmetologists elected by the membership of the Association; and
- (b) four members appointed by the Board of Directors.

**18(3)** The members of the Committee may elect a chair from the persons provided for in subsection (2).

**18(4)** The members of the Committee elected by the membership pursuant to paragraph (2)(a) hold office for two years and each member elected by the membership is eligible for re-election.

**18(5)** The members of the Committee elected by the membership of the Association pursuant to paragraph (2)(a) shall not be owners of schools of cosmetology or instructors in schools of cosmetology.

- 18(6)** In the event of the death or resignation or the termination of office of any member of the Committee, elected or appointed pursuant to subsection (2), a successor shall be appointed by the Board of Directors as soon as practicable.
- 18(7)** Three members of the Committee shall constitute a quorum.
- 18(8)** The Association shall pay to all members of the Committee such fees, salaries and travelling expenses as may be fixed by the by-laws.
- 19(1)** Any person who desires to apply for a licence to practise cosmetology in one or more capacities may do so by:
- (a) satisfying the Committee that the person is over seventeen years of age;
  - (b) satisfying the Committee, by passing the examination held pursuant to this Act, that the person possesses the required skills and knowledge to properly perform all the duties pertaining to the practice of cosmetology and to observe the proper rules of sanitation and hygiene in connection with the practice of cosmetology ; and
  - (c) paying to the Association the fee prescribed by the by-laws.
- 19(2)** Before submitting to an examination held pursuant to this Act, a student shall provide evidence satisfactory to the Committee that the student has been trained as a student in cosmetology, in a registered school, for the number of hours prescribed in the by-laws for theory and practical instruction under the supervision of a licensed cosmetology instructor.
- 20** The Committee shall ensure the administration of all examinations to applicants desiring licensing and shall recommend licensing to the Registrar when an applicant successfully passes any such examination.
- 21** For examination purposes, the Committee may delegate a minimum number of members to attend and carry out examinations with at least one member of the Committee elected by the membership of the Association invited to attend as may be provided in the by-laws.
- 22(2)** The examinations shall be oral, written and practical or any combination thereof.
- 22(3)** The scope of the examinations and the method of procedure shall be prescribed by the Committee with a view to testing the ability in cosmetology of the person applying for the licence pursuant to this Act and that person's knowledge of the sanitary regulations in connection with the practice of cosmetology, the antiseptic preparation and sanitization of tools and appliances and the protection of the public from infectious and contagious diseases.

- 22(4)** Any person who fails to pass the examinations prescribed by the Committee may, within thirty days of receipt of the results of the examinations, appeal to the Board of Directors and the Board of Directors may take such action with respect to the appeal as the Board of Directors considers appropriate.
- 23** The Committee may appoint sub-committees as required, consisting of instructors and school owners as well as other members, which will advise on the curriculum, examinations, standards and on all other matters within their area of responsibility.
- 24(1)** Upon any person meeting the requirements set out in this Act, the Committee shall issue to that person a licence in such form as may be determined by the Committee, signifying that that person is entitled to practise cosmetology in the Province in one or more of those capacities that are set out in the licence.
- 24(2)** The Committee shall issue a specific licence to practise cosmetology in a certain capacity, as the same is, from time to time, fixed and defined in the by-laws, upon the person applying for the licence.
- (a) satisfying the Committee, by passing the examinations as provided for by this Act, that the person possesses the requisite skill and knowledge properly to perform all the duties in the practice of cosmetology in that capacity and to observe the proper rules of sanitation and hygiene in connection with the practice of cosmetology in that capacity; and
- (b) paying to the Association the fee as prescribed in the by-laws.
- 25(1)** All certificates or licences issued pursuant to this Act shall be posted and kept posted in a conspicuous place in the premises where the person named therein carries on an occupation in cosmetology.
- 25(2)** Any licence issued by the Committee, except as provided in this Act, remains in force for 364 days from the date of issue or renewal and may be renewed from year to year, on payment to the Association of the renewal fee as prescribed in the by-laws.
- 25(3)** Where any person fails to renew a licence within three months of the date of expiry of the licence, the person's name shall be removed from the register and the licence shall not be renewed nor shall such person be registered, until such time as the person has paid to the Provincial Office the annual renewal fees and registration fees and penalties for each year or portion thereof from the date of expiry to the date of renewal.
- 25(4)** Where the licence of any person has lapsed for a period of two years or more, the Committee shall, before issuing to that person a licence or renewal, require that

person to be examined by the Committee in the ordinary manner and on the ordinary terms as provided in this Act, in lieu of payment of the renewal fees.

**25(5)** A person whose name has been removed from the register of members may, at the person's option, in lieu of payment of fees, submit to an examination by the Committee in the ordinary manner and on the ordinary terms provided in this Act.

**26(1)** Subject to subsection (2), the Committee may amend, suspend or revoke any licence upon the passing of a resolution by the Committee declaring that the holder of a licence is, in the opinion of the Committee, unfit to have a licence by reason of

- (a) failure or neglect to keep the person's place of business in a clean and sanitary condition;
- (b) failure to comply with regulations made pursuant to Provincial and Federal statutes which apply to maintaining a public place.

**26(2)** Prior to a licence being amended, suspended or revoked pursuant to subsection (1), the holder of a licence shall be

- (a) notified, in writing, by personal service or registered mail, of the reasons for the suspension or revocation;
- (b) permitted to make full answer and defence to all allegations made against that person and to have witnesses examined and cross examined by counsel on behalf of that person.

**27(1)** The Registrar shall keep and maintain a register of the membership of the Association and shall enroll in such register the names and business addresses of all persons to whom licences are issued pursuant to this Act.

**27(2)** The register shall be kept at the Provincial Office and shall at all reasonable times be open to public inspection.

**28** All moneys arising from fees under this Act, shall be applied, in accordance with such by-laws or regulations as may be made by the Association, towards defraying its expenses incurred pursuant to this Act.

**29** The Committee, or any person or persons authorized in writing by the Committee, may from time to time, enter and inspect during business hours all places where cosmetology is practised, or where any sign, card or other device is displayed indicating that cosmetology is being practised, for the purpose of ascertaining whether the requirements of this Act or any other laws respecting the conduct of the practice of cosmetology are being properly carried out.

- 30** Any person who feels aggrieved by a refusal of the Committee to issue a licence to them shall have a right of appeal to the Board of Directors and if that person still feels aggrieved, may appeal to a judge of The Court of Queen's Bench of New Brunswick, whose decision shall be final and binding on the person appealing and on the Association.
- 31** The Board of Directors of the Association may delegate regulatory powers to the Provincial Examining and Licensing Committee, upon such terms and conditions as they see fit, respecting:
- (a) curriculum;
  - (b) conditions for the licensing of schools;
  - (c) qualifications for the licensing of instructors;
  - (d) qualifications for the licensing of individual members;
  - (e) standards for sanitation of facilities;
  - (f) dispute resolution.
- 32(1)** The Board of Directors may upon application by 20 or more members establish Chapters with jurisdiction in such geographic boundaries as it determines by granting a charter which shall specify the geographical jurisdiction of the Chapter.
- 32(2)** The Chapter may establish by-laws, not inconsistent with the by-laws of the Association, dealing with the organization and administration of such Chapters and such by-laws shall be approved by the Board of Directors before becoming effective.
- 33(1)** All notices and documents required by or for the purpose of this Act, when sent by mail, shall be deemed to have been received at the time when the letter containing the same would be delivered in the ordinary mail and, in proving such sending, it is sufficient to prove that the letter containing the notice and documents was properly addressed and mailed.
- 33(2)** Such notices and documents, when sent to the Committee or the Association, shall be deemed to be properly addressed if addressed to the Committee or the Association, as the case may be, and, when sent to the person registered pursuant to this Act, is deemed to be properly addressed if addressed to the person according to the person's address indicated in the register of the Association.
- 34** Any person who has passed the Red Seal examination and has a Red Seal certificate will be recognized by the Association for licensing in New Brunswick.

- 35 The Association may bring an action in The Court of Queen's Bench of New Brunswick for a declaration that any person is in violation of the provisions of the Act and upon a declaration being made such violation may be restrained by injunction.
- 36 Any person who violates this Act commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category H offence.
- 37 Any information alleging an offence under this Act may be laid in accordance with the *Provincial Offences Procedure Act* in the name of the Association on oath or solemn affirmation of the Secretary or of a person authorized by the Board of Directors.
- 38(1) All the property and rights of the New Brunswick Hairdressers' Association are vested in the Association.
- 38(2) All the obligations of the New Brunswick Hairdressers' Association are vested in the Association.
- 38(3) The New Brunswick Hairdressers' Association is dissolved.
- 39 **AN ACT TO INCORPORATE THE NEW BRUNSWICK HAIRDRESSERS' ASSOCIATION, chapter 133 of 10-11 Elizabeth II, 1961-62 is repealed.**
- 40 **AN ACT TO INCORPORATE THE NEW BRUNSWICK REGISTERED BARBERS' ASSOCIATION, chapter 60 of 10-11 Elizabeth II, 1958 is repealed.**
- 41 **New Brunswick Regulation 93-34 under the Apprenticeship and Occupational Certification Act (O.C. 93-153) is repealed.**