

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 17-33(COR)

Introduced By:

T.R. MUÑA BARNES

AN ACT TO AMEND §§18102, 18103, 18105, 18105.1, 18106, 18108, 18112, 18113, 18114, 18121, 18125, 18126, 18128.4, 18128.5, 18128.7, 18128.8, 18129, 18131, AND 18133 OF DIVISION 1 OF CHAPTER 18 OF TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO THE BARBERING AND COSMETOLOGY ACT OF 2010.

2015 JUN -5 PM 3:25

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. §18102 of Chapter 18 of Title 10 GCA is hereby amended to
3 read:

4 “§18102. Barbering and Cosmetology Board; Appointment;
5 Qualifications; Terms.

6 (a) Appointment. There *shall* be a Board of Cosmetology
7 consisting of five (5) members, who *shall* be appointed by *I*
8 *Maga'låhen Guåhan* (the Governor); with the advice and consent of *I*
9 *Liheslaturan Guåhan*.

10 (b) Qualifications of Members. Members of the Board *shall*:

11 (1) be a citizen ~~of~~ or a permanent resident of the
12 United States of America ~~or a permanent resident of Guam~~ for
13 ~~at least one~~ (1) three (3) years immediately preceding the
14 appointment;

15 (2) resident of Guam, as defined in 3 GCA, Chapter 9;

1 (3) not be connected directly or indirectly, in the
2 wholesale business of the manufacture, rental, sale, or
3 distribution of barber, cosmetology or electrolysis appliances or
4 supplies;

5 (4) ~~at least two (2)~~ one (1) members *shall* be a
6 currently licensed cosmetologist in good standing, and *shall* be
7 currently engaged in, and have at least five (5) years practical
8 experience, with at least three (3) years of practical experience
9 in Guam;

10 (5) ~~at least two (2)~~ one (1) members *shall* be licensed
11 in good standing, and *shall* be currently engaged in, and have at
12 least five (5) years of practical experience in as the specialty as
13 identified in this Chapter; any one (1) of the following;

14 A. Barber;

15 B. Barber Stylist;

16 C. Esthetician;

17 D. Electrologist; or

18 E. Nail Technician;

19 (6) one (1) member shall be an apprentice, certified by
20 the Health Professional Licensing Office, in good standing;

21 ~~(6) (7)~~ one (1) two (2) members shall not be a
22 member of, nor ever have been licensed by the Board of
23 Cosmetology; and

24 ~~(7) (8)~~ no member of the Board shall be affiliated
25 with any school teaching cosmetology, skin care (esthetics),
26 electrology or nail care (manicurist).

27 (c) Terms and Vacancies.

1 (1) Members of the Board *shall* be appointed for a
2 term of four (4) years. ~~The term of the first members appointed~~
3 ~~hereunder shall expire as follows: two (2) members shall be~~
4 ~~designated to serve for a term of three (3) years; two (2)~~
5 ~~members shall be designated to serve for a term of two (2)~~
6 ~~years, and one (1) member shall be designated to serve for one~~
7 ~~(1) year.~~

8 (2) No person *shall* serve as a member of the Board
9 for *more than* two (2) consecutive terms.

10 (3) Any Board member who misses three (3)
11 consecutive meetings in a row, *shall* be considered to have
12 vacated their position and may be replaced by *I Maga'låhen*
13 *Guåhan* (the Governor). Members temporarily off island or ill
14 *shall* be considered excused.

15 (4) Vacancies for any cause *shall* be filled by *I*
16 *Maga'låhen Guåhan* (the Governor) with the advice and
17 consent of *I Liheslaturan Guåhan* for the unexpired term; in the
18 manner prescribed above.

19 **Section 2. §18103 of Chapter 18 of Title 10 GCA is hereby amended to**
20 **read:**

21 **“§18103. Officers of the Board.**

22 The Board of Barbering and Cosmetology *shall* elect a
23 chairperson, vice-chairperson, and secretary, and a treasurer during
24 the first official Board meeting beginning each calendar year. ~~The~~
25 ~~chairperson and the vice-chairperson shall be currently licensed~~
26 ~~cosmetologists, or be in a specialty as identified in this Chapter. The~~
27 vice-chairperson *shall* assume the functions and duties of the

1 chairperson in the event the chairperson is unable to perform those
2 functions and duties.”

3 **Section 3. §18105 of Chapter 18 of Title 10 GCA is hereby amended to**
4 **read:**

5 **“§18105. Powers.**

6 (a) The Board *shall* have the powers necessary to carry out
7 and perform the purposes and provisions of this Chapter, including the
8 following, in addition to other powers and duties granted in this
9 Chapter, and may:

10 (1) adopt rules and regulations necessary to implement
11 this Chapter;

12 (2) issue licenses and renew licenses of duly qualified
13 applicants;

14 (3) deny a license to unqualified applicants;

15 (4) establish fees for issuance of licenses,
16 examinations, inspections, and others as necessary, through the
17 Administrative Adjudication Law process;

18 (5) adopt and use a common seal for the authentication
19 of its records and modify it;

20 (6) investigate alleged violations of this Chapter and
21 consumer complaints involving the practice of cosmetology,
22 barbering, esthetics, or manicuring, schools offering training in
23 these areas, and salons/shops and booth renters offering these
24 services;

25 ~~(7) employ any person(s) for the purpose of~~
26 ~~investigating any violation or suspected violation of this~~
27 ~~Chapter;~~

1 ~~(8)~~ (7) issue subpoenas, statements of charges,
2 statements of intent, final orders, stipulated agreements and any
3 other legal remedies necessary to enforce this Chapter;

4 ~~(9)~~ (8) issue cease and desist letters, and letters of
5 warning for infractions of this Chapter;

6 ~~(10)~~ (9) conduct all disciplinary proceedings, impose
7 sanctions, and assess fines for violations of this Chapter, or any
8 rules adopted under it;

9 ~~(11)~~ (10) prepare and administer, or approve, the
10 preparation and administration of licensing examinations;

11 ~~(12)~~ (11) in collaboration with the Division of
12 Environmental Health of the Department, establish minimum
13 safety and sanitation standards for schools, cosmetologists,
14 barbers, manicurists, estheticians and salons/shops;

15 ~~(13)~~ (12) establish requirements for the training of
16 students, schools and establishments;

17 ~~(14)~~ (13) establish by rule the procedures for re-
18 examination;

19 ~~(15)~~ (14) accept in payment of any fee required by
20 this Chapter, cash or any customary or generally accepted
21 equivalent medium of exchange, including check, cashier's
22 check, certified check or money order; *provided*, that *no* fee
23 shall be deemed paid, unless cash has been received or the other
24 medium of exchange converted to cash; and

25 ~~(16)~~ (15) administer exams for licensure for the
26 following:

27 (A) barber;

- (B) cosmetologist instructor;
- (C) cosmetologist;
- (D) electrologist;
- (E) esthetician; and
- (F) manicurist.”

Section 4. §18105.1 (b) of Chapter 18 of Title 10 GCA is hereby amended to read:

“§18105.1. ~~Promulgation of Rules.~~ Sanitation Rules; Health Certificates.

(b) ~~The Board~~ Department of Public Health and Social Services, in consultation with the Board, shall prescribe Sanitation Rules necessary to prevent the spread of infectious and contagious diseases. ~~All Sanitation Rules shall be subject to approval of the Department.~~

(c) A Health Certificate shall be issued by the Department of Health and Social Services to any licensee under this Chapter upon the latter’s completion of an not-less-than six (6) hour training course to be conducted by the Guam Community College, or other entity approved by the Board upon consideration of pertinent rules and guidelines of the National-Interstate Council of State Boards of Cosmetology.”

Section 5. §18106 of Chapter 18 of Title 10 GCA is hereby amended to read:

“§18106. Examination.

The Board *shall* administer the national examination that consists of a written and a practical component. Announcement of examinations must be made thirty (30) days prior to the date of the examination through letters, print, and the electronic media. Examinations *shall* be administered ~~twice a year~~ four (4) times a year with the exams being administered once during the

1 last month of every quarter of the Fiscal Year (December, March, June, and
2 September). The passing score in the examination *shall* be as recommended
3 by the national examination, and approved by the Board.”

4 **Section 6. §18108 of Chapter 18 of Title 10 GCA is hereby amended to**
5 **read:**

6 **“§18108. Revolving Fund.**

7 There is hereby created, separate and apart from other funds of the
8 government of Guam, a fund known as the ‘Barbering and Cosmetology
9 Revolving Fund.’ The Fund *shall not* be commingled with any other fund
10 and shall be deposited into a separate account. All proceeds from fees and
11 fines collected pursuant to this Chapter *shall* be deposited ~~to~~ into the Fund
12 said forth in subsection (a) below and it *shall* be expended ~~upon~~ legislative
13 ~~appropriation~~ solely in support of ~~the functions of the Health Professional~~
14 ~~Licensing Office of the Department of Public Health and Social Services of~~
15 the Board for the administration and enforcement of this Chapter; provided
16 that the funds may be used by the Health Professional Licensing Office of
17 ~~the Department of Public Health and Social Services~~ Division of
18 Environmental Health of the Department relative to the latter’s functions
19 pursuant to this Chapter. This Fund *shall* receive all interest earned on the
20 deposit of such revenues. ~~Such funds should be continuously appropriated~~
21 ~~and should be used by the Board for the administration and enforcement of~~
22 ~~this Chapter, as provided in §12229 of Article 2, Chapter 12 of Title 10 of~~
23 ~~the Guam Code Annotated.~~ The Board shall take all necessary precautions
24 to ensure that the Revolving Fund is operating in conformity with all
25 existing statutes, rules and regulations, codes, executive orders and any other
26 authority, which is applicable to the operations of the Revolving Fund. Any
27 balance remaining in the funds at the end of the fiscal year shall carry over

1 into the next fiscal year or until expended. All disbursement transactions on
2 the Revolving Fund shall be as stipulated herein:

3 (a) the Board is hereby authorized to open a checking
4 account for the purpose of establishing the ‘Barbering and
5 Cosmetology Revolving Fund’, and for the purposes of keeping these
6 funds separate and apart from the General Fund:

7 (1) the Board shall approve all expenditures;

8 (2) the minutes of the meetings must verify the
9 authorization given by the Board;

10 (3) there must be two (2) authorized signatures;
11 authorized signatures shall be that of the Chairperson and
12 Treasurer of the Board. If a temporary absence occurs with
13 either the Chairperson or Treasurer, then the order of succession
14 of the Officers who shall be eligible to serve in an Acting
15 capacity shall be recognized as an authorized signature;

16 (4) the Treasurer shall be responsible for receipts and
17 other substantiation as determined by the Board for all checks
18 issued; and

19 (5) No later than thirty (30) days after the end of every
20 fiscal quarter, the Chairperson of the Board shall submit to the
21 Public Auditor of Guam and the Speaker of I Liheslaturan
22 Guåhan a report making full disclosure of the ‘Barbering and
23 Cosmetology Revolving Fund’. Said report shall be in the form
24 of financial statements or revenue and expenditure reports for
25 the revolving fund.”

26 **Section 7. §18112 of Chapter 18 of Title 10 GCA is hereby amended to**
27 **read:**

1 **“§18112. Persons Exempted.**

2 “(5) persons engaged solely in the “practice of natural
3 hair styling” but no other branch of cosmetology. The
4 “practice of natural hair styling” for purposes of this part
5 means utilizing techniques performed by hand that result
6 in tension on hair roots such as twisting, wrapping,
7 weaving, extending, locking, or braiding of the hair. The
8 “practice of natural hair styling” does not include the
9 application of dyes, reactive chemicals, or other
10 preparations to alter the color or to straighten, curl, or
11 alter the structure of the hair. The “practice of natural
12 hair styling” also does not include embellishing or
13 beautifying hair by cutting or singeing, except as needed
14 to finish off the end of a braid, or by dressing, pressing,
15 curling, waving, permanent waving, or similar work.”

16 **Section 8. §18113 of Chapter 18 of Title 10 GCA is hereby amended to**
17 **read:**

18 **“§18113. Application for Examination and Registration.**

19 (a) Each person, who desires to practice or instruct the art of
20 cosmetology or any branch thereof, *shall* file with the Board a written
21 application under oath on a form approved by the Board. Each
22 applicant *shall* be required to provide to the Board, in addition to the
23 required completed application:

- 24 (1) that the applicant is not less than eighteen (18)
25 years of age;
26 (2) educational requirements;

1 (3) proof of good moral character, ~~which may include,~~
2 ~~but is not limited to,~~ as evinced by at least ~~three (3)~~ two (2)
3 letters of reference and a police clearance; and

4 (4) *shall* pay the required fees.

5 Examinations *shall* be given ~~at least two (2)~~ four (4) times a
6 year ~~as necessary, as designated by the Board.~~ The Board *shall*
7 establish rules for reexamination to include completion of a refresher
8 program after two (2) unsuccessful examinations.

9 The Board *shall* contract with ~~a professional testing service~~ the
10 National-Interstate Council of State Boards of Cosmetology, to
11 include the Guam Community College, to ~~have the testing service~~
12 prepare and provide examinations for applicants as may be required
13 for the purposes of this Chapter.”

14 **Section 9. §18114 of Chapter 18 of Title 10 GCA is hereby amended to**
15 **read:**

16 **“§18114. Eligibility and Qualifications for Reciprocity.**

17 The Guam Board of Barbering and Cosmetology *shall* issue a
18 license to any person who is properly licensed for a period of *at least*
19 two (2) years in any State or Territory of the United States *if* the
20 applicant submits:

21 (a) Application;

22 (b) Fee;

23 (c) Proof that he or she is currently licensed in good
24 standing as a cosmetologist, barber, barber-stylist, esthetician,
25 electrologist, manicurist or nail technician, nail technician
26 instructor, or the equivalent in that jurisdiction;

1 (d) Provides proof that he or she has passed both the
2 written and practical components of the Nnationally
3 Sstandardized Theory and Practical Exam of the National-
4 Interstate Council of State Boards of Cosmetology from their
5 State or Territory ~~of the United States~~ with the minimum
6 passing score approved by their State or Territory ~~of the United~~
7 ~~States~~;

8 (e) An applicant from another State or Territory that
9 does not require the practical component of the National-
10 Interstate Council of State Boards of Cosmetology as required
11 in subsection (d) above, a board administered practical exam
12 and has passed the same Nationally Standardized Theory Exam
13 as required in Guam, shall be required to take the practical
14 phase of the exam component only;

15 (f) If the Board is unable to ascertain from documents
16 submitted by the applicant that the applicant is eligible for
17 reciprocity, the Board may require the applicant to provide
18 additional documentation or information deemed by the Board
19 as necessary to make that decision. In such cases, the Board
20 shall nevertheless issue a temporary Apprentice permit for a
21 period of not more than ninety (90) calendar days. If, upon the
22 expiration of said ninety (90) days, the Board remains unable to
23 ascertain from materials submitted by the applicant that he or
24 she is eligible for reciprocity under this section, then the Board
25 shall communicate in writing its formal revocation of the
26 relevant Apprentice permit, and the relevant applicant will not

1 be eligible for reciprocity under this section. Oral interviews
2 may be requested.

3 (g) If the applicant is denied on the basis of initial
4 application materials, the reasons for this rejection shall be
5 communicated in writing. The applicant shall have the right of
6 reconsideration based on submission of new information and/or
7 appearance before the Board with the opportunity to
8 demonstrate to the Board that they meet the licensure
9 requirements;

10 (h) Applicant must have a current cosmetology,
11 barber, barber-stylist, esthetician, electrologist or nail
12 technician license from another State ~~of~~ or Territory of the
13 United States where similar reciprocity is extended to Guam,
14 and licensure requirements and training hours are substantially
15 equal to or greater than those licenses applied for in the
16 Chapter; ~~of~~ .”

17 ~~(i) If an applicant receives a cosmetology license~~
18 ~~under the reciprocity conditions of this Section, such licensee~~
19 ~~shall be employed by a Guam licensed cosmetology business~~
20 ~~and practice the art of cosmetology on Guam for a period of *not*~~
21 ~~*less than* two (2) years before such licensee may obtain a~~
22 ~~business license to establish a new cosmetology business on~~
23 ~~Guam.~~

24 **Section 10. §18121 of Chapter 18 of Title 10 GCA is hereby amended to**
25 **read:**

26 **“§18121. Eligibility and Qualifications for an Apprentice.**

1 (a) The Board may issue a ~~certificate~~ permit as a
2 cosmetologist, barber, barber-stylist, esthetician, electrologist, or nail
3 technician (manicurist) apprentice in barbering or cosmetology to any
4 person who has made application to the Board, has paid the
5 appropriate fee required by this Chapter, and who is qualified as
6 follows:

7 (1) is over sixteen (16) years of age;

8 (2) is of good moral character, as evinced by at least
9 one (1) letter of reference and a police clearance;

10 (3) has completed the tenth (10th) grade in school or
11 its equivalent; ~~and~~

12 (4) has submitted evidence acceptable to the Board
13 that any training the apprentice is required by law to obtain
14 *shall* be conducted in a licensed cosmetological establishment
15 and under the supervision of a licensee approved by the Board;
16 and

17 (5) includes a practicum student currently enrolled in
18 an approved cosmetology course of instruction in Guam that
19 includes the on-site practical application of classroom theory,
20 and whom has completed at least nine hundred (900) hours of
21 training.

22 (b) Apprentices and practicum students may *only* perform
23 services for the general public for which they have received technical
24 training.

25 (c) An apprentice may do any or all of the acts for which the
26 apprentice is ~~licensed~~ permitted *only* in the licensed cosmetological
27 establishment and under the supervision and employment of a licensee

1 approved by the Board. In no circumstance shall the ratio of
2 apprentices per supervisor exceed the following:

- 3 (1) three (3) apprentices per licensed barber;
- 4 (2) three (3) apprentices per licensed cosmetologist;
- 5 (3) one (1) apprentice per licensed electrologist;
- 6 (4) one (1) apprentice per licensed esthetician; and
- 7 (5) two (2) apprentices per licensed manicurist;

8 provided however that when an apprentice in any of the above-
9 identified areas passes the practical component of the nationally
10 standardized exam of the National-Interstate Council of State Boards
11 of Cosmetology, said apprentice shall be deemed capable of working
12 in a licensed cosmetological establishment even without the physical
13 presence of a supervisor.

14 **Section 11. §18125 of Chapter 18 of Title 10 GCA is hereby amended to**
15 **read:**

16 **“§18125. Cosmetological Establishment: Licensing.**

17 (a) The Board *shall* issue a license for a
18 cosmetological establishment during a Board meeting duly held
19 for the purpose of issuing licenses for cosmetological
20 establishments for applicants who have made the proper
21 applications for such license and who have qualified as follows:

- 22 (1) comply with standards of sanitation by the
23 Department of Public Health and Social Services; and
- 24 (2) comply with universal precaution rules and
25 regulations by the Board;

26 (b) A licensed cosmetologist, who has practiced as
27 such on Guam for at least one (1) year, *shall* at all times be in

1 charge of the establishment, ensure that it is adequately
2 equipped for the practice in which it engages, and pay an annual
3 ~~Twenty~~ One Hundred Fifty Dollars (~~\$20.00~~) (\$150.00) single
4 location licensing fee;

5 (c) The Board *shall* issue a license for a specialty
6 salon establishment during a Board meeting duly held for the
7 purpose of issuing licenses for specialty salon establishments
8 for applicants who have made the proper applications for such
9 license and who have qualified as follows:

10 (1) comply with standards of sanitation
11 requirements by the Department of Public Health and
12 Social Services; and

13 (2) comply with universal precaution rules and
14 regulations by the Board;

15 (d) In the case of an establishment limited to practice
16 of specialty salon, as defined in this Chapter, a licensee of the
17 Board, which may include, but *not* be limited to, electrologist,
18 manicurist, barber or esthetician, who has practiced as such on
19 Guam for at least one (1) year, *shall* at all times be in charge of
20 the establishment, ensure that it is adequately equipped for the
21 practice in which it engages, and pay an annual ~~Twenty~~ One
22 Hundred Fifty Dollars (~~\$20.00~~) (\$150.00) specialty salon
23 licensing fee.

24 (e) *No* person having charge of an establishment,
25 whether as an owner or an employee, shall permit any room or
26 part thereof in which any occupation regulated under this
27 Chapter is conducted or practiced to be used for residential

1 purposes, or for any other purpose that would tend to make the
2 room unsanitary, unhealthy or unsafe, or endanger the health
3 and safety of the consuming public. An establishment *shall*
4 have a direct entrance separate and distinct from any entrance in
5 connection with private quarters. A violation of this Section is
6 a misdemeanor.

7 (f) Every establishment *shall* provide at least one (1)
8 public toilet room located on or near the premises for its
9 patrons. The entrance of the room *shall* be effectively screened
10 so that *no* toilet compartment is visible from any workroom.
11 The room *shall* be kept in a clean condition and in good repair,
12 well lighted and ventilated to the outside air, and effectively
13 screened against insects and free from rodents. The floor *shall*
14 be of concrete; tile laid in cement, vitrified brick, or other
15 nonabsorbent material. All sewer drains *shall* be connected to
16 an approved disposal system, and *shall* be properly trapped. *No*
17 restroom *shall* be used for storage.

18 (g) Every establishment *shall* provide adequate and
19 convenient hand washing facilities, including running hot
20 water, soap and approved sanitary towels.

21 (h) Within ninety (90) days after issuance of the
22 establishment license, the Division of Environmental Health of
23 the Department of Public Health and Social Services *shall*
24 inspect the establishment for compliance with the applicable
25 requirements of this Chapter and the applicable rules and
26 regulations of the Board adopted pursuant to this Chapter. Each
27 establishment *shall* be inspected at least annually for

1 compliance with applicable laws relating to the public's health
2 and safety, and the conduct and operation of establishments.”

3 **Section 12. §18126 of Chapter 18 of Title 10 GCA is hereby amended to**
4 **read:**

5 **“§18126. Cosmetological Multiple Location Business.**

6 (a) *A cosmetological multiple location business* is a business
7 engaged in the practice of cosmetology at *more than one* (1) location,
8 using the same business name at such locations, wherein cosmetology
9 or any branch of cosmetology is practiced. A licensed cosmetologist
10 must be on duty at each location of the cosmetological multiple
11 location business while such location is open for business.

12 (b) A certificate of registration and license for each location
13 of a cosmetological multiple location business *shall* be secured by
14 filing an application thereof and paying an annual multiple location
15 licensing fee of ~~Twenty~~ One Hundred Fifty Dollars (~~\$20.00~~)
16 (\$150.00) per location, and showing to the satisfaction of the Board of
17 Barbering and Cosmetology that the establishment meets the
18 standards of sanitation required by the rules and regulations of the
19 Department of Public Health and Social Services. A cosmetological
20 multiple location business must have a licensed cosmetologist at each
21 location while such location is providing cosmetological services.
22 Nothing herein *shall* prevent a licensed cosmetologist employed at
23 one (1) business who has multiple locations to work at any location
24 owned by the same business.”

25 **Section 13. §18128.4 of Chapter 18 of Title 10 GCA is hereby amended**
26 **to read:**

27 **“§18128.4. Continuing Education.**

1 (a) To renew a cosmetology license, a licensee must
2 complete a total of six (6) hours of Board approved continuing
3 education.

4 (b) To renew a manicurist license, a licensee must complete
5 a total of six (6) hours of Board approved continuing education.

6 (c) To renew an esthetician license, a licensee must complete
7 a total of six (6) hours of Board approved continuing education.

8 (d) To renew an electrologist license, a licensee must
9 complete a total of six (6) hours of Board approved continuing
10 education.

11 (e) To renew a barber or barber-stylist license, a licensee
12 must complete a total of six (6) hours of Board approved continuing
13 education.

14 (f) Cosmetology licensees ~~or instructor licensees~~ or barber
15 licensees who are ~~at least sixty-five (65) years of age,~~ and have held a
16 cosmetology or ~~instructor license~~ barber license for at least fifteen
17 (15) years will only be required to complete two (2) hours of
18 continuing education in health and safety.

19 (g) Licensees may not receive continuing education credit
20 for attending the same course more than once for one (1) renewal
21 period. Further, licensees must retain a copy of the certificate of
22 completion for a course of two (2) years after the date of completion.
23 In conducting any inspection or investigation of the licensee, the
24 Board may examine the licensee's records to determine compliance.

25 (h) To receive Board approval, applications to sponsor
26 continuing education seminars must be submitted to the Board at least
27 ninety (90) days before the date seminars are to be held.

1 (i) The Board may grant exceptions to the ninety (90) days
2 requirement if seminars would have otherwise met all adopted
3 guidelines. Requests for exceptions must be made in writing to the
4 Board.

5 (j) Continuing education seminars must meet Board
6 standards for presentation and content, and must contribute directly to
7 professional competence of attendees.

8 (k) Physical attendance at seminars is required to receive
9 credit for continuing education.

10 (l) Continuing education accepted by the proper licensing
11 authority in other States may be accepted or credited subject to proper
12 documentation and approval by the Board.

13 (m) Instructors for continuing education seminars must make
14 presentations in person.

15 (n) No continuing education instructor or presenter may
16 instruct for more than eight (8) hours in one (1) day.

17 (o) A proper record of registration and attendance for
18 continuing education seminars must be kept by sponsors for at least
19 three (3) years.

20 (p) No member of the Board, their employees or relatives
21 within the third (3rd) degree of consanguinity may conduct or be a
22 provider of continuing education courses.

23 (q) Changes to continuing education proposals will be
24 subject to an administrative fee.

25 **Section 14. §18128.5 of Chapter 18 of Title 10 GCA is hereby amended**
26 **to read:**

27 **“§18128.5. Right of Entry.**

1 (a) Any employee of the Division of Environmental Health
2 of the department or member of the Board displaying proper
3 credentials issued by the government of Guam, its agents or assistants,
4 may enter into and inspect any school, salon, spa, esthetic salon or
5 barber shop at any time during business hours.

6 (b) Information. Any information gained by an inspector of
7 the Department or the Board during an inspection shall remain
8 confidential, unless the information is to be offered as evidence in an
9 administrative hearing or court proceeding concerning a license issued
10 by the Board.”

11 **Section 15. §18128.7 of Chapter 18 of Title 10 GCA is hereby amended**
12 **to read:**

13 **“§18128.7. Booth Renters.**

14 ~~(a) Agreement.~~ A copy of the executed agreement between
15 the salon owner and the cosmetologist shall be submitted to the Board
16 at the time of application for a booth rental permit.

17 ~~(b) Form.~~ ~~The Board will furnish a contractual agreement~~
18 ~~form for a nominal fee. In the event an agreement is not on the form~~
19 ~~supplied by the Board, the agreement shall contain the following~~
20 ~~information:~~

21 ~~(1) a statement indicating that both parties agree that~~
22 ~~the cosmetologist is not an employee of the salon;~~

23 ~~(2) a statement indicating the salon owner has no right~~
24 ~~to control the methodology used by the cosmetologist to~~
25 ~~produce a given result; and~~

26 ~~(3) a statement indicating the basis of the~~
27 ~~cosmetologist’s compensation.”~~

1 **Section 16. §18128.8 of Chapter 18 of Title 10 GCA is hereby amended**
2 **to read:**

3 **“§18128.8. When Eligibility is Unclear.**

4 If the Board is unable to ascertain from documents submitted
5 by the applicant that the applicant is eligible for examination or
6 licensure, the Board may require the applicant to provide additional
7 documentation or information deemed by the Board as necessary to
8 make that decision. Oral interviews may be requested. If the
9 applicant is denied on the basis of initial application materials, the
10 reasons for this rejection shall be communicated in writing. The
11 applicant shall have the right of reconsideration based on submission
12 of new information and/or appearance before the Board with the
13 opportunity to demonstrate to the Board that they meet the licensure
14 requirements. The Board shall issue an Apprentice permit for ninety
15 (90) calendar days during which time the applicant will provide
16 documents to support the application submitted.”

17 **Section 17. §18129 of Chapter 18 of Title 10 GCA is hereby amended to**
18 **read:**

19 **“§18129. Revocation and Suspension.**

20 The Board may revoke, suspend or deny at any time any license
21 required by this Chapter ~~on~~ for any of the grounds following: ~~for~~
22 ~~disciplinary action provided in this Section. The grounds for~~
23 ~~disciplinary action are as follows:~~

24 (a) failure of a person, firm or corporation operating an
25 establishment, or engaged in any practice regulated by this Chapter, to
26 comply with the requirements of this Chapter;

1 (b) failure to comply with the rules governing health and
2 safety adopted by the Board for the regulation of establishments or
3 any practice licensed and regulated under this Chapter;

4 (c) failure to comply with the rules adopted by the Board for
5 the regulation of establishments, or any practice licensed and
6 regulated under this Chapter;

7 (d) gross negligence, including failure to comply with
8 generally accepted standards for the practice of barbering,
9 cosmetology, manicurist or electrology, or disregard for the health and
10 safety of patrons;

11 (e) repeated similar negligent acts;

12 (f) incompetence, including failure to comply with generally
13 accepted standards for the practice of barbering, cosmetology,
14 manicurist, or electrology;

15 (g) continued practice by a person knowingly having an
16 infectious or contagious disease;

17 (h) habitual drunkenness, habitual use of, or addiction to the
18 use of any controlled substance;

19 (i) advertising by means of knowingly false or deceptive
20 statements;

21 (j) obtaining or attempting to obtain practice in any
22 occupation licensed and regulated under this Chapter, or money or
23 compensation in any form, by fraudulent misrepresentations;

24 (k) failure to display the license or health and safety rules
25 and regulations in a conspicuous place;

26 (l) engaging, outside of a licensed establishment and for
27 compensation in any form whatsoever, in any practice for which a

1 license is required for under this Chapter, *except* that when such
2 service is provided because of illness or other physical or mental
3 incapacitation of the recipient of the service, and when performed by a
4 licensee obtained for the purpose from a licensed establishment;

5 (m) conviction of any crime substantially related to the
6 qualifications, functions or duties of the license holder, in which case
7 the record of conviction or a certified copy, *shall* be conclusive
8 evidence thereof;

9 (n) permitting a license to be used where the holder is *not*
10 personally, actively and continuously engaged in business;

11 (o) the making of any false statement as to a material matter
12 in any oath or affidavit, which is required by the provisions of this
13 Chapter;

14 (p) refusal to permit, or interference with, an inspection
15 authorized under this Chapter; or

16 (q) any action or conduct which would have warranted the
17 denial of a license;

18 (r) permitting an unlicensed person to perform activities
19 which require a license under this Chapter;

20 (s) making a false statement on any document submitted or
21 required;

22 (t) any person who violates this Chapter, or the Rules and
23 Regulations adopted pursuant thereto *shall* be fined not less than One
24 Hundred Dollars (\$100.00), and *no more than* One Thousand
25 Dollars(\$1,000.00) for each violation;

26 ~~(u) any person who practices cosmetology, or maintains a~~
27 ~~school or a beauty shop, barber shop, esthetic skin care shop,~~

1 ~~electrology shop, nail care shop, or acts in any capacity, wherein a~~
2 ~~license is required, without a license as provided in this Chapter, shall~~
3 ~~be fined not more than One Hundred Dollars (\$100.00), or imprisoned~~
4 ~~not more than ninety (90) days, or both. Each and every day of~~
5 ~~violation shall be a separate offense;~~

6 ~~(v) the Board shall aid prosecuting officers in the~~
7 ~~prosecution of persons charged with violations of this Chapter;~~

8 ~~(w) (u) the Department, in addition to any other remedies~~
9 ~~available, may apply to a court having competent jurisdiction for an~~
10 ~~injunction to restrain any violation of this Chapter.”~~

11 **Section 18. §18131 of Chapter 18 of Title 10 GCA is hereby amended to**
12 **read:**

13 **“§18131. Apprentice Licenses Permits.**

14 Upon submitting the required documents for application for
15 examination, an applicant *shall* be entitled to take the examination and
16 receive an apprentice license permit.

17 (a) An applicant who fails an the nationally
18 standardized examination of the National-Interstate Council of
19 State Boards of Cosmetology *shall* be required to retake the
20 entire phase of the examination failed component only.

21 (b) Failing applicants *shall* reapply for an ~~apprentice~~
22 ~~license~~ and pay the appropriate fee before being permitted to
23 retake the relevant component(s) of the examination.

24 (c) Any applicant who does not retake and pass each
25 phase the failed component within ~~one (1)~~ two (2) years of
26 failing the exam *shall* forfeit their apprentice license permit and
27 be required to retake the entire exam.

1 (d) Any applicant having failed the test a ~~second~~ third
2 time *shall* be required to enroll in a refresher courses relative to
3 the their respective practice, of cosmetology, or barber, or
4 ~~barber stylist, or manieurist, esthetician, electrologist or~~
5 ~~cosmetology instructor, and no~~ apprentice license shall be
6 ~~reissued.~~ The required hours of refresher courses *shall* be *no*
7 *less than* ~~thirty (30) days~~ one hundred eighty (180) hours. ~~of~~
8 ~~actual training days of instructions."~~

9 **Section 19. §18133 of Chapter 18 of Title 10 GCA is hereby amended to**
10 **read:**

11 **"§18133. Penalty.**

12 Any person who practices cosmetology, electrology, esthetician
13 or skin care, barbering or manicuring without a license, or maintains a
14 school or cosmetological establishment without a license as provided
15 by this Chapter ~~shall be guilty of a misdemeanor and shall be fined as~~
16 ~~outlined in the rules and regulations promulgated by the Board, in~~
17 ~~accordance with the Administrative Adjudication Law~~ be subject to
18 Board action as outlined in §18129 above."

19 **Section 20. Effective Date.** The provisions of this act shall take effect
20 immediately upon enactment of this Act.

21 **Section 21. Severability.** If any provisions of this Act or the application
22 thereof to any person or circumstance is held invalid, such invalidity *shall* not
23 affect any other provision or application of this Act which can be given effect
24 without the invalid provision or application, and to this end the provisions of this
25 Act are severable.