S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

April 22, 2009

Introduced by M. of A. TOWNS, JAFFEE, BARRON -- Multi-Sponsored by -- M. of A. BRENNAN, CASTRO, DelMONTE, HOOPER, KOON, MENG, SPANO, TOWNSEND, WEISENBERG -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring licensed appearance enhancement professionals to successfully complete a prescribed course of study or program in the prevention of the transmission of infection and the proper methods of sterilization

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 405-a to read as follows:

S 405-A. CONTINUING EDUCATION CONCERNING INFECTION CONTROL AND THE TRANSMISSION OF INFECTIOUS DISEASES. 1. AS A PREREQUISITE FOR THE ISSUANCE OF ANY LICENSE OR A RENEWAL OF AN APPEARANCE ENHANCEMENT BUSINESS LICENSE OR A RENEWAL FOR A LICENSE TO PRACTICE WAXING, COSMETOLOGY, NAIL SPECIALTY, ESTHETICS OR NATURAL HAIRSTYLING AS DEFINED BY SUBDIVISIONS ONE THROUGH EIGHT OF SECTION FOUR HUNDRED OF THIS ARTICLE, THE LICENSED APPLICANT SHALL PRESENT EVIDENCE SATISFACTORY TO THE DEPARTMENT OF STATE HAVING MET THE CONTINUING EDUCATION REQUIREMENTS PURSUANT TO THIS ARTICLE.

2. THE CONTINUING EDUCATION REQUIREMENTS FOR ISSUANCE OR RENEWAL OF SUCH LICENSE SHALL BE THE SUCCESSFUL COMPLETION BY THE APPLICANT, WITHIN THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF SUCH APPLICATION, OF A COURSE OF STUDY IN INFECTION PREVENTION AND CONTROL OFFERED THROUGH SCHOOLS OF INFECTION CONTROL, LICENSED BY THE DEPARTMENT OF EDUCATION. UPON SUCCESSFUL COMPLETION OF THE COURSE OF STUDY AS DESCRIBED IN THIS SECTION, SUCH SCHOOL SHALL GENERATE A COURSE COMPLETION CERTIFICATE NUMBER THAT SHALL CONSTITUTE PROOF THAT THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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APPLICANT HAS SUCCESSFULLY COMPLETED A COURSE OF STUDY IN INFECTION CONTROL AS DESCRIBED IN THIS SECTION. IN ADDITION, ANY APPEARANCE ENHANCEMENT SCHOOLS IN NEW YORK STATE, MAY OBTAIN A NEW YORK STATE APPROVED CURRICULUM, OR COURSEWORK, TO BECOME AN APPROVED PROVIDER AND MAY DO SO IN CONJUNCTION WITH AN APPROVED SCHOOL OF INFECTION CONTROL. IN ORDER TO BE ELIGIBLE TO OFFER SUCH CURRICULUM OR COURSEWORK, THE APPEARANCE ENHANCEMENT SCHOOL SHALL APPLY TO THE DEPARTMENT OF EDUCATION FOR APPROVAL. THE COURSE OF STUDY MAY BE PROVIDED EITHER AT THE SCHOOL'S PREMISES OR BY LONG DISTANCE METHODS OF INSTRUCTION AND TESTING INCLUDING BUT NOT LIMITED TO, SELF-PACED HOME STUDY CORRESPONDENCE COURSES OR THROUGH ONLINE COURSES. FOR THE PURPOSES OF THIS SECTION, THE TERM "SCHOOL OF INFECTION CONTROL" SHALL MEAN A SCHOOL THAT HAS BEEN DEVELOPED AND APPROVED BY THE DEPARTMENT OF EDUCATION FOR THE PURPOSE OF DEVELOPING AND OFFERING COURSES PROVIDING EDUCATION IN THE FIELD OF TRANSMISSION OF INFECTION AND CONTAGIOUS DISEASES, INCLUDING THE PROPER METHODS OF SANITATION AND STERILIZATION TO BE PRACTICED, ESPECIALLY AS THEY RELATE TO TOOLS, INSTRUMENTS AND EQUIPMENT, IN THE PROFESSIONS OF WAXING, COSMETOLOGY, NAIL SPECIALTY, ESTHETICS OR NATURAL HAIRSTYLING.

S 2. Subdivision 1 of section 406 of the general business law is amended by adding five new paragraphs f, g, h, i and j to read as follows:

F. EACH APPLICATION FOR THE ISSUANCE OR RENEWAL OF AN APPEARANCE ENHANCEMENT BUSINESS LICENSE OR A LICENSE TO PRACTICE WAXING, COSMETOLOGY, NAIL SPECIALTY, ESTHETICS OR NATURAL HAIRSTYLING SHALL INDICATE, BY SELF-CERTIFICATION USING THE COURSE COMPLETION CERTIFICATE NUMBER, THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED THE PRESCRIBED COURSE OF STUDY, FROM A SCHOOL OR PROGRAM, AS DESCRIBED IN SECTION FOUR HUNDRED FIVE-A OF THIS ARTICLE, CONCERNING THE PREVENTION OF THE TRANSMISSION OF INFECTION AND CONTAGIOUS DISEASES, AND THE PROPER METHODS OF SANITATION AND STERILIZATION.

G. ANY SCHOOL OF INFECTION CONTROL OR ANY APPEARANCE ENHANCEMENT SCHOOL THAT IS APPROVED BY THE DEPARTMENT OF EDUCATION, UNDER THIS ARTICLE, SHALL BE ANNUALLY ASSESSED BASED ON THE PRIOR YEAR OF THEIR FINANCIAL STATEMENTS, BY THE SECRETARY OF STATE. A PERCENTAGE OF THEIR GROSS TUITION SHALL BE DEPOSITED INTO THE BUSINESS AND LICENSING ACCOUNT AS DETERMINED BY THE ANNUAL FINANCIAL STATEMENT OR ANNUAL AUDITED FINANCIAL STATEMENT. SUCH FUNDS SHALL BE TRANSFERRED TO THE GENERAL FUND IN EQUAL QUARTERLY INSTALLMENTS WHICH SHALL BE DUE ON APRIL FIRST, JULY FIRST, OCTOBER FIRST AND JANUARY FIRST.

H. (I) BEGINNING OCTOBER FIRST, TWO THOUSAND TEN, SUCH ANNUALIZED ASSESSMENT SHALL BE SIX PERCENT.

(II) BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, SUCH ANNUALIZED ASSESSMENT SHALL BE FIVE PERCENT.

(III) BEGINNING APRIL FIRST, TWO THOUSAND TWELVE, SUCH ANNUALIZED ASSESSMENT SHALL BE FOUR PERCENT.

(IV) BEGINNING APRIL FIRST, TWO THOUSAND THIRTEEN, AND IN EACH SUCCEEDING YEAR, SUCH ANNUALIZED ASSESSMENT SHALL BE THREE PERCENT. THE SECRETARY OF STATE SHALL APPROPRIATE THE FUNDS DECLARED HEREIN TOWARDS THE IMPLEMENTATION AND ENFORCEMENT OF THIS SECTION.

I. FOLLOWING THE CLOSE OF EACH FISCAL YEAR, THE SECRETARY OF STATE, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, SHALL DETERMINE IF THE BALANCE IN THE BUSINESS AND LICENSING ACCOUNT HAS EXCEEDED THE AMOUNT REQUIRED FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS SECTION, IT SHOULD BE TAKEN INTO ACCOUNT FOR PROJECTED REVENUES AND EXPENDITURES FOR THE SUBSEQUENT FISCAL YEAR. TO THE EXTENT THAT A SURPLUS IS IDENTIFIED,

THE SECRETARY OF STATE, WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, SHALL DIRECT THE TRANSFER OF SUCH SURPLUS TO THE GENERAL FUND.

J. LATE PAYMENTS MAY RESULT IN SUSPENSION OF LICENSURE BY THE SECRETARY OF STATE. PAYMENTS REQUIRED BY THIS SUBDIVISION SHALL BE CONSIDERED A CONDITION OF LICENSURE OR REGISTRATION.

S 3. Subdivision 6 of section 408 of the general business law, as added by chapter 509 of the laws of 1992, is amended to read as follows:

6. Any license, which has not been suspended or revoked, may, upon the payment of the renewal fee, be renewed for additional periods of two years [from its application], without further examination, upon the filing of an application for such renewal, on a form to be prescribed by the secretary.

S 4. This act shall take effect on the sixtieth day after it shall have become a law.