

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**5100 BOARD OF COSMETOLOGY AND BARBERING**  
Statutory Authority: 24 Delaware Code, Section 5106(a)(1) (24 Del.C. §5106(a)(1))  
24 DE Admin. Code 5100

**FINAL**

**ORDER**

**5100 Board of Cosmetology and Barbering**

After due notice in the Delaware *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 27, 2017 at a scheduled meeting of the Delaware Board of Cosmetology and Barbering ("Board") to receive comments regarding the Board's proposed revisions to its rules and regulations.

The proposed revisions amend the requirements for temporary permits and apprenticeship licenses. Curricula is added for apprenticeships, for both cosmetologists and barbers, for the 3,000-hour program and the 1,500-hour merged program as set forth in 24 Del.C. §§5107(a)(3)(c) and (f). Finally, the new Section 18.0 is amended to delete crimes not substantially related to the practice of the professions regulated by the Board thereby removing unnecessary barriers to licensure.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 20, Issue 8, on February 1, 2017. Notice of the February 27, 2017 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 Del.C. §10118(a), the date to receive final written comments was March 14, 2017, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on March 27, 2017.

**Summary of the Evidence and Information Submitted**

The following exhibits were made a part of the record:

Board Exhibit 1: *News Journal* Affidavit of Publication.

Board Exhibit 2: *Delaware State News* Affidavit of Publication.

There was no public comment presented in the form of testimony at the February 27, 2017 hearing. Further, no written comment was submitted either before the hearing or during the 15 day period following the hearing.

**Findings of Fact and Conclusions**

Pursuant to 24 Del.C. §5106(a)(1), the Board has the statutory authority to promulgate rules and regulations.

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. There was no verbal testimony or written comment submitted. In these circumstances, the Board finds no reason to amend the rules and regulations as proposed.

**Decision and Effective Date**

The Board finds that the rules and regulations shall be adopted as final in the form proposed. These changes will become effective ten days following publication of this Final Order in the Delaware *Register of Regulations*.

**Text and Citation**

The exact text of the rules and regulations, as amended, is attached to this order as Exhibit A.

**IT IS SO ORDERED** this 27<sup>th</sup> day of March 2017 by the Delaware Board of Cosmetology and Barbering.

Derrick Reed, Professional Member, President  
Gina Marsilii, Professional Member, Vice President  
Kathy Sherwin, Public Member, Secretary  
Hillary Reid, Professional Member (absent)  
Gregory Myers, Professional Member

Tien Le, Professional Member  
Domonique Vicks, Professional Member  
Linda Wilson, Professional Member (absent)  
Victor Kennedy, Public Member  
Sherry Wilkins, Public Member (absent)

**5100 Board of Cosmetology and Barbering**

- 1.1 All applications for licensure must be submitted on forms approved by ~~the Board~~ and the Division of Professional Regulation and be accompanied by the appropriate fee.
- 1.2 Each applicant must provide proof of any required general or professional education in the form of a certified transcript, proof of a G.E.D. or any other document evidencing completion of the necessary education to the Board's satisfaction.
- 1.3 Any applicant submitting credentials, transcripts or other documents from a program or educational facility outside the United States or its territories must provide the Board with a certificate of translation from a person or agency acceptable to the Board, if appropriate, and an educational credential evaluation from an agency approved by the Board demonstrating that his or her training and education are equivalent to ~~domestic~~ the training and education required in Delaware. Board approved credentialing agencies are listed on the Board's website, at [www.dpr.delaware.gov](http://www.dpr.delaware.gov).

## **2.0 Temporary Work Permits [24 Del.C. §5106(a)(7)]**

- 2.1 The purpose of a temporary work permit is to allow an otherwise qualified applicant to practice under appropriate supervision pending the applicant's scoring of a passing grade on the examination.
- 2.2 A temporary work permit may be issued to an examination applicant who meets the Board's requirements and who is eligible for admission to the cosmetology, nail technician, barbering, electrology, or aesthetician examination, with the appropriate fees paid.
- 2.3 A temporary work permit is valid for thirty (30) days past the next available examination date. After the first temporary permit expires, a subsequent temporary permit may be issued only where the applicant submits proof that he or she did not pass the examination and that he or she is registered for the next examination date. The applicant shall be eligible for temporary permits for two years after the date of making application. If the applicant does not pass the examination within two years after making application, the applicant shall be required to wait ~~one year~~ six months from the date of the last examination and then ~~shall~~ may make a new application and ~~shall meet all the requirements for licensure, including repeating all educational requirements and re-taking and passing both parts of the required examination~~ for a temporary permit.
- 2.4 The holder of a temporary work permit for cosmetology ~~or barbering~~ shall practice under the supervision of a licensed cosmetologist, ~~master barber, barber, or cosmetology instructor or barber instructor~~.
- 2.5 The holder of a temporary work permit for barbering shall practice under the supervision of a licensed master barber, barber, barber instructor or a cosmetology instructor, if the cosmetology instructor has completed 35 hours of instruction in shaving acceptable to the Board.
- 2.56 The holder of a temporary work permit for nail technology shall practice under the supervision of a licensed nail technician, nail technology instructor, cosmetologist, or cosmetology instructor.
- 2.67 The holder of a temporary work permit for electrology shall practice under the supervision of a licensed electrologist or electrology instructor.
- 2.78 The holder of a temporary work permit for aesthetics shall practice under the supervision of a licensed aesthetician, aesthetics instructor, cosmetologist, or cosmetology instructor.
- 2.89 The holder of a temporary instructor's work permit shall practice at all times under the supervision of a licensed instructor, pursuant to ~~Rules subsections 79.3 and 4413.3~~.
- 2.910 Reciprocity applicant: A temporary work permit for reciprocity may be issued to an applicant subject to the requirements of 24 Del.C. §5109(a). Where the applicant comes from a state with less stringent standards than Delaware's standards, the Board shall review the applicant's experience documentation. The temporary permit shall expire 14 calendar days after the date of the Board meeting at which the Board considers the application.

## **3.0 Apprenticeship and Supervision [24 Del.C. §§5101(a), 5107]**

- 3.1 A person applying for licensure by apprenticeship shall be supervised by a practitioner licensed in the profession that the apprentice is studying, except that a nail technician applicant and an aesthetician applicant may apprentice with a cosmetologist, and a barber applicant may apprentice with a cosmetology instructor, if the cosmetology instructor has completed ~~35 hours' training~~ hours of instruction in shaving acceptable to the Board.
- 3.2 An apprenticeship shall be completed only in a licensed shop.
- 3.3 Apprenticeship hours shall be acquired only after the apprentice license has been issued.
- 3.4 Any person applying for licensure as a cosmetologist or barber through apprenticeship must complete the necessary apprentice hours in not less than eighteen (18) months and not more than thirty-six (36) months.
- 3.5 Any person applying for licensure as a nail technician through apprenticeship must complete the necessary apprentice hours in not less than six (6) weeks and not more than twelve (12) months.

- 3.6 Any person applying for licensure as an electrologist through apprenticeship must complete the necessary apprentice hours in not less than fifteen (15) weeks and not more than twelve (12) months.
- 3.7 Any person applying for licensure as an aesthetician through apprenticeship must complete the necessary apprentice hours in not less than thirty (30) weeks and not more than twenty-four (24) months.
- 3.8 The required hours shall be completed within the specified time frame, ~~or the applicant shall begin a new apprenticeship.~~
- 3.9 On written application to the Board prior to completion of the apprenticeship, the Board may grant extensions to these time frames for good cause shown. The extension granted shall not exceed one year.
- 3.10 ~~The apprenticeship applicant shall submit quarterly status reports to the Board, on a Board approved form, in January, April, July and October. The status reports shall include documentation pertaining to the apprenticeship hours completed.~~
- 3.4110 The apprenticeship license shall expire upon completion of the required hours within the specified time frame, as set forth in Rules subsections 3.4 - 3.7.
- 3.4211 The apprentice shall submit a new application to the Board upon any change in supervisor or location of the apprenticeship.
- 3.4312 Where an apprentice provides services to a client, the client shall be so advised and the apprentice's license shall be displayed at the work station.
- 3.13 Any person applying for licensure by apprenticeship, who previously held a temporary permit pursuant to Section 2.0, and did not pass the applicable examination(s) as set forth in subsection 2.3, shall wait six months from the date of the last examination before making application for an apprentice license.
- 3.14 If an apprentice does not complete the required hours within the specified time frame, as set forth in subsections 3.4 - 3.7, subject to a maximum one-year extension, the person shall wait six months before making application for another apprenticeship. Previously acquired hours shall not be applicable to the subsequent apprenticeship.

#### **4.0 Apprenticeship Curriculum for Cosmetology**

- 4.1 The licensee sponsoring a cosmetology apprentice is responsible for ensuring that the apprentice completes the following curriculum.
- 4.2 3,000-hour apprenticeship
  - 4.2.1 Sanitation; hygiene, equipment safety: 46 theory hours
  - 4.2.2 Facial massage/treatment; skin care; hair removal; make-up: 50 theory hours; 138.5 practical hours
  - 4.2.3 Haircutting, dressing, curling, pressing; artificial hair: 264 theory hours; 756.5 practical hours
  - 4.2.4 Scalp and hair treatments: 16 theory hours; 4 practical hours
  - 4.2.5 Hair coloring: 96 theory hours; 305 practical hours
  - 4.2.6 Chemical hair restructuring; waving, straightening and relaxing: 54 theory hours; 357 practical hours
  - 4.2.7 Applied chemistry/occupational safety and health administration as related to skin, hair, nails and scalp: 22 theory hours
  - 4.2.8 Applied anatomy, physiology and histology of human head, hands, nails, skins and hair: 56 theory hours
  - 4.2.9 Manicuring/pedicuring: 22 theory hours; 189 practical hours
  - 4.2.10 Artificial nails: 20 theory hours
  - 4.2.11 Industry laws/regulations: 28 theory hours
  - 4.2.12 Theory review: 526 theory hours; 50 practical hours
- 4.3 1,500-hour merged instruction and apprenticeship
  - 4.3.1 Sanitation; hygiene, equipment safety: 23 theory hours
  - 4.3.2 Facial massage/treatment; skin care; hair removal; make-up: 25 theory hours; 69.25 practical hours
  - 4.3.3 Haircutting, dressing, curling, pressing; artificial hair: 264 theory hours; 756.5 practical hours
  - 4.3.4 Scalp and hair treatments: 16 theory hours; 4 practical hours
  - 4.3.5 Hair coloring: 96 theory hours; 305 practical hours
  - 4.3.6 Chemical hair restructuring; waving, straightening and relaxing: 54 theory hours; 305 practical hours
  - 4.3.7 Applied chemistry/occupational safety and health administration as related to skin, hair, nails and scalp: 22 theory hours
  - 4.3.8 Applied anatomy, physiology and histology of human head, hands, nails, skins and hair: 56 theory hours
  - 4.3.9 Manicuring/pedicuring: 22 theory hours; 189 practical hours
  - 4.3.10 Artificial nails: 20 theory hours

- 4.3.11 Industry laws/regulations: 28 theory hours
- 4.3.12 Theory review: 526 theory hours; 50 practical hours

## **5.0 Apprenticeship Curriculum for Barbering**

- 5.1 The licensee sponsoring a barbering apprentice is responsible for ensuring that the apprentice completes the following curriculum.
- 5.2 3,000-hour apprenticeship
  - 5.2.1 History of barbering; industry laws/regulations: 100 theory hours
  - 5.2.2 Professional image: 125 theory hours
  - 5.2.3 Bacteriology: 200 theory hours
  - 5.2.4 Sterilization/sanitation: 190 theory hours; 100 practical hours
  - 5.2.5 Implements/tools/equipment: 100 theory hours; 125 practical hours
  - 5.2.6 Properties/disorders of the skin: 60 theory hours
  - 5.2.7 Hair and scalp treatment: 200 theory hours; 100 practical hours
  - 5.2.8 Facial massage/treatment: 125 theory hours; 40 practical hours
  - 5.2.9 Shaving: 125 theory hours; 50 practical hours
  - 5.2.10 Haircutting: 220 theory hours; 200 practical hours
  - 5.2.11 Mustache/beard design: 90 theory hours
  - 5.2.12 Permanent wave: 140 theory hours; 100 practical hours
  - 5.2.13 Chemical relaxing: 50 theory hours; 60 practical hours
  - 5.2.14 Hair coloring: 100 theory hours; 80 practical hours
  - 5.2.15 Men's hairpieces: 120 theory hours; 40 practical hours
  - 5.2.16 Manicuring: 20 theory hours; 20 practical hours
  - 5.2.17 Electricity/light therapy: 50 theory hours; 30 practical hours
  - 5.2.18 Chemistry: 40 practical hours
- 5.3 1,500-hour merged instruction and apprenticeship
  - 5.3.1 History of barbering; industry laws/regulations: 50 theory hours
  - 5.3.2 Professional image: 62.5 theory hours
  - 5.3.3 Bacteriology: 100 theory hours
  - 5.3.4 Sterilization/sanitation: 80 theory hours; 40 practical hours
  - 5.3.5 Implements/tools/equipment: 80 theory hours; 50 practical hours
  - 5.3.6 Properties/disorders of the skin: 30 theory hours
  - 5.3.7 Hair and scalp treatment: 100 theory hours; 50 practical hours
  - 5.3.8 Facial massage/treatment: 62.5 theory hours; 20 practical hours
  - 5.3.9 Shaving: 62.5 theory hours; 25 practical hours
  - 5.3.10 Haircutting: 110 theory hours; 100 practical hours
  - 5.3.11 Mustache/beard design: 45 theory hours
  - 5.3.12 Permanent wave: 70 theory hours; 50 practical hours
  - 5.3.13 Chemical relaxing: 25 theory hours; 30 practical hours
  - 5.3.14 Hair coloring: 50 theory hours; 40 practical hours
  - 5.3.15 Men's hairpieces: 60 theory hours; 20 practical hours
  - 5.3.16 Manicuring: 10 theory hours; 10 practical hours
  - 5.3.17 Electricity/light therapy: 25 theory hours; 15 practical hours
  - 5.3.18 Chemistry: 10 practical hours

## **46.0 Reciprocity Requirements [24 Del.C. §5109]**

Any applicant from a state with less stringent requirements than those of Delaware, shall submit a notarized statement(s) from current or previous employer(s) testifying to work experience in the field for which the applicant is seeking a license in Delaware. Such experience shall have been obtained in the State where the applicant is currently licensed for a period of three (3) of the five 5 years immediately preceding the making of application. Unlicensed practice within the State of Delaware shall not qualify as valid work experience. If the

applicant cannot obtain a notarized statement(s), the applicant shall submit a letter of explanation and alternative documentation of experience, such as tax records.

#### **57.0 Transfer of Nail Technician Hours to Cosmetology Programs**

~~Apprentice nail technician hours earned totaling 250 may be transferred and applied to an apprentice cosmetology program totaling 3,000 hours. Public/private student nail technician hours earned totaling 125 may be transferred and applied to a public/private cosmetology school curriculum totaling 1,500 hours.~~

A maximum of 250 hours earned as an apprentice nail technician may be transferred and applied to an apprentice cosmetology program totaling 3,000 hours. A maximum of 125 hours earned as a nail technician student in a public/private school may be transferred and applied to a public/private cosmetology school curriculum totaling 1,500 hours.

#### **68.0 Transfer of Aesthetician Hours to Cosmetology Programs**

~~Apprentice aesthetician hours earned totaling 500 may be transferred and applied to an apprentice cosmetology program totaling 3,000 hours. Public/private student aesthetician hours earned totaling 250 may be transferred and applied to a public/private cosmetology school curriculum totaling 1,500 hours.~~

A maximum of 500 hours earned as an apprentice aesthetician may be transferred and applied to an apprentice cosmetology program totaling 3,000 hours. A maximum of 250 hours earned as an aesthetician student in a public/private school may be transferred and applied to a public/private cosmetology school curriculum totaling 1,500 hours.

#### **79.0 Instructor Requirements [24 Del.C. §§5107(a)(3)h. - j.]**

79.1 In addition to the requirements set forth in 24 Del.C. §§5107(a)(3)h. - j., an instructor applicant shall submit an official transcript showing completion of the teacher training course.

79.2 Where an instructor applicant states that he or she has obtained 2 years' experience, such experience shall be documented by a notarized statement(s) from current or previous employers. If the required statement(s) cannot be obtained, the applicant must submit an explanation, with any other available documentation, such as W-2 forms. The Board may accept or reject such explanation, at its discretion.

79.3 A cosmetology instructor may teach cosmetology, nail technology and aesthetics. A cosmetology instructor may teach barbering only if he or she has completed ~~a course in shaving of at least 35 hours, as set forth in 24 Del.C. §5107(a)(3)h~~ at least 35 hours of instruction in shaving as documented to the satisfaction of the Board.

#### **810.0 Licensure of Cosmetology Shops and Schools [24 Del.C. §§5107(7), 5107(15), 5103(e), 5118, 5124(5)]**

810.1 "Cosmetology shop" means any place or part thereof wherein cosmetology, barbering, electrology, nail technology, aesthetics, or any part of their practices, are performed for compensation, whether or not the establishment holds itself out as a cosmetology shop.

810.2 "School of cosmetology," "school of barbering," "school of electrology," "school of nail technology," and "school of aesthetics" means any place or part thereof where such practices are taught, whether or not such place holds itself out as a school.

810.3 All cosmetology shops and schools shall be licensed by the Board.

810.4 Where the shop or school ~~closes or~~ has a change of name, address or ownership, the shop or school shall submit a new application to the Board. Where the shop or school closes, the shop or school shall inform the Board in writing within 30 days.

810.5 A person licensed by the Board ~~as a cosmetologist, master barber, barber, electrologist, nail technician, aesthetician or instructor~~ shall not work in a cosmetology shop, barbershop, nail salon, electrology establishment, aesthetics shop, school of cosmetology, barbering, nail technology, electrology or aesthetics unless such establishment has been licensed by the Board.

810.6 Mobile salons

810.6.1 "Mobile salon" means a cosmetology shop in a self-contained facility that may be moved, towed or transported from one location to another and in which cosmetology, barbering, electrology, nail technology or aesthetics is practiced.

810.6.2 Mobile salons shall be subject to all requirements of the Board's licensing law, Chapter 51 of Title 24 of the Delaware Code, ~~and the Board's rules and regulations,~~ and the Division of Public Health regulations applicable to cosmetology and barbering.

810.6.3 In addition to any other information required in the application for licensure, a mobile salon applicant shall provide:

§10.6.3.1 A permanent business address at which records of appointments, itineraries, license numbers of employees, and vehicle identification numbers shall be kept and made available for inspection by Division personnel, and at which correspondence from the Board may be received. A post office box is not acceptable.

§10.6.3.2 In the event that the mobile unit(s) are not located at the permanent business address, a permanent physical address from which the mobile unit is dispatched and to which the mobile unit is returned when not in use. A post office box is not acceptable.

§10.6.3.3 The mobile salon's telephone number, or other means of telecommunication, by which it can be contacted by Division personnel.

§10.6.3.4 All motor vehicles' identification numbers.

§10.6.4 Prior to the beginning of each month, each mobile salon license holder shall file with the Board a written monthly itinerary which lists the locations where and the dates and hours when the mobile salon will be operating. The monthly itinerary shall include the vehicle's identification number and the mobile salon's telephone number. Any changes to the itinerary shall be submitted to the Board in the form of an amended itinerary at least 24 hours in advance of the scheduled appointment at which services will be provided. Each salon shall be operated only at the times and places specified in the monthly itinerary.

§10.6.5 All mobile salons and associated business locations shall be subject to inspection by Division and Department of Public Health personnel.

§10.6.6 The mobile salon's professional license shall be prominently displayed in the interior of the salon.

§10.6.7 The salon name and license number shall be in lettering at least five inches in height and shall be visibly displayed and clearly legible on at least two exterior sides of each mobile salon.

§10.6.8 No service may be performed on a client in a moving vehicle. Services shall be performed in a mobile salon that is parked in a safe, accessible, and legal parking spot.

#### 18 DE Reg. 239 (09/01/14)

### **§11.0 Establishment Responsibility for Employees [24 Del.C. §5113(a)(7)]**

911.1 Each ~~licensee person~~ licensed by the Board and each person, firm, corporation or association operating a cosmetology shop, barbershop, nail salon, or electrology establishment shall be responsible for ensuring that all of its employees requiring licenses persons on the premises providing services regulated by this chapter are licensed in Delaware prior to the commencement of employment. The licensee shall have available for inspection on the premises at all times copies of the Delaware licenses of its employees all persons providing services.

9.2 ~~An individual, licensee or licensed shop who employs unlicensed individuals may be subject to discipline pursuant to 24 Del.C. §5113(a)(7).~~

11.2 An individual, licensee or licensed shop who knowingly employs or cooperates in the hiring or contracting for the services of, or, as the owner or operator of a beauty salon or aesthetics shop, leases space or otherwise enters into a contractual relationship with, any unlicensed person or persons required by this chapter to hold an unrestricted license to practice any of the professions regulated by this chapter may be subject to discipline pursuant to 24 Del.C. §5113(a)(7).

### **4012.0 Instructor Curriculum for Barbering and Cosmetology**

Orientation

Practical Laboratory Management

Classroom Teaching and Management

Theory and Testing

12.1 Schools licensed by the Board must follow one of the following curricula, or a curricula deemed substantially equivalent by the Board:

12.1.1 Milady

12.1.2 Pivot Point

### **4413.0 Requirements for Schools**

4413.1 Prior to admitting a student, a school shall obtain and review the school applicant's high school transcript. The school shall also provide the applicant with a copy of ~~Board Rule Section 4618.0~~ and advise the applicant that a criminal history may be a bar to licensure. The school shall maintain written acknowledgment from the student that ~~Rule Section 4618.0~~ has been received and said written acknowledgment shall be maintained in the applicant's file.

4413.2 All schools teaching the professions regulated by this chapter shall have equipment that is necessary and appropriate for teaching of all the offered subjects.

4413.3 All instructors in schools shall be licensed. A temporary instructor shall be supervised at all times by a licensed instructor.

#### **4214.0 Education Requirements for Nail Technician Applicants [24 Del.C. §5107(a)(3)e]**

An applicant who can demonstrate, to the Board's satisfaction, that he or she began school prior to June 26, 2010 shall complete 125 hours of education in nail technology. An applicant who began school on or after June 26, 2010 shall complete 300 hours of education in nail technology.

#### **4315.0 Education Requirements for Aesthetician Applicants [24 Del.C. §5127(a)(2)]**

An applicant who can demonstrate, to the Board's satisfaction, that he or she began school prior to June 26, 2010 shall complete 300 hours of education in aesthetics. An applicant who began school on or after June 26, 2010 shall complete 600 hours of education in aesthetics.

#### **4416.0 Health and Sanitation; ~~Electric Nail Files, Hair Removal and Laser Technology~~**

4416.1 Each licensee, instructor, aesthetician, and shop or school shall follow all regulations or standards issued by the Division of Public Health or its successor agency relating to health, safety or sanitation in the practice of ~~cosmetology, barbering, electrology or nail technology~~ the professions regulated by the Board.

4416.2 In addition to any regulation or standard adopted by the Division of Public Health, each licensee and shop or school shall follow the standards for infection control and blood spill procedures promulgated by the National Interstate Council or its successor organization.

4416.3 Electric nail files and electric drills shall not be used on natural nails. The use of methyl methacrylate (MMA) is prohibited. No licensee, school or shop shall use or permit the use of MMA.

44.4 ~~The use of laser technology for hair removal is not work generally or usually performed by cosmetologists and is prohibited.~~

44.516.4 Where wax is used for hair removal, a new applicator shall be used with every application.

44.616.5 The United States Food and Drug Administration ("the FDA") has not approved the use of any color additive for use in permanent dyeing or tinting of the eyelash or eyebrow. No product shall be used in a manner that is disapproved by the Board, the Division of Health and Social Services, the FDA, or is in violation of any applicable federal or State statute or regulation.

44.716.6 Hair removal shall be performed by a licensed cosmetologist or licensed aesthetician only. Nail technicians are prohibited from performing any type of hair removal, including waxing, or tweezing or threading.

44.816.7 Violation of any of the regulations, standards or prohibitions established under this ~~Rule~~ Section shall constitute grounds for discipline under 24 Del.C. §5113.

#### **4517.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

4517.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

4517.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

4517.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

4517.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses

satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

- ~~4517.5~~ Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, ~~as outlined in subsection 17.8 of this section.~~
- ~~4517.6~~ The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- ~~4517.6.1~~ Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- ~~4517.6.2~~ Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
- ~~4517.6.3~~ Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- ~~4517.6.4~~ Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- ~~4517.6.5~~ Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- ~~4517.6.6~~ Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- ~~4517.7~~ The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- ~~4517.8~~ The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- ~~4517.9~~ If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- ~~4517.10~~ Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- ~~4517.11~~ Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- ~~4517.12~~ Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and

regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

#### **4618.0 Crimes Substantially Related to the Practice of Cosmetology, Barbering, Electrology And Nail Technology**

4618.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of cosmetology, barbering, electrology and nail technology in the State of Delaware without regard to the place of conviction:

- ~~16.1.1 Criminal solicitation in the first degree. 11 Del.C. §503.~~
- ~~16.1.2 Conspiracy in the first degree. 11 Del.C. §513.~~
- ~~16.1.3 Aggravated Menacing. 11 Del.C. §602(b).~~
- 4618.1.41 Reckless endangering in the first degree. 11 Del.C. §604.
- 4618.1.52 Abuse of a pregnant female in the second degree. 11 Del.C. §605.
- 4618.1.63 Abuse of a pregnant female in the first degree. 11 Del.C. §606.
- 4618.1.74 Assault in the second degree. 11 Del.C. §612.
- 4618.1.85 Assault in the first degree. 11 Del.C. §613.
- ~~16.1.9 Abuse of a sports official; felony. 11 Del.C. §614.~~
- 4618.1.406 Assault by abuse or neglect. 11 Del.C. §615.
- 46.1.11 Terroristic threatening; felony. 11 Del.C. §624.
- 46.1.12 Unlawfully administering drugs. 11 Del.C. §625.
- ~~16.1.13 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 Del.C. §626.~~
- 4618.1.447 Murder by abuse or neglect in the second degree. 11 Del.C. §633.
- 4618.1.458 Murder by abuse or neglect in the first degree. 11 Del.C. §634.
- 4618.1.469 Murder in the second degree. 11 Del.C. §635.
- 4618.1.4710 Murder in the first degree. 11 Del.C. §636.
- ~~16.1.18 Abortion. 11 Del.C. §651.~~
- ~~16.1.19 Unlawful sexual contact in the second degree. 11 Del.C. §768.~~
- 4618.1.2011 Unlawful sexual contact in the first degree. 11 Del.C. §769.
- 4618.1.2412 Rape in the fourth degree. 11 Del.C. §770.
- 4618.1.2213 Rape in the third degree. 11 Del.C. §771.
- 4618.1.2314 Rape in the second degree. 11 Del.C. §772.
- 4618.1.2415 Rape in the first degree. 11 Del.C. §773.
- 4618.1.2516 Sexual extortion. 11 Del.C. §776.
- 4618.1.2617 Continuous sexual abuse of a child. 11 Del.C. §778. Sex offender unlawful sexual conduct against a child. 11 Del.C. §777A.
- 4618.1.2718 Dangerous crime against a child. 11 Del.C. §779. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree. 11 Del.C. §778.
- 18.1.19 Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree. 11 Del.C. §778A.
- ~~4618.1.2820 Female genital mutilation. 11 Del.C. §780.~~
- ~~16.1.29 Unlawful imprisonment in the first degree. 11 Del.C. §782.~~
- 4618.1.3021 Kidnapping in the second degree. 11 Del.C. §783.
- 4618.1.3422 Kidnapping in the first degree. 11 Del.C. §783A.
- ~~16.1.32 Arson in the third degree. 11 Del.C. §801.~~
- 4618.1.3323 Arson in the second degree. 11 Del.C. §802.
- 4618.1.3424 Arson in the first degree. 11 Del.C. §803.
- ~~16.1.35 Burglary in the second degree. 11 Del.C. §825.~~
- ~~16.1.36 Burglary in the first degree. 11 Del.C. §826.~~
- 46.1.37 Possession of burglar's tools or instruments facilitating theft. 11 Del.C. §828.
- ~~16.1.38 Robbery in the second degree. 11 Del.C. §831.~~
- ~~16.1.39 Robbery in the first degree. 11 Del.C. §832.~~
- 46.1.40 Carjacking in the second degree. 11 Del.C. §835.

16.1.41 Carjacking in the first degree. 11 ~~Del.C.~~ §836.  
16.1.42 Extortion. 11 ~~Del.C.~~ §846.  
16~~18~~.1.43~~25~~ Identity theft. 11 ~~Del.C.~~ §854.  
16~~18~~.1.44~~26~~ Forgery. 11 ~~Del.C.~~ §861.  
16.1.45 Possession of forgery devices. 11 ~~Del.C.~~ §862.  
16.1.46 Tampering with public records in the first degree. 11 ~~Del.C.~~ §876.  
16~~18~~.1.47~~27~~ Unlawful use of credit card; felony. 11 ~~Del.C.~~ §903.  
16~~18~~.1.48~~28~~ Reencoder and scanning devices. 11 ~~Del.C.~~ §903A.  
16.1.49 Criminal impersonation of a police officer. 11 ~~Del.C.~~ §907B.  
16~~18~~.1.50~~29~~ Dealing in children. 11 ~~Del.C.~~ §1100.  
16~~18~~.1.51~~30~~ Endangering the welfare of a child. 11 ~~Del.C.~~ §1102.  
16~~18~~.1.52~~31~~ Sexual exploitation of a child. 11 ~~Del.C.~~ §1108.  
16~~18~~.1.53~~32~~ Unlawfully dealing in child pornography. 11 ~~Del.C.~~ §1109.  
16.1.54 Possession of child pornography. 11 ~~Del.C.~~ §1111.  
16.1.55 Sexual offenders; prohibitions from school zones. 11 ~~Del.C.~~ §1112.  
16.1.56 Perjury in the second degree. 11 ~~Del.C.~~ §1222.  
16.1.57 Perjury in the first degree. 11 ~~Del.C.~~ §1223.  
16.1.58 Terroristic threatening of public officials or public servants. 11 ~~Del.C.~~ §1240.  
16.1.59 Abetting the violation of driver's license restrictions; felony. 11 ~~Del.C.~~ §1249.  
16.1.60 Escape in the second degree. 11 ~~Del.C.~~ §1252.  
16.1.61 Escape after conviction. 11 ~~Del.C.~~ §1253.  
16.1.62 Assault in a detention facility. 11 ~~Del.C.~~ §1254.  
16.1.63 Promoting prison contraband; deadly weapon. 11 ~~Del.C.~~ §1256.  
16.1.64 Use of an animal to avoid capture. 11 ~~Del.C.~~ §1257A(b) (1) and (2).  
16.1.65 Sexual relations in detention facility. 11 ~~Del.C.~~ §1259.  
16.1.66 Misuse of prisoner mail; second conviction. 11 ~~Del.C.~~ §1260.  
16.1.67 Tampering with a witness. 11 ~~Del.C.~~ §1263.  
16.1.68 Interfering with child witness. 11 ~~Del.C.~~ §1263A.  
16.1.69 Tampering with physical evidence. 11 ~~Del.C.~~ §1269.  
16.1.70 Criminal contempt of a domestic violence protective order. 11 ~~Del.C.~~ §1271A.  
16.1.71 Hate crimes. 11 ~~Del.C.~~ §1304.  
16.1.72 Aggravated harassment. 11 ~~Del.C.~~ §1312.  
16.1.73 Stalking. 11 ~~Del.C.~~ §1312A.  
16.1.74 Cruelty to animals; felony. 11 ~~Del.C.~~ §1325.  
16.1.75 Violation of privacy. 11 ~~Del.C.~~ §1335.  
16.1.76 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 ~~Del.C.~~ §1338.  
16.1.77 Adulteration. 11 ~~Del.C.~~ §1339.  
16.1.78 Promoting prostitution in the third degree. 11 ~~Del.C.~~ §1351.  
16.1.79 Promoting prostitution in the second degree. 11 ~~Del.C.~~ §1352.  
16.1.80 Promoting prostitution in the first degree. 11 ~~Del.C.~~ §1353.  
16.1.81 Obscenity. 11 ~~Del.C.~~ §1361.  
16.1.82 Unlawfully dealing with a dangerous weapon; felony. 11 ~~Del.C.~~ §1445.  
16.1.83 Possession of a deadly weapon during commission of a felony. 11 ~~Del.C.~~ §1447.  
16.1.84 Possession of a firearm during commission of a felony. 11 ~~Del.C.~~ §1447A.  
16.1.85 Possession and purchase of deadly weapons by persons prohibited. 11 ~~Del.C.~~ §1448.  
16.1.86 Giving a firearm to person prohibited. 11 ~~Del.C.~~ §1454.  
16.1.87 Engaging in a firearms transaction on behalf of another. 11 ~~Del.C.~~ §1455.  
16.1.88 Possession of a weapon in a Safe School and Recreation Zone; felony. 11 ~~Del.C.~~ §1457.  
16.1.89 Removing a firearm from the possession of a law enforcement officer. 11 ~~Del.C.~~ §1458.  
16.1.90 Organized Crime and Racketeering. 11 ~~Del.C.~~ §1504.  
16.1.91 Victim or Witness intimidation. 11 ~~Del.C.~~ §§3532 & 3533.

~~16.1.92 Violations. (Abuse, neglect, mistreatment or financial exploitation of residents or patients.) 16 Del.C. §1136.~~

~~16.1.93 Distribution, delivery, or possession of controlled substance within 1,000 feet of school property. 16 Del.C. §4767.~~

~~16.1.94 Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 Del.C. §4768.~~

~~16.18.2 Crimes substantially related to the practice of cosmetology, barbering, electrology and nail technology shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule Section.~~

~~16.3 Crimes substantially related to the practice of cosmetology, barbering, electrology and nail technology shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.~~

**2 DE Reg. 1378 (02/01/99)**

**3 DE Reg. 1197 (03/01/00)**

**4 DE Reg. 329 (08/01/00)**

**5 DE Reg. 1260 (12/01/01)**

**8 DE Reg. 1460 (04/01/05)**

**15 DE Reg. 224 (08/01/11)**

**20 DE Reg. 916 (05/01/17)(Final)**