



Board of Cosmetology Licensing

2021
EVALUATION REPORT

Program Evaluation Division

OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

Program Evaluation Division

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May 2021

Members of the Legislative Audit Commission:

The Board of Cosmetology licenses cosmetology practitioners, salons, and schools to protect public health and safety.

In this evaluation, we found that certain aspects of Minnesota's complex cosmetology licensing structure and requirements do not contribute to public health or safety, but do make licensing more expensive and burdensome for licensees. We recommend a number of changes to the structure and requirements.

Our evaluation was conducted by Laura Schwartz (project manager), Ryan Moltz, and Kaitlyn Schmaltz. The Board of Cosmetology and the Board of Barber Examiners cooperated fully with our evaluation, and we thank them for their assistance.

Sincerely,

Handwritten signature of James Nobles in black ink.

James Nobles
Legislative Auditor

Handwritten signature of Judy Randall in black ink.

Judy Randall
Deputy Legislative Auditor



Summary

Board of Cosmetology Licensing

Key Facts and Findings:

- The Board of Cosmetologist Examiners (“BCE” or “Board of Cosmetology”) regulates cosmetology in Minnesota, which includes services in three broad areas—hair, skin, and nails. (p. 1)
- To protect public health and safety, state law requires cosmetology practitioners to be licensed. In 2020, BCE oversaw around 32,900 licensed practitioners and 5,350 licensed establishments. (p. 4)
- Certain aspects of Minnesota’s complex licensing structure do not contribute to the protection of public health or safety. They do, however, make licensing more expensive and burdensome for licensees. (pp. 17-36)
- State law authorizes BCE to offer specialty licenses for practitioners who perform only cosmetic skin or nail services, but not for those who perform only cosmetic hair services. (pp. 25-27)
- BCE began issuing just one type of salon license in 2018, even though statutes require it to issue licenses that are differentiated according to the services offered in the salon. (pp. 29-30)
- BCE offers two types of permits that allow practitioners to perform services outside of a licensed salon. Although the scope of services that practitioners may offer under one of those permits is much broader than the other, the requirements are less stringent. (pp. 31, 35-36)
- In 2020, the Legislature authorized practitioners to perform makeup and hairstyling services without a license or permit if they take a one-time, four-hour course; BCE has no mechanism to enforce this requirement. (pp. 32-33)
- Most licensees reported satisfaction with BCE’s license application processes, but some had difficulty getting clear answers to their questions. (pp. 42-46)
- Even though cosmetology practitioners may perform all, or nearly all, of the same services as barbers, the state uses two different boards to regulate these occupations. This has resulted in regulatory inconsistencies and may not be the most efficient use of state resources. (pp. 53-63)

Key Recommendations:

- The Legislature should simplify Minnesota’s licensing structure for practitioners and modify certain licensing requirements. (pp. 19-20, 24-25, 36)
- The Legislature should authorize a specialty license for practitioners who wish to perform only hair services. (pp. 27-28)
- The Legislature should allow BCE to issue just one type of salon license, since the health and safety requirements for all salons are now the same. (p. 30)
- The Legislature should require unlicensed practitioners who perform makeup and hairstyling to register with BCE, and BCE should post the registrations on its website. (pp. 34-35)
- The Legislature should clarify the scope of practice for cosmetology practitioners and barbers, and consider whether it makes sense to continue regulating them separately. (pp. 56-57, 59, 64-66)

Minnesota regulates cosmetology to protect public health and safety, but some of the state’s requirements may be unnecessary.

Report Summary

The Board of Cosmetologist Examiners (“BCE” or “Board of Cosmetology”) regulates cosmetology in Minnesota to protect public health. The practice of cosmetology includes services related to the cosmetic care of hair, skin, and nails. Cosmetology services are regulated only when provided in exchange for compensation.

State law requires cosmetology practitioners to be licensed. In most cases, practitioners may provide services only in licensed establishments. In 2020, BCE oversaw around 32,900 licensed practitioners and 5,350 licensed establishments (including 5,312 salons and 38 schools).

The board is composed of six licensed cosmetology practitioners and one public member. In Fiscal Year 2020, BCE had 31 employees who were responsible for issuing licenses, inspecting cosmetology establishments, and taking enforcement actions. This evaluation focused on BCE’s licensing structure, requirements, and processes.

Certain aspects of Minnesota’s complex licensing structure do not contribute to the protection of public health, but do create unnecessary burdens for licensees.

Minnesota’s licensing structure for cosmetology practitioners is organized along two dimensions—level and area of practice. Practitioners may hold licenses at one or more of the following levels: operator, salon manager, instructor, and school manager. Practitioners may also hold licenses in various areas of practice. For example, “estheticians” provide cosmetic skin services; “nail technicians” provide cosmetic nail services; and “cosmetologists” provide cosmetic skin, nail, and hair services.

Changes in law over time have reduced the value of the salon manager level within the licensing structure. For example, a practitioner no longer needs 2,700 hours of recent work experience to obtain the license. As a result, the Legislature should consider eliminating the salon manager license.

Even though the requirements for an instructor and a school manager license exceed most of the requirements for an operator or salon manager license, state law requires practitioners to maintain one of these latter licenses along with their instructor or school manager license(s). The Legislature should allow instructor and school manager licenses to supersede underlying operator or salon manager licenses so practitioners do not need to maintain multiple levels of licensure.

The licensing structure offers specialty licenses for practitioners who perform only skin or nail services, but not those who perform only hair services. The Legislature should create another specialty license so practitioners who wish to provide only hair-related services may be trained more quickly and at less cost. It could also consider creating other narrow-scope specialty licenses, such as for waxing.

The board currently issues just one type of salon license, even though statutes require it to issue licenses that are differentiated according to the type of services offered in the salon.

In 2016, BCE updated its rules, making the physical and infection-control requirements for all types of salons the same. In 2018, BCE began issuing just one type of salon license instead of separate licenses for esthetics salons, nail salons, and cosmetology salons.

However, despite the rule change, statutes still require BCE to issue salon licenses that are differentiated by area of practice. Given the alignment of salon requirements in rules, the Legislature should modify statutes to allow BCE to issue just one type of salon license.

State law allows practitioners to provide regulated cosmetology services outside of licensed salons under certain conditions. Some of these conditions are incongruous or unenforceable.

BCE issues a special event services permit that allows licensed practitioners to provide a very narrow set of regulated services outside

Under Minnesota’s complex cosmetology licensing structure, some practitioners and establishments must hold numerous licenses.

of a licensed salon (hairstyling and makeup and nail polish application only). It also issues a homebound services permit that allows licensed practitioners to provide every type of regulated cosmetology service in the homes of persons who are homebound.

Even though the scope of the special event services permit is far narrower, the requirements for it are more stringent than those for the homebound services permit. The Legislature and BCE should consider whether allowing practitioners to perform every type of regulated service under a permit—as is the case with the homebound services permit—adequately protects public health and safety. The Legislature should also consider merging the two permits into a single off-premises permit and establishing requirements that align with the services authorized under the new permit.

In 2020, the Legislature began allowing practitioners to provide regulated makeup and hairstyling services outside of a licensed salon *without a license or permit* if they take a four-hour course on health, safety, infection control, and state cosmetology laws. BCE has no effective means to enforce this requirement. The Legislature should require practitioners who have taken the course to register with BCE, and BCE should audit a sample of those registrations. BCE should also post those registrations on its website so members of the public know who is qualified to perform such services.

Most licensees reported general satisfaction with the board's license application processes, but some had difficulty getting answers to questions.

We surveyed and spoke with licensees about their experiences with BCE's licensing processes. The majority of respondents reported satisfaction with BCE's application processes, website, and communication. Representatives from schools, which are subject to more extensive application processes, were less satisfied with BCE's application processes.

In addition, some licensees reported difficulty getting answers to their questions, such as whether certain services fall within

the scope of practice of their licenses. BCE leadership said staff have been advised not to answer such questions, as their responses could be perceived as offering legal advice or conducting unauthorized rulemaking.

The U.S. has no national standards for cosmetology licensure; as a result, requirements vary across states, which can pose challenges for practitioners who wish to transfer their licenses.

In the absence of national standards, we compared Minnesota's licensing requirements to those of other states. Although Minnesota's licensing standards were comparable to national averages and those of neighboring states in 2017, they were not identical. For example, both Iowa and South Dakota required 2,100 hours of training for a cosmetologist license, compared to Minnesota's 1,550 hours.

Such differences can make it challenging for practitioners to transfer their licenses across states. For example, to transfer their license to Minnesota, a practitioner with fewer than three years of experience and fewer hours of training than required by Minnesota law would need to enroll in a Minnesota cosmetology school to make up those hours and pass a practical skills test.

The Legislature could authorize BCE to enter into an interstate compact in which Minnesota accepts licenses from states with similar, but not identical, requirements. Such a compact could make it easier for practitioners to transfer their licenses and for BCE to process transfer applications, while still protecting public health and safety.

State law provides a special process for veterans and military family members to transfer their cosmetology licenses to Minnesota. But, these practitioners are subject to some more stringent requirements than are other practitioners who wish to transfer their licenses to Minnesota. The Legislature and BCE should modify the requirements for these practitioners to make the process more equitable for them.

The scope and requirements for the board's permits need further review.

Cosmetology practitioners may perform all, or nearly all, of the services that barbers may perform, but Minnesota uses two different agencies to regulate these occupations.

Barbering and cosmetology regulation have long histories in the state, with historical restrictions on which genders the two occupations could serve. Lawsuits and changes to law have effectively eliminated those differences.

Today, both cosmetologists and barbers may color, bleach, wave, straighten, and cut hair. Some regulators and practitioners believe that only barbers may shave beards, and that only cosmetology practitioners may perform waxing. But these distinctions are not supported by current law. If the Legislature intended for these services to be solely within the scope of one occupation or the other, then it should clarify its intentions in law.

Despite significant overlap in their training, state law does not offer any reciprocity between cosmetology credentials (which are issued by BCE) and barbering credentials (which are issued by the Board of Barber Examiners). This means that, for example, a cosmetology practitioner would need to complete all of the requirements for a barber

to become a barber, and vice versa, even though both receive training in subjects such as anatomy, dermatology, chemistry, and infection control.

Because cosmetology and barbering have been regulated by two different agencies for most of their histories, inconsistent requirements and regulatory practices have emerged across these two highly related occupations. For example, under certain circumstances, cosmetology practitioners may provide services for a fee outside of a licensed establishment; barbers may not. Cosmetology practitioners must regularly complete continuing education; barbers are not subject to similar requirements.

Given the significant overlap between cosmetology and barbering, we question the rationale for using two separate agencies to regulate these occupations. In 2003, the Legislature merged the cosmetology and barber boards; but, it separated them only five years later amid tensions. The Legislature could consider merging the boards again to increase regulatory consistency across two such similar occupations, and to facilitate an efficient use of state resources. It could also clarify the scopes of practice for the two occupations and/or offer license reciprocity between them.

Confusion exists about the differences between the services that cosmetologists and barbers may perform.

Summary of Agencies' Responses

In a letter dated May 19, 2021, the Board of Cosmetology's Board Chair and Executive Director stated that the board is open to changes that OLA recommends to the licensing structure. In the letter, they said the board recommends that the Legislature establish an advisory committee to facilitate the development of such changes. They also said the board supports OLA's recommendation that the Legislature allow it to issue just one type of salon license. Additionally, in a letter dated May 20, 2021, the Board of Barber Examiners' Executive Director stated that he and the Board Chair support OLA's recommendation that the Legislature allow reciprocity between cosmetology and barbering credentials and clarify the scopes of practice for cosmetologists and barbers. In addition, in their letters, representatives from both the cosmetology and barbering boards said they do not support merging the boards.

The full evaluation report, *Board of Cosmetology Licensing*, is available at 651-296-4708 or:
www.auditor.leg.state.mn.us/ped/2021/cosmetology.htm

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Introduction

The Minnesota Board of Cosmetologist Examiners (BCE) regulates the practice of cosmetology, which involves services on the hair, nails, and skin.¹ According to state law, the board regulates cosmetology to protect public health and safety.² However, the field of cosmetology is ever changing, as practitioners and others develop new services and techniques. This frequent evolution poses challenges to the state's regulatory efforts.

In April 2020, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate the Board of Cosmetology. Based on stakeholder concerns and available resources, we chose to focus the evaluation on the board's licensing activities. Our key evaluation questions were:

- 1. What types of licenses does the Board of Cosmetology issue and how are those licenses structured?**
- 2. To what extent does Minnesota's licensing structure minimize unnecessary barriers to licensure for practitioners and establishments, while still protecting public health and safety?**
- 3. What processes does the board use to issue licenses? To what extent does the Board of Cosmetology communicate with licensees about licensing issues in a clear and timely manner?**

To evaluate this topic, we used a range of research methods. We reviewed Minnesota's cosmetology licensing structure and requirements and compared them to those in other states. We surveyed a random sample of cosmetology practitioners and establishments, and spoke or corresponded with representatives from state and national cosmetology professional associations and other regulatory agencies in Minnesota. In addition, we spoke or corresponded with board staff and board members; analyzed the board's licensing data and documents; and reviewed its recent appropriations, fee receipts, and expenditures.

We present our evaluation findings and recommendations in four chapters. In Chapter 1, we provide background information about the Board of Cosmetology and about the history and scope of cosmetology regulation in Minnesota. In Chapter 2, we outline the board's licensing structure and requirements and discuss issues we found with them. In Chapter 3, we discuss the board's application processes and licensees' experiences with those processes. Finally, in Chapter 4, we discuss the relationship between the state's regulation of cosmetology and barbering.

¹ Although officially called the "Board of Cosmetologist Examiners" in law, the board rebranded itself as the "Board of Cosmetology" in 2017. We use the abbreviated name when referring to the board throughout this report.

² *Minnesota Statutes* 2020, 155A.21.



Chapter 1: Background

Minnesotans frequent the roughly 5,300 salons located in the state to receive a wide range of cosmetology services. The state of Minnesota regulates three broad categories of cosmetology-related services—those related to the (1) skin, (2) nails, and (3) hair.¹ Practitioners who perform services on skin, such as facials, are called “estheticians” and practitioners who perform services on nails, such as manicures, are called “nail technicians.” Practitioners who perform both skin and nail services, as well as hair services, such as haircuts, are called “cosmetologists.”²



Cosmetology

State law defines the practice of cosmetology as “personal services, for compensation, for the cosmetic care of the hair, nails, and skin.”

— *Minnesota Statutes 2020*,
155A.23, subd. 3

In this chapter, we discuss why the state of Minnesota regulates cosmetology and provide background information about the Board of Cosmetologist Examiners (BCE), the agency that oversees cosmetology regulation in the state.³ We also discuss the history and scope of cosmetology regulation in Minnesota.

Regulatory Purpose

The Minnesota Legislature has established that “no regulation shall be imposed upon any occupation unless required for the safety and well being of the citizens of the state.”⁴

The Legislature has determined that the state should regulate cosmetology for the purpose of protecting public health and safety.

The services that cosmetology practitioners perform on the skin, nails, and hair can pose various risks to public health and safety. For example, practitioners mix chemicals that they apply directly to customers’ hair and scalp to change the texture or color of the hair. They use implements to exfoliate the skin, and glues next to customers’ eyes to attach individual fibers to their eyelashes. Practitioners must be able to identify whether a customer is having an adverse reaction to a chemical or whether a service could cause injury, given the characteristics or health of a customer’s skin.

¹ *Minnesota Statutes 2020*, 155A.23, subd. 3.

² In this report, we use the term “cosmetology practitioner” to refer generically to any individual licensed by BCE, including cosmetologists, estheticians, advanced practice estheticians, nail technicians, eyelash technicians, salon managers, instructors, and school managers. We discuss these various types of practitioners further in Chapter 2.

³ Although officially called the “Board of Cosmetologist Examiners” in law, the board rebranded itself as the “Board of Cosmetology” in 2017. We use the abbreviated name when referring to the board throughout this report. We also use the term “cosmetology” to refer generically to all of the cosmetic services that the board regulates, including services related to the skin, nails, and hair.

⁴ *Minnesota Statutes 2020*, 214.001, subd. 2.

In addition to the risk of injuries, cosmetology services carry the risk of spreading bacterial, fungal, and viral infections. Such risks derive from numerous sources, including blood on sharp tools, cross-contamination of instruments or surfaces, reuse of tools like razors, improper disinfection of equipment, inadequate management of cuts and abrasions, inconsistent hand hygiene or glove use, or lack of knowledge about appropriate procedures.⁵

According to statutes, “The legislature finds that the health and safety of the people of the state are served by the licensing of the practice of cosmetology because of infection control and the use of chemicals, implements, apparatus, and other appliances requiring special skills and education.”⁶ To protect public health and safety, state law prohibits persons from practicing cosmetology or operating a cosmetology salon or school in Minnesota without a license.⁷ It also prohibits persons from practicing cosmetology outside of a licensed salon, except in limited circumstances.⁸ It is important to note, however, that state law regulates the practice of cosmetology only when it is provided in exchange for compensation.⁹



The legislature finds that the health and safety of the people of the state are served by the licensing of the practice of cosmetology because of infection control and the use of chemicals, implements, apparatus, and other appliances requiring special skills and education.

— *Minnesota Statutes 2020, 155A.21*

Governance

In this section, we first provide an overview of the Board of Cosmetology’s authority and responsibilities, and then we provide an overview of its appropriations, expenditures, and fee receipts.

Authority and Responsibilities

As it has done with many other occupations in the state, the Legislature has vested the authority for regulating cosmetology-related occupations in a board.

The Board of Cosmetology is composed of six licensed cosmetology practitioners and one public member.

⁵ A. Popalyar, J. Stafford, T. Ogunremi, and K. Dunn, “Infection Prevention in Personal Services Settings: Evidence, Gaps, and the Way Forward,” *Canada Communicable Disease Report* 45, no. 1 (January 2019), 3.

⁶ *Minnesota Statutes 2020, 155A.21.*

⁷ *Minnesota Statutes 2020, 155A.22.*

⁸ *Minnesota Statutes 2020, 155A.29, subd. 1.*

⁹ *Minnesota Statutes 2020, 155A.23, subd. 3.*

As the box at right shows, the Board of Cosmetology is composed of various types of licensed cosmetology practitioners, as well as one member of the public. Each member of the board is appointed by the Governor.¹⁰ Board member terms are four years; there is no limit to the number of terms that members may serve.¹¹

The Board of Cosmetology's enabling statute grants the board significant regulatory authority. Among other things, the board is authorized by law to:

- License cosmetology practitioners and establishments.
- Establish qualifications for licensure.
- Establish standards for cosmetology school curriculum.
- Set infection-control standards.
- Inspect cosmetology salons and schools.
- Investigate complaints about licensees (along with the Office of the Attorney General).
- Take enforcement actions against licensees.

1	Cosmetologist
1	Cosmetologist recommended by a professional association
1	Esthetician
1	Nail technician
1	Instructor who teaches at a public cosmetology school
1	Instructor who teaches at a private cosmetology school
1	Member of the public
7	Total

The chapter of state law that governs Minnesota's licensing boards grants the Board of Cosmetology additional authority and responsibilities.¹² For example, the chapter establishes the procedures that the board must use when investigating complaints, and requires the board to submit biennial reports about its activities, such as the number of persons holding licenses issued by the board. Although the Board of Cosmetology serves a public-health purpose, state law classifies it as a "non-health-related licensing board" rather than a "health-related-licensing board."¹³ State law sets some different procedures and requirements for these two categories of boards, such as in how they are funded.

¹⁰ *Minnesota Statutes* 2020, 155A.20 (a).

¹¹ *Minnesota Statutes* 2020, 155A.20 (c); and 214.09, subd. 2.

¹² *Minnesota Statutes* 2020, Chapter 214.

¹³ The state of Minnesota has seven non-health-related licensing boards in addition to the Board of Cosmetology, including: the boards of (1) Accountancy; (2) Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design; (3) Assessors; (4) Barber Examiners; and (5) the Peace Officer Standards and Training Board; (6) the Private Detective and Protective Agent Services Board; and (7) the Professional Educator Licensing and Standards Board. The state has 17 health-related licensing boards. *Minnesota Statutes* 2020, 214.01, subds. 2 and 3.

At the end of Fiscal Year 2020, the Board of Cosmetology had 31 employees, whose responsibilities included processing license applications, inspecting establishments, and investigating complaints.

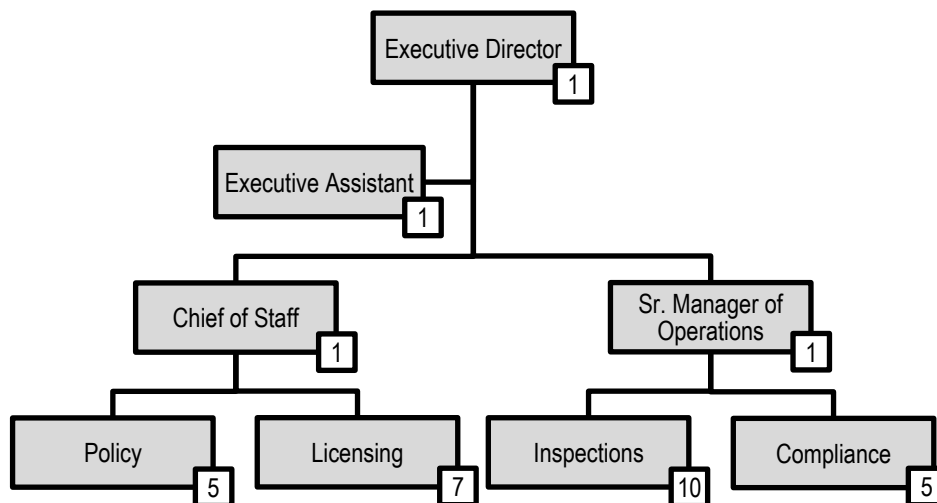
BCE staff are organized into four divisions: (1) Policy, (2) Licensing, (3) Inspections, and (4) Compliance. The organization chart below shows the number of employees the board had at the end of Fiscal Year 2020.¹⁴ Staff from BCE's Policy Division coordinate the agency's legislative and rulemaking initiatives and handle school licensure, among other things. In Fiscal Year 2020, the division issued 13 school licenses.

Staff from BCE's Licensing Division process license applications from cosmetology practitioners and salons. In Fiscal Year 2020, the division issued about 11,800 practitioner licenses and 1,860 salon licenses. That year, BCE oversaw a total of about 38,300 licensees, including practitioners, salons, and schools.

The Board of
Cosmetology oversaw
38,300
licensees as of the end
of Fiscal Year 2020.

Staff from BCE's Inspections Division inspect cosmetology salons and schools. According to BCE, its goal is to inspect each salon every 12 to 18 months and each school twice a year. BCE reported that, by the end of Fiscal Year 2020, it had inspected 56 percent of salons and 100 percent of schools within the past 12 months—a total of about 3,100 establishments.¹⁵

Board of Cosmetology Organization and Staff at the end of Fiscal Year 2020



¹⁴ Some of the positions depicted in the organization chart were vacant at the end of Fiscal Year 2020.

¹⁵ According to BCE, the COVID-19 pandemic reduced the number of inspections BCE staff could perform in 2020. At the end of the previous fiscal year (2019), BCE reported that staff had inspected 72 percent of salons and 100 percent of schools within the past year. Board of Cosmetology, *Legislative Report on Inspections: Second Quarter of 2019* (St. Paul, 2019). Board of Cosmetology, *Legislative Report on Inspections: Second Quarter of 2020* (St. Paul, 2020).

Staff from BCE's Compliance Division investigate complaints about licensees; they also investigate complaints about unlicensed persons performing regulated cosmetology services. BCE opens complaint investigations in response to complaints from the public and in response to infractions identified by its own Licensing and Inspections divisions. BCE reported that its Compliance Division received 179 complaints in Fiscal Year 2020. According to BCE, the Compliance Division conducts at least some level of review for every complaint and presents every complaint to the board's Complaint Committee for disposition. The division conducts more in-depth investigations of certain types of complaints and recommends enforcement actions to the Complaint Committee when warranted.

Appropriations, Expenditures, and Fee Receipts

The Board of Cosmetology collects both licensing fees and enforcement penalties from its licensees. Like other non-health-related licensing boards, BCE deposits receipts from these fees into the General Fund; BCE collected \$2.8 million in license fees and enforcement penalties in Fiscal Year 2020.¹⁶ BCE does not, however, deposit its receipts into a special revenue fund that supports its operations; rather, it is funded entirely through appropriations from the General Fund.

In Fiscal Year 2020, the Board of Cosmetology received \$2.9 million in appropriations, almost triple what it received in 2012.

Exhibit 1.1 shows BCE's appropriations, expenditures, and fee receipts from fiscal years 2012 through 2020. As the exhibit shows, BCE's appropriations have nearly tripled since 2012.

Much of the increase in BCE's appropriations occurred between fiscal years 2015 and 2016. During the 2015 legislative session, BCE's executive director testified that the board needed more staff to meet statutory deadlines for processing license applications and to conduct inspections and investigate complaints. That year, the Legislature increased BCE's 2016-2017 appropriations by 90 percent from the previous biennium. With the additional funds, BCE hired more staff. Its total staff complement grew from an estimated 15 full-time-equivalents in Fiscal Year 2015 to an estimated 26 in Fiscal Year 2020.¹⁷ According to figures BCE reported to us, with the additional staff, BCE issued 7 percent more licenses, conducted 24 percent more inspections, and processed 21 percent more complaints in Fiscal Year 2020 than it had in Fiscal Year 2015.

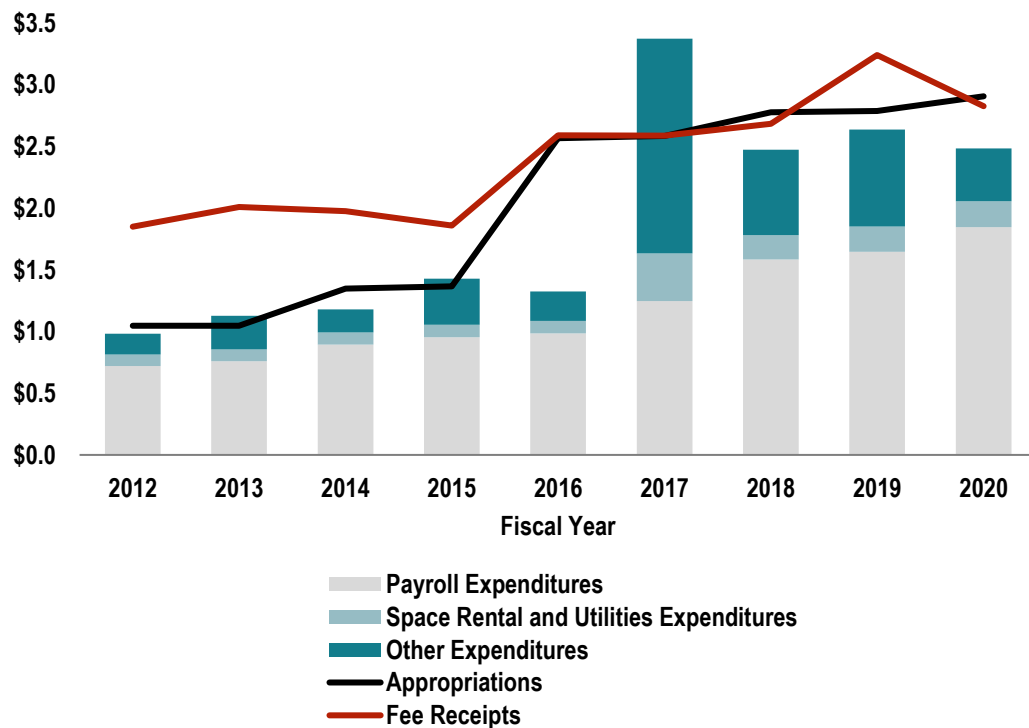
However, BCE also spent a significant amount of its increased appropriations on nonpayroll expenditures. In Fiscal Year 2017, BCE moved to a new office. That year, payroll accounted for only 37 percent of BCE's total expenditures—in other years, it accounted for the majority of the agency's spending. Instead, nonpayroll spending accounted for 63 percent of expenditures, with more than \$960,000 going toward expenditures categorized as equipment. According to BCE, these expenditures comprised costs related to the move, such as furniture and modifications to its new office space to accommodate its staff.

¹⁶ *Minnesota Statutes 2020*, 155A.25, subd. 1b(b).

¹⁷ The full-time-equivalents reported here are estimates provided by BCE; according to BCE, these figures include only paid hours and exclude vacancies and leaves.

Exhibit 1.1: The Board of Cosmetology's expenditures jumped significantly between fiscal years 2016 and 2017.

(In Millions)



NOTES: Expenditures, appropriations, and fee receipts are shown in nominal dollars. "Other Expenditures" includes spending related to professional-technical services, information technology services, travel, communications, equipment, supplies, and advertising. "Fee receipts" include both licensing fees and enforcement penalties.

SOURCES: Office of the Legislative Auditor, analysis of Board of Cosmetology expenditure and fee receipt data. *Laws of Minnesota* 2011, First Special Session, chapter 4, art. 1, secs. 2 and 10; *Laws of Minnesota* 2013, chapter 85, art. 1, secs. 2 and 10; *Laws of Minnesota* 2014, chapter 312, art. 4, secs. 1 and 2, subd. 11; *Laws of Minnesota* 2015, chapter 77, art. 1, secs. 1 and 28; *Laws of Minnesota* 2017, First Special Session, chapter 4, art. 1, secs. 1 and 29; *Laws of Minnesota* 2019, First Special Session, chapter 10, art. 1, secs. 1 and 28; and *Laws of Minnesota* 2020, chapter 106, sec. 5.

History and Scope of Cosmetology Regulation in Minnesota

Minnesota has regulated the provision of cosmetology-related services for more than a century. The state began regulating barbers in 1897 and “hair dressers and beauty culturists” (who later became known as “cosmetologists”) in 1927.¹⁸ As these services have evolved over the past century, so too has the state’s regulation of them.

Over time, Minnesota has authorized the Board of Cosmetology to regulate some cosmetology-related practices and not others; it has also authorized other state agencies to regulate related practices.

The field of cosmetology includes an array of practices. The Legislature has authorized the Board of Cosmetology to regulate some of them; it has authorized other state agencies to regulate others; and it has chosen *not* to regulate some. The courts have also helped to shape cosmetology regulation. Exhibit 1.2 contains a timeline of key events in the history of cosmetology regulation in Minnesota.

The Legislature has given the Board of Cosmetology broad authority to regulate practices performed for the cosmetic care of the hair, skin, and nails. In recent years, the Legislature has made a number of key changes to cosmetology regulation under BCE’s authority. For example, in 2015, it split the esthetics license, creating an advanced practice esthetics license for estheticians who perform services on deeper layers of the skin.¹⁹ The following year, it created a new license for practitioners who apply eyelash extensions.²⁰

The Legislature has also recently deregulated certain cosmetology practices that were previously under BCE’s jurisdiction. For example, in 2014, the Legislature deregulated threading, which is a method of pulling hair from the follicles using twisted thread.²¹ In 2020, the Legislature repealed certain requirements related to makeup application and hairstyling, which we discuss further in Chapter 2.²²

¹⁸ *Laws of Minnesota* 1897, Chapter 186; and *Laws of Minnesota* 1927, Chapter 245.

¹⁹ *Laws of Minnesota* 2015, chapter 77, art. 2, sec. 42, codified as *Minnesota Statutes* 2020, 155A.27, subd. 1.

²⁰ *Laws of Minnesota* 2016, Chapter 127, codified as *Minnesota Statutes* 2020, 155A.23, subds. 4a, 4b, 8, and 18; 155A.27, subd. 1; 155A.271; and 155A.29, subd. 1.

²¹ *Laws of Minnesota* 2014, Chapter 169.

²² *Laws of Minnesota* 2020, Chapter 106.

Exhibit 1.2: Minnesota has regulated hair and skin services since 1897.

1897	Legislature establishes the Board of Barber Examiners and barber registration
1927	Legislature establishes the Board of Hair Dressing and Beauty Examiners and introduces “hair dresser and beauty culturist” operator license
1974	Minnesota Supreme Court issues ruling that gives cosmetologists the right to cut men’s hair without obtaining a barber license
1981	Legislature transfers cosmetology regulation to what later becomes the Department of Commerce and creates the Cosmetology Advisory Council
2004	Legislature transfers cosmetology regulation from the Department of Commerce to a newly merged Board of Barber and Cosmetologist Examiners
2005	Hair braiders file lawsuit against the Board of Barber and Cosmetologist Examiners; court order prohibits the board from taking enforcement actions against hair braiders
2007	Legislature begins requiring hair braiders to take health and safety course and requires them to register with the board
2009	Legislature introduces the special event services permit
2009	Legislature splits the Board of Barber and Cosmetologist Examiners into two boards
2013	Legislature introduces continuing education requirements as a condition of license renewal
2014	Legislature increases board from four to seven members and changes membership qualifications
2014	Legislature exempts practitioners who perform eyebrow threading only from licensure
2015	Legislature introduces military temporary license for cosmetology practitioners
2015	Legislature bifurcates esthetics license, introducing the advanced practice esthetician license
2015	Legislature increases continuing education requirements
2015	Legislature increases licensing fees
2015	Legislature introduces mobile salon license
2016	Legislature introduces eyelash extension technician license
2016	Board of Cosmetology overhauls rules, modifying licensing requirements for practitioners
2018	Board of Cosmetology begins issuing a general cosmetology salon license, rather than licenses that are differentiated by salon type
2019	Legislature repeals hair braiding training and registration requirements
2020	Legislature exempts practitioners who perform only makeup application and hairstyling from licensing requirements if they take a four-hour course

SOURCES: Office of the Legislative Auditor review of session laws; *Minnesota Board of Barber Examiners v. Laurance*, 218 N.W.2d, 692, 696 (Minn. 1974); and *Anderson v. Minnesota Board of Barber and Cosmetologist Examiners*, Case 05-5467 (Minn. Dist. Ct., June 10, 2005).

In 2019, the practice of hair braiding (which is defined in the box on the following page) was also deregulated.²³ Hair braiding, like other hair services, poses some risks to public health and safety, such as through the spread of infection, injury from tools or techniques used to seal braids, or alopecia caused by poor braiding techniques.²⁴ In 2005, three Minnesota hair braiders sued the board for requiring braiders to obtain a cosmetology license even though braiding was not a part of the required curriculum for

²³ *Laws of Minnesota 2019*, First Special Session, chapter 10, art. 2, sec. 15.

²⁴ Numerous states license or otherwise regulate the practice of hair braiding.

cosmetology schools.²⁵ The lawsuit was settled when Hennepin County District Court issued an order that prohibited the board from requiring practitioners to obtain a license to perform braiding.

Two years later, in 2007, the Legislature began requiring hair braiders to receive up to 30 hours of training in health, safety, sanitation, and state laws, and to register as braiders with BCE.²⁶ But, in 2019, the Legislature repealed these requirements.²⁷

Other state agencies also regulate some services that are related or adjacent to cosmetology. Notably, the Board of Barber Examiners regulates barbering. Like cosmetologists, barbers perform services on the hair (as well as some services on the skin) that pose similar risks of infection and injury as those provided by cosmetology practitioners. Like cosmetology, the Legislature has chosen to regulate barbering to protect public health and safety. We discuss the Board of Barber Examiners further in Chapter 4.

Additionally, since Fiscal Year 2010, the Minnesota Department of Health (MDH) has licensed two kinds of “body artists” to protect public health and to comply with blood bank standards.²⁸ MDH licenses tattoo technicians who perform some cosmetology-related services including: applying permanent makeup (such as tattooed-on eyeliner); microblading (which involves tattooing semi-permanent fine lines that create the illusion of eyebrows); and applying micropigmentation (which neutralizes skin discolorations).²⁹ MDH also licenses body piercing technicians, who perform services such as piercing, branding, subdermal implantation, and tongue bifurcation.³⁰



Hair Braiding

“Hair braiding’ means a natural form of hair manipulation that results in tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair extensions into a variety of shapes, patterns, and textures predominantly by hand and by only using simple braiding devices and maintenance thereof. Hair braiding includes what is commonly known as ‘African-style hair braiding’ or ‘natural hair care’ but is not limited to any particular cultural, ethnic, racial, or religious forms of hair styles....”

— *Minnesota Statutes 2020, 155A.28, subd. 2*

Eyebrow Microblading



SOURCE: *Glo Rose*; <https://creativecommons.org/licenses/by-sa/2.0/deed.en>.

²⁵ *Anderson v. Minnesota Board of Barber & Cosmetologist Examiners*, Case 05-5467 (Minn. Dist. Ct., June 10, 2005). At the time of the lawsuit, the board regulated both cosmetology and barbering and was called the “Board of Barber and Cosmetologist Examiners.”

²⁶ *Laws of Minnesota 2007*, chapter 135, art. 3, sec. 3.

²⁷ *Laws of Minnesota 2019*, First Special Session, chapter 10, art. 2, secs. 15 and 27.

²⁸ *Laws of Minnesota 2010*, Chapter 317. “Body art” includes tattooing and body piercing. *Minnesota Statutes 2020*, 146B.01, subd. 4.

²⁹ *Minnesota Statutes 2020*, 146B.01, subds. 4, 18, and 30; and 146B.03, subd. 1(a).

³⁰ *Minnesota Statutes 2020*, 146B.01, subds. 4 and 6; and 146B.03, subd. 1(b). Ear piercing with a piercing gun is not a regulated practice.

Some practitioners and establishments may hold licenses from BCE, the Board of Barber Examiners, and MDH's Body Art Program. For example, an establishment might hold a salon license from BCE, a barbershop license from the Board of Barber Examiners, and a body art establishment license from MDH so it can employ one or more practitioners licensed to perform a variety of services, such as facials, microblading, and shaving.

The Legislature has also left some cosmetology-related practices largely unregulated. For example, although the state regulates makeup application in some settings, it does not regulate it at retail makeup counters where sales representatives apply makeup to induce customers to buy products. Because sales representatives are not providing cosmetic services in exchange for compensation, they are not subject to cosmetology licensing requirements.³¹

Similarly, the state does not regulate spas (except those that meet the definition of a salon), or certain services that occur within spas, such as: massage, acupuncture, aromatherapy, homeopathy, mind-body healing practices, healing practices using light or temperature, and herbalism.³² MDH's Office of Unlicensed Complementary and Alternative Health Care Practices may, however, investigate complaints and issue enforcement actions related to these otherwise unregulated services.

Finally, state law exempts services performed as part of the practice of medicine (or in some other fields) from cosmetology licensure.³³ As a result, some skin-care practitioners work in medical spas or medical clinics under the direction of a physician without a BCE-issued esthetician license.

³¹ *Minnesota Statutes* 2020, 155A.23, subd. 3. Some states do license or otherwise regulate practitioners who demonstrate makeup application or other cosmetic services.

³² *Minnesota Statutes* 2020, 146A.01, subds. 4 and 6; and 146A.02, subd. 1. While BCE does not broadly regulate massage or massage therapy, BCE-licensed practitioners do perform certain types of regulated massage services, such as facial massages as part of facials.

³³ *Minnesota Statutes* 2020, 155A.29, subd. 1; and 155A.34.

Chapter 2: License Structure and Requirements

Minnesota regulates certain occupations, including cosmetology, to protect the safety and well-being of its residents.¹ As we discussed in the last chapter, the practice of cosmetology carries various risks to public health and safety. Licensing is one way to protect public health and safety—by requiring aspiring workers to meet certain training, testing, or experience requirements before they are allowed to practice an occupation or operate an establishment where that occupation is practiced. But licensure can also create undue or unintended barriers for prospective licensees.

In this chapter, we examine Minnesota’s cosmetology licensing structure and requirements and identify some issues with them, including potential barriers to prospective and current licensees. To evaluate the structure and requirements, we surveyed licensees, spoke with state officials and representatives from professional associations, reviewed literature on occupational licensing, and looked at licensing structures and requirements in other states.

We begin the chapter with a discussion of Minnesota’s licensing structure and requirements for cosmetology *practitioners*, then we discuss its licensing structure and requirements for cosmetology *establishments* (i.e., salons and schools).² We conclude with a discussion about cosmetology practices that occur outside of licensed establishments.

Practitioner Licenses

In this section, we provide an overview of Minnesota’s licensing structure for cosmetology practitioners and the basic requirements for practitioner licenses. Then, we discuss a number of issues that we identified with the structure and requirements.

Overview

Minnesota’s licensing structure for cosmetology practitioners is complex.

Minnesota’s licensing structure for practitioners is organized along two dimensions—level of practice and area of practice.

The licensing structure includes four *levels of practice*. The first level includes the operator license, which allows a person to practice cosmetic services, such as cutting

¹ *Minnesota Statutes* 2020, 214.001, subd. 1.

² Throughout this chapter, we use the term “cosmetology” to refer broadly to all of the cosmetic services that the Board of Cosmetologist Examiners (BCE) regulates. Although officially called the “Board of Cosmetologist Examiners” in law, the board rebranded itself as the “Board of Cosmetology” in 2017. We use the abbreviated name when referring to the board throughout this report.

hair or providing manicures. The box at right shows the other levels within the structure, which include: a salon manager license, an instructor license, and a school manager license. A person must meet the qualifications for the operator license to obtain any other level of licensure.

Level	Authority
Operator	To practice in a given area, such as esthetics or nails
Salon Manager	To manage a salon
Instructor	To teach in a given area of practice in a cosmetology school
School Manager	To manage a cosmetology school

The second dimension of the licensing structure is *area of practice*. As we discussed in Chapter 1, BCE regulates three broad areas of cosmetic services—services related to (1) hair, (2) skin, and (3) nails.³ BCE issues “cosmetologist” licenses to practitioners who are qualified to perform services in all three of those areas.⁴ It issues specialty licenses to practitioners who are qualified to perform services in only one area. For example, it issues “esthetician” licenses to practitioners qualified to perform services on the skin, such as facials, and it issues “nail technician” licenses to practitioners who are qualified to perform services on the nails, such as manicures.⁵

In 2015, the Legislature created another specialty license—the “advanced practice esthetician” license—for estheticians qualified to perform more advanced esthetics services on deeper layers of the skin.⁶ And, in 2016, the Legislature created a specialty license for practitioners who only apply eyelash extensions.⁷



“Specialty License”

We use the term “specialty license” to refer to the esthetician, advanced practice esthetician, nail technician, and eyelash technician licenses.

Exhibit 2.1 outlines each area of practice. Some areas of practice within the licensing structure supersede others, as the exhibit shows. Notably, a cosmetologist license supersedes all of the specialty licenses—except for advanced practice esthetics. In addition, as the exhibit shows, one of the levels supersedes another level: The salon manager license supersedes the operator license, as we discuss later in the chapter.

³ *Minnesota Statutes* 2020, 155A.23, subd. 3.

⁴ *Minnesota Statutes* 2020, 155A.23, subd. 4.

⁵ Throughout this chapter, we use the term “cosmetology practitioner” to refer to persons licensed at any level within this structure and in any area of practice.

⁶ *Laws of Minnesota* 2015, chapter 77, art. 2, sec. 31, codified as *Minnesota Statutes* 2020, 155A.23, subd. 14.

⁷ *Laws of Minnesota* 2016, chapter 127, sec. 2, codified as *Minnesota Statutes* 2020, 155A.23, subd. 4b.

Exhibit 2.1: Practitioners may be licensed in general cosmetology, or in one or more specialty area(s).

License	Included in Area of Practice	Exclusions from Area of Practice	License Superseded
Cosmetologist	Cosmetic care of the hair, nails, and skin; includes: shampooing, cutting, coloring, waving, and styling the hair, eyebrows, or eyelashes; and using a razor to remove hair from the head, face, and neck	Advanced practice esthetics	Nail technician, esthetician (but not advanced practice esthetician), eyelash extension technician
Nail Technician	Cosmetic care of the hands, feet, and nails; includes: trimming and coloring the nails; applying artificial nails; callous removal; massaging the hands, feet, and lower arms and legs; among other things	Hair, esthetics (including waxing), eyelashes, and eyebrows	None
Esthetician	Cosmetic care of the stratum corneum layer of the epidermis (outermost layer of the skin), includes: facials; basic exfoliation; hair removal, such as through waxing or tweezing; eyebrow and eyelash services; and makeup application; among other things	Hair, nails, lasers, injectables, and advanced practice esthetics	Eyelash extension technician
Advanced Practice Esthetician	Cosmetic care of the epidermal layer of the skin, including the use of mechanical or electrical skin care apparatuses; includes: advanced exfoliation, such as microdermabrasion; lymphatic drainage; and electrical energy treatments; among other things	Hair, nails, lasers, injectables	Esthetician
Eyelash Extension Technician	Application, removal, and trimming of threadlike fibers to the eyelashes; cleansing the eye area and eyelashes	Hair; nails; esthetics; eyebrows; and coloring, waving, or straightening eyelashes	None

NOTE: This exhibit does not list every service that may be performed under these licenses.

SOURCES: *Minnesota Statutes* 2020, 155A.23, subds. 3, 4, 4b, 5, 7, and 14; and *Minnesota Rules*, 2105.0105, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

Throughout this report, we use the term “scope of practice” to refer to the area and level of practice that practitioners may perform under the licenses they hold. For example, if a practitioner held a nail technician salon manager license, then both performing manicures and managing a salon would be within that practitioner’s scope of practice.



“Scope of Practice”

The range of services that state law authorizes each of the various cosmetology practitioners to perform according to both the area of practice and level of practice for the license they hold.

Exhibit 2.2 outlines the licensing requirements for the various practitioner licenses. Statutes establish only basic requirements for these licenses; they authorize BCE to establish others, which it has done through rulemaking. For example, statutes define the types of licenses that BCE may issue, establish how much BCE must charge for those licenses, and require BCE to test applicants' knowledge (with some exceptions) before issuing a license.⁸ BCE, on the other hand, has established the number of hours of training that aspiring practitioners must complete to obtain a license, the specific subjects that they must study, and the types of tests that they must pass.

Exhibit 2.2: Statutes and rules establish key licensing requirements for cosmetology practitioners.

License	Initial License Requirements	Three-Year Renewal Requirements
Operator	<ul style="list-style-type: none"> Receive a specified number of hours of training (1,550 hours for a cosmetologist; 600 hours for an esthetician, plus an additional 500 hours for an advanced practice esthetician; 350 hours for a nail technician; and 38 hours for an eyelash extension technician) and complete a practical skills test. Pass three written exams, including a general theory exam, a practical exam, and an exam on state cosmetology laws. Pay a \$195 three-year license fee. 	<ul style="list-style-type: none"> Complete 8 hours of continuing education, including 4 hours on health, safety, infection control, and state cosmetology laws; and 4 hours on various subjects related to the licensee's scope of practice.^a Pay a \$115 three-year license fee.
Salon Manager	<ul style="list-style-type: none"> Already hold an underlying operator license, or meet the underlying requirements for that license. Pass a written exam on state cosmetology laws. Pay a \$195 three-year license fee. 	<ul style="list-style-type: none"> Complete 8 hours of continuing education, including 4 hours on health, safety, infection control, and state cosmetology laws; and 4 hours on various subjects related to the licensee's scope of practice. Pay a \$145 three-year license fee.
Instructor	<ul style="list-style-type: none"> Hold an active operator or manager license and document at least 2,700 hours of licensed practice in the field. Complete a course on teaching methodology and pass three written exams. Pay a \$195 three-year license fee. 	<ul style="list-style-type: none"> Complete 45 hours of continuing education on teaching methodology and clinical practice. Pay a \$145 three-year license fee.
School Manager	<ul style="list-style-type: none"> Hold an active cosmetologist salon manager license. Pass a written exam on state cosmetology laws. Pay a \$195 three-year license fee. 	<ul style="list-style-type: none"> Complete 4 hours of continuing education on business practices. Pay a \$145 three-year license fee.

^a Eyelash extension technician operators must take a total of only four hours of continuing education; unlike other operators, they do not need to take an additional four hours on subjects related to the scope of their license.

SOURCES: *Minnesota Statutes* 2020, Chapter 155A; *Minnesota Rules*, Chapter 2105, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020; and *Minnesota Rules*, Chapter 2110.0525, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

⁸ *Minnesota Statutes* 2020, 155A.23; 155A.25; and 155A.27, subds. 2 and 5.

The requirements for an operator license vary by area of practice. Rules require aspiring cosmetologists to take 1,550 hours of preclinical and clinical training in a variety of subjects, such as infection control, chemistry, dermatology, haircutting, and waxing.⁹ Rules require fewer hours of training for students seeking specialty licenses, as Exhibit 2.2 shows. The requirements for other levels within the licensing structure are the same across each area of practice. For example, all operators must pass the same exam on state cosmetology laws to obtain a salon manager license.

To renew a license, practitioners must complete continuing education requirements within their three-year license renewal period. For example, most operators must complete eight hours of continuing education, including three hours related to health, safety, and infection control; one hour related to state laws about cosmetology practice; and four hours on various subjects related to the licensees' scope of practice.¹⁰ As Exhibit 2.2 shows, and as we discuss later in the chapter, the continuing education requirements vary for other levels within the licensing structure.

In the remainder of this section, we discuss a number of issues we found related to the licensing structure and requirements for cosmetology practitioners.

Salon Managers

The salon manager license has existed within Minnesota's licensing structure since the state began regulating cosmetology in 1927.¹¹ At that time, practitioners who held a "manager-operator" license were responsible by law for supervising cosmetology school graduates with temporary practitioner licenses.¹²

The salon manager license offers little value from a state regulatory perspective.

Changes to law over time have reduced the importance of having a distinct license for salon managers. The function of the manager-operator license that was envisioned in 1927—to supervise practitioners with temporary licenses—no longer exists because only fully licensed practitioners may perform regulated cosmetology services in salons today.

More recent changes to law have further reduced the value of the license from a public health and safety regulatory perspective. Notably, in 2020, BCE repealed a rule that required operators to have at least 2,700 hours of recent work experience to obtain a salon manager license.¹³ In its rulemaking materials, BCE reported that the work experience requirement had been based on the historical responsibility of the salon

⁹ *Minnesota Rules*, 2110.0510, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

¹⁰ Eyelash technicians must complete only three hours of continuing education on health, safety, and infection control, and one hour on state laws about cosmetology practice. They do not need to complete an additional four hours on subjects within their scope of practice.

¹¹ *Laws of Minnesota 1927*, chapter 245, sec. 2(c).

¹² *Laws of Minnesota 1927*, chapter 245, secs. 2(c) and 9.

¹³ *Minnesota Rules*, 2105.0145, subp. 2A, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020; and *Minnesota Rules*, 2105.0145, subp. 2A(2), <https://www.revisor.mn.gov/rules/2105/version/2018-10-08T09:55:33-05:00>, accessed September 25, 2020, published in 2018.

manager to oversee newly licensed practitioners, and that it had come to pose as an “unreasonable barrier” for those who wished to open and manage their own salons.¹⁴

With the repeal of the experience requirement, a practitioner now needs only to pass one additional exam on state cosmetology laws (in addition to meeting the requirements for an operator license) to obtain a salon manager license.¹⁵ BCE’s testing vendor, which develops and administers the exam, publishes an information bulletin for applicants that lists the provisions in law that are covered on the exam. Applicants may use the bulletin to identify which provisions in law they should study before taking the exam.

The bulletin shows that all of the provisions covered on the exam for salon managers are already covered in the operators’ exam, including the subjects in the box at right. The salon manager exam covers a narrower subset of some of those provisions—emphasizing, for example, aspects of those provisions related to salon insurance, disinfectants, and compliance penalties.¹⁶

Another recent change in law also reduced the need for the salon manager license from a regulatory perspective. In 2015, the Legislature codified a BCE rule requiring each salon to register with BCE the name of the salon’s “designated licensed salon manager” (DLSM).¹⁷ According to statutes, the DLSM is the person who is responsible, along with the salon owner, for both salon and practitioner compliance.¹⁸ To serve as the DLSM for a salon, a practitioner must hold a salon manager license, and the salon where the practitioner will serve as DLSM must register that person’s name with BCE. As part of that registration process, DLSMs must sign and notarize a statement acknowledging that their responsibilities include ensuring the salon and its practitioners are in compliance with state law.

Given the repeal of the experience requirement, the significant overlap in the exams for the operator and manager licenses, and the registration requirements for DLSMs, we questioned whether the salon manager license provides much, if any, value from a

The Board of Cosmetology’s exam for operators on state cosmetology laws covers the same subjects as its exam for salon managers, including:

- ✓ Advertising
- ✓ Continuing education
- ✓ Definitions
- ✓ Display of license
- ✓ Enforcement, violations, and penalties
- ✓ Infection-control requirements
- ✓ Inspections
- ✓ Intoxicants and controlled substances
- ✓ License renewal timing and requirements
- ✓ Licensed services not offered in a licensed salon
- ✓ Salon operational requirements
- ✓ Salon physical requirements
- ✓ Salon prohibitions
- ✓ Salon supervision
- ✓ Scope of practice for each type of practitioner
- ✓ Types of salons and maintaining salon licenses

¹⁴ Minnesota Board of Cosmetologist Examiners, *Statement of Need and Reasonableness: In the Matter of Proposed Revisions of Minnesota Rule Chapters 2105 and 2110 Governing Licensing and Practice, Revisor’s #4552, OAH 71-9013-36146* (St. Paul, 2019), 13.

¹⁵ *Minnesota Rules*, 2105.0145, subp. 2A, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

¹⁶ The provisions about “salon supervision” are related to the requirements to maintain salon records and have a designated licensed salon manager, which we discuss more below.

¹⁷ *Laws of Minnesota* 2015, chapter 77, art. 2, sec. 32, codified as *Minnesota Statutes* 2020, 155A.23, subd. 15.

¹⁸ *Minnesota Statutes* 2020, 155A.23, subd. 15.

regulatory perspective. Rules explicitly state that *all licensees*, not just the DLSP, are responsible for ensuring that infection-control requirements in a salon are met.¹⁹ Salon managers are not subject to any additional training beyond what operators receive, and they are subject to the exact same continuing education requirements.

RECOMMENDATION

The Legislature should consider repealing the salon manager license.

From a regulatory perspective, it is not clear that imposing the salon manager license produces any public health or safety benefits. Statutes state that “no regulation shall be imposed upon any occupation unless required for the safety and well being of the citizens of the state.”²⁰ Statutes also state that, when evaluating whether to regulate an occupation, the Legislature should consider:

1. The health and safety impacts of not regulating the occupations.
2. Whether the occupation requires specialized skill or training.
3. Whether the public may be effectively protected by other means.
4. Whether the cost effectiveness and economic impact of regulating the occupation would be positive for the citizens of the state.²¹

In its current form, we do not think the salon manager license is justifiable against these criteria.

Although the current requirements to obtain and maintain a salon manager license are relatively minor—compared to other levels within the cosmetology licensing structure—they are not insignificant. The time it takes to study for and take the salon manager exam (which may take multiple tries) and the associated costs (which include exam, application, and license fees) could pose challenges for a person trying to open a new business.

If the Legislature repeals the salon manager license, salons could designate a person with an operator license to register with BCE as the DLSP. This is in fact what barbershops in Minnesota do, since a shop manager license does not exist within the barber credentialing structure. Like salons, barbershops must designate a registered barber to serve as the manager of the barbershop.

If the Legislature repeals the salon manager license, BCE could include a few additional questions on the operator exam about issues that are currently emphasized on the salon manager exam. Or, BCE could simply require salons to attest when registering their DLSPs that they have reviewed the portions of state law that are currently covered by the salon manager exam.

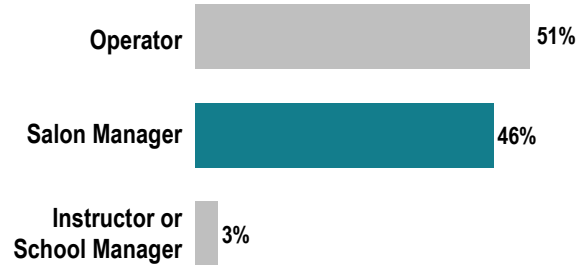
¹⁹ *Minnesota Rules*, 2105.0375, subp. 1, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²⁰ *Minnesota Statutes* 2020, 214.001, subd. 2.

²¹ *Ibid.*

Although we do not think the salon manager license is necessary from a state regulatory perspective, BCE leadership told us that some practitioners and salons use the license for their own purposes. In fact, many practitioners hold a salon manager license; the salon manager license composed close to half of all practitioner licenses that BCE issued in Fiscal Year 2020, as the box at right shows. However, a BCE official told us that many practitioners who hold a salon manager license do not actually serve as the DLSM for the salons where they work. Rather, they hold the license because their salons require them to do so as a qualification for employment, or because it signifies personal advancement in their profession. Again, even though the license may be common, we do not think it serves a necessary function from a state public health and safety perspective.

In Fiscal Year 2020, nearly half of the practitioner licenses that BCE issued were salon manager licenses.



Instructors and School Managers

Aside from the salon manager license, BCE issues two other levels of licensure that go beyond the operator license: instructor licenses and school manager licenses. In this section, we review the requirements for those licenses.

Because certain licenses within the licensing structure do not supersede others, some practitioners must maintain multiple levels of licensure.

As we discussed earlier, one of the levels within Minnesota’s practitioner licensing structure supersedes—or replaces—another level: The salon manager level supersedes the operator level. When operators obtain a salon manager license, they no longer need to apply for and pay to renew their operator license. Under a salon manager license, practitioners may both perform services within the scope of practice of their operator license and serve as the DLSM for a salon.

Unlike the salon manager license, the instructor and school manager licenses do not supersede a practitioner’s underlying license. As the box at right shows, to hold an instructor license, a person must maintain either an operator or a salon manager license.²² Similarly, to obtain a school manager license, a person must maintain a

Practitioners must hold an underlying license in order to obtain additional levels of licensure.

Level	Supersedes	Must Also Hold
Operator	–	–
Salon Manager	Operator license	–
Instructor	–	Operator or salon manager license
School Manager	–	Salon manager license

²² *Minnesota Statutes* 2020, 155A.23, subd. 11.

salon manager license.²³ As a result, all instructors and school managers must maintain multiple licenses to work in their fields or operate their businesses. Additionally, most school managers also serve as instructors; such practitioners must hold at least three licenses (a salon manager license, an instructor license, and a school manager license).

Various stakeholders, including both licensees and BCE officials, expressed concerns about requiring instructors and school managers to maintain multiple levels of licensure. One BCE official told us that they struggle to rationalize the cost and other renewal requirements for these licenses. Another BCE official described the number of licenses that instructors must hold as “burdensome.”

For the most part, the initial and ongoing requirements for instructor and school manager licenses include and go beyond the initial and ongoing requirements for the underlying licenses. A person must meet all of the requirements for an operator or salon manager license before they may obtain an instructor or school manager license. Additionally, a person must have substantial recent experience in the field (2,700 hours within the last three years) to obtain an instructor license.²⁴

Moreover, once they obtain an instructor or school manager license, they are subject to more continuing education requirements than operators or salon managers, as Exhibit 2.3 shows. On top of the 8 hours of continuing education they must take for their underlying operator or salon manager license, instructors must take an additional 15 hours of continuing education on clinical practice (for each instructor license they hold) and 30 hours on teaching methodology. Likewise, on top of the eight hours of continuing education they must take for their salon manager license, school managers must take an additional four hours of continuing education on business practices.



A person who manages and instructs in a cosmetology school needs to hold at least three licenses:

1. Cosmetology salon manager license
2. Cosmetology instructor license
3. Cosmetology school manager license

If that person also wished to teach advanced practice esthetics, then that person would need a total of five licenses (with the addition of an advanced practice salon manager license and an instructor license).

In total, this person would have to pay \$975 to obtain all of these licenses initially and pay \$725 every three years to renew them.



They should have a discount for two or more licenses. I have [an instructor] license and I have to have an operator license [and] I have a manager license.

— Licensee

²³ *Minnesota Statutes* 2020, 155A.23, subd. 16.

²⁴ *Minnesota Rules*, 2105.0145, subp. 4C, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

Exhibit 2.3: Continuing education requirements vary across license levels.

Required Continuing Education Subjects	Operator ^a	Salon Manager	Instructor	School Manager
Health, Safety, and Infection Control	3 hours	3 hours	–	–
State Laws about Cosmetology Practice	1 hour	1 hour	–	–
Professional Practice	4 hours on various subjects within the licensee's scope of practice ^b	4 hours on various subjects within the licensee's scope of practice ^b	15 hours on clinical practice in the field of licensure and 30 hours on teaching methodology	4 hours on business practices (which may also count toward the required hours for the salon manager license)
Total	8 hours	8 hours	45 hours + 8 hours for operator or salon manager license = 53 hours	4 hours + 8 hours for salon manager license = 12 hours

NOTE: Practitioner licenses have a duration of three years. Practitioners must complete continuing education hours during the three years prior to their license renewal due date.

^a Unlike all other operators, eyelash technicians must complete only three hours of continuing education on health, safety, and infection control, and one hour on state laws about cosmetology practice. They do not need to complete an additional four hours of courses on subjects within their scope of practice.

^b The “professional practice” subjects that may be included in these courses include: (1) product chemistry and chemical interaction; (2) proper use and maintenance of machines and instruments; (3) business management, professional ethics, and human relations; or (4) techniques relevant to the type of license held.

SOURCES: *Minnesota Statutes* 2020, 155A.271, subd. 1; and *Minnesota Rules*, 2105.0200, subps. 2, 2a, and 2b, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

Instructors must obtain separate licenses for each area of practice in which they teach, even though there are no special training requirements for each area of instruction.

Another reason why some practitioners must hold multiple licenses is because instructor licenses are differentiated by area of practice. For example, to teach in both cosmetology and advanced practice esthetics, a person must hold a cosmetology instructor license and a separate advanced practice esthetics instructor license. Practitioners who meet the minimum requirements to be an instructor in multiple areas of practice cannot hold just one instructor license.

To obtain an instructor license, a person must:

1. Obtain either an operator license or a salon manager license.
2. Have 2,700 hours of work experience in the area of practice in which they plan to teach.

3. Complete a BCE-approved course in teaching methodology.²⁵
4. Pass three additional written exams—a practical exam, a general theory exam, and an exam on state cosmetology laws.²⁶
5. Pay a \$195 license fee.

As listed above, to obtain an instructor license, practitioners must complete a course on teaching methodology and have work experience in each area of practice in which they plan to teach; but, they do not need to complete additional coursework related to their area(s) of practice or on teaching methods specific to their area(s) of practice.

Only practitioners with a cosmetologist license may manage a school; practitioners with a specialty license may not.

Unlike all other levels in Minnesota's practitioner licensing structure, the school manager level is not broken out by area of practice. According to statutes, only a person with a cosmetologist license may obtain a school manager license.²⁷ Nail technicians, for example, may not manage their own nail technology school; rather, they must hire a cosmetologist to serve as the school's manager. This also means that only a cosmetologist may manage a school that teaches advanced practice esthetics—even though advanced practice esthetics falls outside of the scope of practice for a cosmetologist. Similarly, although practitioners may obtain licenses to perform and teach eyelash extension services only, if they wish to open an eyelash extension school, then they must hire a cosmetologist to serve as the manager of that school.

Similar to salon managers, school managers' responsibilities relate to legal compliance and recordkeeping; they ensure that students and instructors properly document their hours of training.²⁸ School managers' responsibilities do not pertain to practicing or providing instruction in cosmetology. Therefore, we question why a school manager must hold a cosmetologist license as opposed to any other type of practitioner license. For example, we see no reason why a person with a nail technician license should not be able to manage a cosmetology school, given that the school manager's responsibilities relate to legal compliance and recordkeeping.

²⁵ Applicants who already hold an instructor license do not need to take this course again to obtain additional instructor licenses.

²⁶ Applicants who already hold an instructor license do not need to take these exams again to obtain additional instructor licenses.

²⁷ *Minnesota Statutes* 2020, 155A.23, subd. 16.

²⁸ *Minnesota Statutes* 2020, 155A.23, subds. 16-17; and *Minnesota Rules*, Chapter 2110, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

RECOMMENDATIONS

- **The Legislature should allow instructor and school manager licenses to supersede underlying licenses, and it should modify their renewal requirements.**
 - **The Legislature should allow practitioners with an operator license in any specialty—not just cosmetologists—to obtain a school manager license.**
 - **The Legislature could adopt an endorsement-based licensing structure.**
-

Because instructors and school managers have already met the initial requirements for their underlying licenses, and in most cases are subject to more stringent renewal requirements than those required for their underlying licenses, we do not think requiring them to maintain those underlying licenses serves any public health or safety regulatory purpose.

If the Legislature allows instructor and school manager licenses to supersede underlying licenses, then it should change their renewal requirements. Instructors and school managers should be required to complete the continuing education courses on health, safety, infection control, and state cosmetology laws that operators and salon managers must complete.²⁹ Such a requirement would ensure that changes to the licensing structure would not compromise the regulatory objective of protecting public health and safety.

Allowing instructor and school manager licenses to supersede underlying licenses would reduce application and license costs for practitioners who serve in multiple roles. Although this change could make a big impact on such practitioners, it would likely have little impact on the total fees collected by BCE, since instructor and school manager licenses compose such a small portion of the licenses that BCE issues. In Fiscal Year 2020, BCE issued just 189 instructor and school manager licenses. At most, these licenses would have composed less than 2 percent of the \$2.5 million in licensing fees that BCE collected in 2020.³⁰

Finally, because school managers are responsible for schools' legal compliance and recordkeeping—not for practicing cosmetology, managing a salon, or instructing students—we do not think the ability to hold that license should be limited only to persons who hold an underlying cosmetologist salon manager license. A person with any type of practitioner license should be allowed to hold a school manager license. A bill that was introduced in the 2021 legislative session would achieve a modified version of this recommendation.³¹ Exhibit 2.4 illustrates Minnesota's existing licensing structure for cosmetology practitioners and the simplified one that we propose. (The exhibit also shows what the structure would look like if the Legislature adopts our earlier recommendation to eliminate the salon manager license.)

²⁹ *Minnesota Statutes* 2020, 155A.271.

³⁰ Given data limitations, we could not precisely determine how much these licenses brought in during Fiscal Year 2020.

³¹ S.F. 1413, 2021 Leg., 92nd Sess. (MN).

Exhibit 2.4: Minnesota’s licensing structure for cosmetology practitioners could be simpler.

Current Structure

Area of Practice	Level of Practice			
	Operator	Salon Manager	Instructor	School Manager
Cosmetology	✓	✓	✓	✓
Nails	✓	✓	✓	x
Eyelash Extensions	✓	✓	✓	x
Esthetics	✓	✓	✓	x
Advanced Practice Esthetics	✓	✓	✓	x

Possible Simplified Structure

Area of Practice	Level of Practice		
	Operator	Instructor	School Manager
Cosmetology	✓	✓	✓
Nails	✓	✓	
Eyelash Extensions	✓	✓	
Esthetics	✓	✓	
Advanced Practice Esthetics	✓	✓	



NOTES: The table titled “Current Structure” illustrates the licenses that currently exist within Minnesota’s licensing structure for cosmetology practitioners. As the “x’s” indicate, under the current structure, only cosmetologists may hold a school manager license. The table titled “Possible Simplified Structure” illustrates the structure that we recommend—with the repeal of the salon manager license and school manager license that may be held by any type of operator.

SOURCE: Office of the Legislative Auditor.

To facilitate these various structural changes, the Legislature could consider adopting an “endorsement-based” licensing structure. Under an endorsement-based structure, a practitioner could hold just one license with endorsements. For example, a practitioner could hold a single license with endorsements to practice in esthetics and nails, as well as instructor endorsements in each of those areas, and a school manager endorsement. The Legislature could either impose a flat license fee that would cover all endorsements, or a flat fee plus additional smaller fees for each endorsement. As we discussed earlier, such changes would likely not have a significant impact on BCE’s fee receipts since instructor and school manager licenses compose such a small share of the licenses that BCE issues.



I would like to see a ‘master’ license that would [cost one \$145 fee] and then list the three licenses [that I hold].

— Licensee

The changes we propose here would offer a variety of benefits, such as simplifying the licensing structure, reducing the number of licenses that practitioners would have to hold and pay for, and reducing the number of license applications that BCE would have to process. In addition to benefits, these changes would likely create some costs, too. For example, BCE would need to modify its application materials and its licensing database. If the Legislature adopts these recommendations, then it should work closely with both BCE and licensees when crafting the legislation.

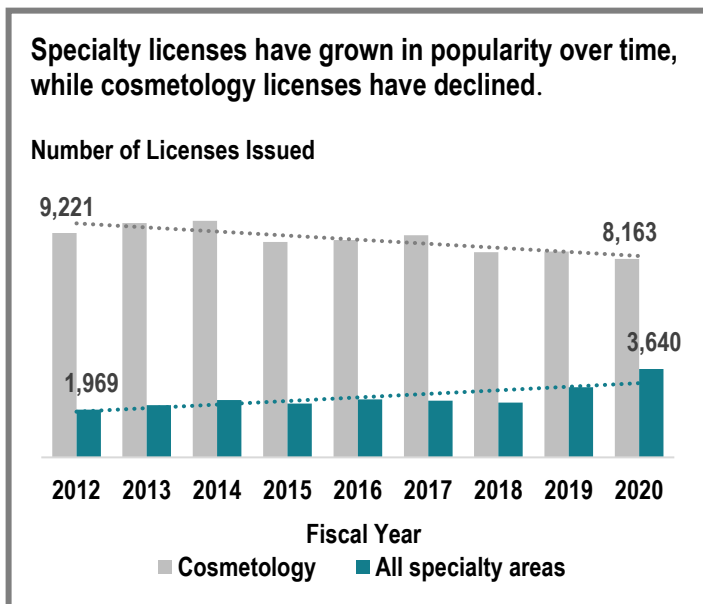
Specialty Areas

In the preceding sections, we explored issues related to the first dimension of BCE’s licensing structure for practitioners—level of practice. In this section, we explore issues related to the other dimension—area of practice.

BCE issues a cosmetologist license to practitioners who are qualified to perform services in all three areas of practice that BCE regulates (hair, skin, and nails); it offers specialty licenses to practitioners who practice in just one of those areas. Because specialty licenses have a narrower scope of practice than a cosmetologist license, practitioners who pursue them are able to become trained and licensed faster and at less cost than they would if they pursued a full cosmetologist license. For example, one cosmetology school in the Twin Cities metropolitan area charges half as much for its esthetics program compared to its cosmetologist program (about \$12,000 compared to about \$22,000); the esthetics program also takes less than half the amount of time to complete than the cosmetology program (about four months as opposed to ten).

Area of Practice	Hours Required
Cosmetologists	1,550
Estheticians	600
Nail Technicians	350
Eyelash Extension Technicians	38

Rules allow practitioners to credit some of the training that they received for their initial license toward an additional license.³² For example, someone with an esthetician license may count 550 hours of their training toward a cosmetologist license (which requires 1,550 hours of training). Likewise, someone with a nail technician license may count 200 hours of their training toward an esthetician license (which requires 600 hours of training). This means that practitioners who start out their careers with a specialty license may take more training later to “stack” their credentials to build their skills, their client-base, or their business over time.



In recent years, specialty licenses have become more popular, while cosmetologist licenses have become less popular, as the box at left shows. In Fiscal Year 2012, cosmetologist licenses made up 82 percent of all of the licenses that BCE issued; in Fiscal Year 2020, they dropped to 69 percent.

The rise in popularity of specialty licenses tracks with national projections about the growth of cosmetology-related fields. Nationally, the Bureau of Labor Statistics expects the esthetician and nail technician occupation groups to grow by 17 percent and 19 percent, respectively, from 2019 through 2029—rates that the bureau considers “much faster than average” compared to other

³² *Minnesota Rules*, 2110.0550, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020. Practitioners may credit their training toward an additional license only if they completed that training within the last five years.

occupations. In contrast, nationally, it expects the cosmetologist occupation group to decline by 1 percent over the same period.³³

Minnesota offers specialty licenses in only some of the key areas of cosmetology practice that the Board of Cosmetology regulates.

Minnesota offers specialty licenses in two of the three areas within the scope of a cosmetologist license—skin and nails—but not in the third area, hair. Practitioners who are only interested in providing hair services must obtain a full cosmetologist license, which means they must pay for and spend time training in esthetics and nails, in addition to hair. It also means that practitioners who are initially interested only in hair cannot start out just in hair, then later get more training to stack their credentials like practitioners with specialty licenses can; rather, their only avenue is to pursue a full cosmetology license.

Some licensees (such as the one quoted in the box at right) and BCE officials we spoke with expressed a desire for a hair-only specialty license. One BCE official estimated that the majority of practitioners who would otherwise pursue a cosmetology license would pursue a hair-only license if it were available.



I feel a separate ‘hair’ track should be considered for licensing people instead of making students pick “cosmetology” when they have no desire to do skin or nails.

— Licensee

Currently, at least a dozen states offer a hair-only license.

RECOMMENDATION

The Legislature should create a hair-only specialty license; it could also consider creating other narrow-scope specialty licenses.

To allow practitioners who wish to provide only hair-related services to become trained and licensed more quickly, the Legislature should establish a hair-only license. To ensure public health and safety, practitioners who perform hair-only services should receive the same basic health and safety training—such as in anatomy, dermatology, chemistry, safety procedures, and infection control—that cosmetologists and other specialty practitioners receive.

³³ The Bureau of Labor Statistics uses the terms “skincare specialists” and “manicurists and pedicurists” where we use the terms “esthetician” and “nail technician,” respectively. For what we term the “cosmetologist” occupation group, the bureau uses the category “hairdressers, hairstylists, and cosmetologists.” The bureau considers growth rates of 3 to 4 percent to be average. Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, Skincare Specialists*, <https://www.bls.gov/ooh/personal-care-and-service/skincare-specialists.htm>, accessed December 14, 2020; *Manicurists and Pedicurists*, <https://www.bls.gov/ooh/personal-care-and-service/manicurists-and-pedicurists.htm>, accessed December 14, 2020; and *Barbers, Hairstylists, and Cosmetologists*, <https://www.bls.gov/ooh/personal-care-and-service/barbers-hairstylists-and-cosmetologists.htm#tab-1>, accessed December 14, 2020.

Some stakeholders we spoke with said a hair-only license issued by BCE would essentially be the same as a barber credential, which is issued by another state agency, the Minnesota Board of Barber Examiners. We discuss this issue more in Chapter 4.

In addition to a hair-only license, the Legislature could consider creating other specialty licenses to allow persons interested in providing only a narrow subset of services, such as waxing, to be trained and licensed more quickly and at less cost. For example, according to BCE, many nail salons provide waxing services, even though this service is outside of the legal scope of practice for nail technicians. A separate waxing license would make it easier for persons to become licensed to wax without having to pursue a full cosmetology or esthetics license; in turn, that could help protect public health and safety because persons who currently perform waxing services illegally may be more likely to pursue a license, and thus receive proper training and oversight.

The Legislature already created one narrow-scope specialty license when it created the eyelash extension technician license in 2016.³⁴ Other states offer a variety of narrow-scope licenses or other credentials, such as for shampooing, blow-drying, waxing, and wig services. An endorsement-based licensing structure, which we discussed in the previous section, could facilitate the addition of more narrow-scope specialty licenses.

Establishment Licenses

In this section, we discuss Minnesota's cosmetology licensing structure and requirements for establishments, and some issues we found with them.

Overview

Compared to Minnesota's licensing structure for cosmetology practitioners, its structure for cosmetology establishments is relatively simple.

The Board of Cosmetology licenses two types of cosmetology establishments—salons and schools.

BCE currently issues just two types of establishment licenses: a cosmetology salon license and a cosmetology school license. Cosmetology salons provide services in all areas of practice (such as esthetics and nail services), and cosmetology schools provide instruction in all areas of practice.

Statutes establish some of the licensing requirements for salons and schools, such as requiring them to designate a salon or school manager and to obtain liability insurance, but they authorize BCE to establish other requirements, which it has done through rules.³⁵ For example, BCE has established infection-control standards for salons, and minimum standards for the content and length of the courses that schools must provide. Exhibit 2.5 outlines key licensing requirements for cosmetology establishments.

³⁴ *Laws of Minnesota* 2016, Chapter 127. The scopes of practice for the cosmetologist and estheticians licenses encompass the scope of practice for the eyelash extension license.

³⁵ *Minnesota Statutes* 2020, 155A.29 and 155A.30; *Minnesota Rules*, Chapter 2105, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020; and *Minnesota Rules*, Chapter 2110, <https://www.revisor.mn.gov/rules/2110/>, accessed July 31, 2020.

Exhibit 2.5: Statutes and rules set key licensing requirements for cosmetology establishments.

License	Initial License Requirements	Renewal Requirements
Salon	<ul style="list-style-type: none"> • Designate a licensed salon manager. • Meet physical, operational, and infection-control requirements, such as having a designated sink for handwashing and disinfecting tools; comply with state legal requirements about workers' compensation; and obtain professional liability insurance coverage. • Pay a \$350 three-year license fee. 	<ul style="list-style-type: none"> • Identify the current owner and designated salon manager. • Verify workers' compensation and professional liability insurance coverage. • Pay a \$225 three-year license fee.
School	<ul style="list-style-type: none"> • Designate a licensed school manager. • Employ licensed instructors; have at least two licensed instructors present at all times. • Provide instruction that meets minimum standards for length and content, and that will adequately prepare students for testing, licensing, and entry-level employment. • Have satisfactory and sanitary training facilities. • Have workers' compensation and professional liability insurance coverage, file a surety bond, and be in sound financial condition. • Pay a \$4,000 three-year license fee. 	<ul style="list-style-type: none"> • Provide a roster of the instructors and school manager. • Provide a list of courses offered, anticipated course schedule for the next 12 months, course enrollment, and any changes to the curriculum since BCE last approved it. • Verify ongoing workers' compensation coverage, professional liability insurance coverage, and surety bond. • Pay a \$2,500 three-year license fee.

NOTE: This table does not include every licensing requirement.

SOURCES: *Minnesota Statutes* 2020, 155A.23, subds. 9 and 10; 155A.25, subd. 1a(b)(4)-(7); 155A.29; and 155A.30; *Minnesota Rules*, Chapter 2105, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020; and *Minnesota Rules*, Chapter 2110, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

Salon Licenses

BCE currently issues just one type of salon license—a general cosmetology salon license. Statutes, however, require BCE to license salons by area of practice: “Each salon must be licensed as a cosmetology salon, nail salon, esthetician salon, advanced practice esthetician salon, or eyelash extension salon. A salon may hold more than one type of salon license.”³⁶

The Board of Cosmetology does not currently license salons by area of practice as required by statutes.

Prior to 2016, rules contained minor differences in the requirements for cosmetology salons versus esthetics and nail salons. Notably, rules exempted esthetics and nail salons from requirements related to hair services, such as the cleaning and disinfecting of combs, scissors, and rollers, and the removal of hair from the floor and sinks.

³⁶ *Minnesota Statutes* 2020, 155A.29, subd. 1.

Change to rules in 2016 made the physical and infection-control requirements for all types of salons the same. For example, all salons, regardless of type, are required to meet ventilation requirements and use hospital-grade disinfectants.³⁷ Then, in 2018, BCE stopped issuing salon licenses that were differentiated by area of practice and began issuing a single type of license.

Despite BCE's change in practice, statutes still require salons to be licensed by area of practice.³⁸ This means that, since 2018, BCE has not collected the correct amount of licensing fees from salons that should have held more than one type of license.³⁹ Prior to 2018, salons paid separately for each of their licenses; under BCE's current process, salons pay for just one license.

RECOMMENDATION

The Legislature should amend state law so salons no longer must be licensed by area of practice.

Statutes do not currently give BCE the authority to stop licensing salons by area of practice, but we think they should. The 2016 rule changes made the physical and infection-control requirements for all types of salons the same—rendering differentiated salon licenses unnecessary.

Further, differentiating salons by area of practice became more difficult with the advent of new specialty licenses in recent years (the advanced practice esthetician license in 2015 and the eyelash technician license in 2016). Differentiating salons by area of practice could become even more difficult if the Legislature introduces other specialty licenses, as we suggested earlier in the chapter.

Issuing a single type of salon license would streamline the application process for salons and reduce their application and licensing costs, as well as reduce the time and cost of processing license applications for BCE. It is worth noting that it would also result in lower licensing fee receipts for BCE; however, this reduction has already been occurring since 2018.⁴⁰

³⁷ *Minnesota Rules*, 2105.0360, subp. 7; and 2105.0375, subp. 4, A, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

³⁸ *Minnesota Statutes* 2020, 155A.29, subd. 1.

³⁹ An initial salon license costs \$350; renewal of a salon license costs \$225. These costs do not vary by the type of salon. *Minnesota Statutes* 2020, 155A.25, subd. 1a(b)(4)-(5).

⁴⁰ In 2018, BCE reported that this change affected approximately 130 salons that had previously held two salon licenses each, reducing the total number of salon licenses at the time from approximately 5,400 to approximately 5,270. Minnesota Board of Cosmetology, *February 12, 2018 Board Meeting Packet* (St. Paul, 2018), 366.

Practice Outside of Salons

For the most part, state law prohibits licensed practitioners from performing regulated cosmetology services outside of licensed salons.⁴¹ Licensed salons must adhere to requirements that protect public health and safety, such as having sinks for washing hands, adequate ventilation, and access to disinfectants. But practice outside of a salon may occur under some circumstances.

State law allows practitioners to perform regulated cosmetology services outside of a licensed salon if they hold a permit or meet certain other requirements or conditions.

Statutes allow licensed practitioners to work outside of a licensed salon if they obtain a permit. BCE issues two kinds of permits: a homebound services permit and a special event services permit. A homebound services permit allows licensed practitioners to perform services in nursing homes or in the homes of persons who are homebound.⁴² Under the permit, practitioners may provide all of the services allowed under their licenses. A special event services permit allows licensed practitioners to perform only a narrow subset of the services allowed under their license at special events, such as weddings. Under the special event services permit, licensed practitioners may perform:

1. Nonpermanent manipulation of the hair (hairstyling).
2. Makeup application and removal.
3. Nail polish application and removal.⁴³

In 2020, the Legislature began allowing practitioners who work in other settings to provide a limited number of regulated cosmetology services without a license or permit. The 2020 legislation allowed practitioners who perform only makeup application or hairstyling to provide services with neither a license nor a special event services permit if they take a BCE-approved four-hour course on health, safety, infection control, and state cosmetology laws, and carry proof that they completed the course when providing services.⁴⁴

⁴¹ As we discussed in Chapter 1, regulated cosmetology services are services done for the cosmetic care of the hair, nails, and skin only when done in exchange for compensation. *Minnesota Statutes* 2020, 155A.23, subd. 3; and 155A.29, subd. 1.

⁴² Rules define a person who is homebound as one “who lacks the physical or intellectual capacity for independent transportation and is unable to travel independently to a licensed salon.” *Minnesota Rules*, 2105.0010, subp. 10e; and 2105.0410, subp. 3, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

⁴³ *Minnesota Statutes* 2020, 155A.275; and *Minnesota Rules*, 2105.0410, subp. 2B, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

⁴⁴ *Laws of Minnesota* 2020, Chapter 106, codified as *Minnesota Statutes* 2020, 155A.27, subd. 9(c).

Makeup Application and Hairstyling

In this section, we further discuss the 2020 legislation that allowed practitioners to perform regulated makeup application and hairstyling services without a license or permit.

Prior to 2020, practitioners who performed makeup application and hairstyling services in certain settings were subject to more stringent requirements than practitioners who provided the same services in other settings.

Before the 2020 legislation was implemented, to perform makeup application and hairstyling outside of a licensed salon, practitioners needed to meet a number of requirements:

1. **Salon Manager License.** A practitioner needed to obtain either a cosmetologist salon manager license (to perform makeup application and hairstyling) or an esthetician salon manager license (to perform just makeup application).
2. **Special Event Services Permit.** A practitioner needed to obtain a special event services permit and register the event on BCE's website.
3. **Professional Liability Insurance.** A practitioner needed to obtain professional liability insurance and submit their policy information to BCE.

Rules, however, exempted practitioners from having to meet any of these requirements if they worked in certain settings, including theatrical, television, film, fashion, and photography settings, as well as media productions and media appearances.⁴⁵ As one person pointed out in a hearing during the 2020 legislative session, this meant that, to apply makeup to a bride at her wedding, a person would need to meet all of the requirements listed above; but, to apply makeup to the same bride so she could pose for photographs for a bridal magazine, a person would need to meet none of those requirements.



Makeup Application

“Makeup services’ is the application of a cosmetic to enhance the face or skin, including powder, foundation, rouge, eyeshadow, eyeliner, mascara, and lipstick. Makeup services includes the application of makeup applied using an airbrush. Makeup services does not include the application of permanent makeup, tattooing, or facial services.”

— *Minnesota Statutes 2020, 155A.23, subd. 20*

Hairstyling

“Hairstyling’ is the practice of cleaning, drying, arranging, or styling hair. It includes the use of hair sprays and topical agents, such as shampoos and conditioners. It also includes the use and styling of hair extensions and wigs. It does not include cutting or the application of dyes, bleach, reactive chemicals, keratin, or other preparations to color or alter the structure of hair.”

— *Minnesota Statutes 2020, 155A.23, subd. 19*

⁴⁵ *Minnesota Rules*, 2105.0010, subp. 13, <https://www.revisor.mn.gov/rules/2105/version/2018-10-08T09:55:33-05:00>, accessed September 25, 2020, published in 2018.

The 2020 legislation that allowed unlicensed and unpermitted practitioners to perform makeup application and hairstyling services largely invalidated the special event services permit.

Under the 2020 legislation, both licensed and unlicensed practitioners may perform makeup application and hairstyling without a permit—so long as they take the four-hour course we described earlier and carry proof that they completed the course when providing services.⁴⁶ Licensed practitioners already meet this requirement because they must take this four-hour course every three years as a condition of their license renewal.

The 2020 legislation affected only two of the three services that were previously allowed by a special event services permit—makeup application and hairstyling services. This means that the only remaining function of the special event services permit is to authorize practitioners to apply and remove nail polish at special events. This leaves a high bar for practitioners who wish to perform this narrow set of services at special events: They must have a salon manager license, a special event services permit, and professional liability insurance.

The Board of Cosmetology has no mechanism to enforce the requirement that unlicensed practitioners take a four-hour course before providing makeup application and hairstyling services, nor does the public have the ability to confirm practitioners have taken it.

One of BCE's primary mechanisms for ensuring compliance with state law is inspecting licensed establishments. Under the 2020 legislation, both unlicensed and licensed practitioners may work outside of a licensed salon without a permit and without registering the event with BCE. This means that BCE's inspectors may not encounter these practitioners during the course of their inspections, where they could check to see if the practitioners are licensed or have completed the requisite course.

Additionally, the new law does not require unlicensed practitioners to repeat the four-hour course on a regular interval. The law requires unlicensed practitioners to take the course only once, which means their knowledge of health, safety, infection control, and state cosmetology laws will likely become outdated. Conversely, licensed practitioners must take the four-hour course every three years in order to “incorporate newly developed standards and accepted professional best practices.”⁴⁷

Further, members of the public have no way to check whether unlicensed practitioners who are advertising makeup application or hairstyling services have taken the required course, or if BCE has taken enforcement actions against those practitioners in response to complaints. Conversely, members of the public may check BCE's website for enforcement actions against licensed practitioners, as well as the status of those practitioners' licenses.

⁴⁶ *Laws of Minnesota 2020*, chapter 106, sec. 3, codified as *Minnesota Statutes 2020*, 155A.27, subd. 9(c).

⁴⁷ *Minnesota Statutes 2020*, 155A.271, subd. 1(a).

RECOMMENDATION OPTIONS

- **Option 1: The Legislature could repeal the 2020 legislation, which would require practitioners offering makeup application and hairstyling to hold a license and a special event services permit; but it could lower the requirements for the permit.**
- **Option 2: The Legislature could repeal the special event services permit entirely, and allow unlicensed practitioners to perform nail polish services if they take the four-hour course required of those who perform makeup application and hairstyling.**

The Legislature could pursue two different options to address the issues we described in this section. First, it could repeal the 2020 legislation that allows practitioners to perform makeup application and hairstyling services without a license or permit and instead lower the threshold for a special event services permit by allowing *operators* in addition to *salon managers* to obtain one.

Alternatively, the Legislature could maintain the 2020 legislation and expand it to allow practitioners who provide nail polish application and removal to perform these services without a license or permit if they too take the four-hour course. If the Legislature adopts this option, then it should repeal the special event services permit entirely because it will cease to have any function. (We discuss alternatives to this option in the next section.)

RECOMMENDATIONS

- **The Legislature should require unlicensed practitioners who perform makeup application and hairstyling (and nail polish services) to register with the Board of Cosmetology.**
- **The Board of Cosmetology should publish the registration list of unlicensed practitioners who have taken the four-hour course on its website, along with any enforcement actions against them, and audit a sample of the registrations.**
- **The Legislature should require unlicensed practitioners who perform makeup application and hairstyling (and nail polish services) to renew their registrations and take the required four-hour course at a regular interval.**

If the Legislature chooses Option 2 that we presented on the previous page, or if it chooses to maintain the 2020 legislation and not expand it to include nail polish services, then it should require the unlicensed practitioners who take the four-hour course to register with BCE. This would allow BCE to publish the list of unlicensed practitioners on its website, which in turn would allow members of the public to check whether practitioners are qualified to perform services. BCE should also publish any enforcement actions that it has taken against those unlicensed practitioners, as it does

for licensed practitioners, so members of the public may review this information when deciding which practitioners to hire.

BCE should also audit a sample of the registrations—as it already does for licensed practitioners who have taken the four-hour course as part of their continuing education requirements—to ensure that unlicensed practitioners have taken the course as reported.

Finally, the Legislature should require unlicensed practitioners to renew their registrations and to repeat the required four-hour course every three years, as licensed practitioners already must do. This will help to ensure that unlicensed practitioners stay apprised of changes to state cosmetology laws and changes to health and safety protocols.

Homebound and Special Event Services Permits

Like the special event services permit, the homebound services permit allows practitioners to perform regulated services outside of a licensed salon. In this section, we examine the differences between the scope and requirements for these two permits.

State law establishes more stringent requirements for the special event services permit, even though its scope is far narrower than that of the homebound services permit.

As we discussed in the last section, state law establishes numerous prerequisites for the special event services permit, even though it has a very narrow scope (which was made even narrower by the 2020 legislation).

Permit Requirements		
	Homebound Services	Special Event Services
Purpose	To provide services in a nursing home or in the home of persons who are homebound	To provide services outside of a licensed salon, such as at special events like weddings
Scope of services	Any services allowed under the practitioner’s license	Nonpermanent manipulation of the hair (such as hairstyling), and makeup and nail polish application and removal
Key requirements	Hold any license; hold professional liability insurance	Hold a salon manager license; hold professional liability insurance; notify BCE where services will be performed
Fee	\$50	\$75
Duration	3 years	Until the end of the calendar year issued

Conversely, rules allow practitioners to perform all of the services within the scope of their respective licenses under a homebound services permit.⁴⁸ For example, a cosmetologist with a homebound services permit may not only style the hair (as allowed under a special event services permit), but also cut and perform chemical services, such as coloring and waving. Similarly, an advanced practice esthetician with a homebound services permit may not only apply makeup (as allowed under a special event services permit), but also perform intensive facials.

Even though a special event services permit has a much narrower scope, it is subject to much more stringent requirements than the homebound services permit. To obtain a

homebound services permit, a person may hold any level of practitioner license, such as an operator license; but, to obtain a special event services permit, a person must hold a

⁴⁸ *Minnesota Rules*, 2105.0410, subp. 3, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

salon manager license.⁴⁹ Practitioners must notify BCE where they will be performing special event services; they do not need to do so when performing homebound services.⁵⁰ A homebound services permit has a duration of three years; a special event services permit lasts only until the end of the calendar year in which it is issued.⁵¹ And, a special event services permit costs \$75 (for a maximum of one year), whereas a homebound services permit costs \$50 (for three years).⁵²

RECOMMENDATION

The Legislature and the Board of Cosmetology should reevaluate the scope and requirements for the special event services and homebound services permits and consider merging them.

We could not identify any justifications for requiring more stringent requirements for the special event services permit than for the homebound services permit, given the far broader scope of the homebound services permit.

Providing regulated cosmetology services outside of licensed salons poses some risks to public health and safety. Currently, licensed practitioners with a permit may provide all regulated cosmetology services in the homes of homebound persons. If the Legislature determines that it is comfortable with these risks, then it should also allow practitioners to provide these services in other venues, such as at special events. In such case, the Legislature should align the requirements for the two permits and create a single “off-premises” permit that would allow practitioners to provide services outside of a licensed salon.

If the Legislature merges the permits, then the Legislature and the board will need to find a new balance between the scopes and requirements for the two permits. The scope and requirements for the special event services permit are established in statutes.⁵³ Conversely, statutes authorize the board to establish rules governing services provided in customers’ homes, which the board has done through the creation of the homebound services permit.⁵⁴ If the Legislature merges the permits into a new off-premises permit, then the Legislature and the board should evaluate the benefits and the risks of allowing practitioners to perform various services (such as hairstyling versus chemical services and makeup application versus intensive facials) outside of a licensed salon.

⁴⁹ A practitioner with a cosmetologist *school* manager license may also obtain a special event services permit. *Minnesota Statutes* 2020, 155A.275, subd. 2(a); *Minnesota Rules*, 2105.0410, subp. 3A(1), <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

⁵⁰ *Minnesota Rules*, 2105.0410, subps. 2-3, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

⁵¹ *Ibid.*

⁵² *Minnesota Statutes* 2020, 155A.25, subd. 1a(d).

⁵³ *Minnesota Statutes* 2020, 155A.275.

⁵⁴ *Minnesota Statutes* 2020, 155A.23, subd. 9; and *Minnesota Rules*, 2105.0410, subp. 3, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

Chapter 3: Application Processes

One of the Board of Cosmetologist Examiners' (BCE's) key responsibilities is processing license applications.¹ In this chapter, we provide an overview of the application requirements that BCE has established and discuss how staff process license applications and fees. Then, we discuss applicants' experiences with those application processes.

Application Requirements and Processing

To demonstrate that they meet licensing requirements that we discussed in Chapter 2, applicants for cosmetology practitioner and establishment licenses must provide BCE with a variety of information.²

In applications for initial licensure, practitioners must submit: proof that they completed the requisite training, the results of their licensing exams, and the requisite license and application fees.³ In renewal applications, practitioners must submit license and application fees and a list of the courses that they completed to meet continuing education requirements. In applications for special events and homebound service permits, practitioners must submit proof of professional liability insurance and permit fees.

In applications for initial licensure, both salons and schools must submit a range of information, such as evidence that they meet the physical and operational requirements defined in law. Schools must also submit information about their finances, policies, and curriculum, among other things, as the box on the following page shows. In renewal applications, both salons and schools must pay the requisite license and application fees and submit evidence that they still meet the financial, physical, and operational requirements in law.

BCE requires both practitioners and salons to submit initial applications on hardcopy, but it allows them to submit renewals online. It requires schools to submit both initial and renewal applications on hardcopy.

Statutes establish how quickly BCE staff must process most applications. They must process initial and renewal applications for practitioners and salons within 15 working days.⁴ A BCE official told us that staff review applications in the order they are received. Statutes also allow applicants to pay an extra \$150 for a practitioner license

¹ Although officially called the "Board of Cosmetologist Examiners" in law, the board rebranded itself as the "Board of Cosmetology" in 2017. We use the abbreviated name when referring to the board throughout this report.

² For an overview of key licensing requirements, see Chapter 2.

³ In addition to the items listed, instructors must also include experience verification showing that the applicant completed 2,700 hours of licensed practice as an operator in the three years prior to application.

⁴ *Minnesota Statutes* 2020, 155A.25, subd. 5.

Cosmetology salons and schools must submit a variety of information in their initial license applications.

Required Application Information	Salons	Schools
License and application fees	✓	✓
Names, signatures, and contact information for all owners and managers	✓	✓
Certificate of assumed name	✓	✓
Certificate of organization	✓	✓
Certificate of professional liability insurance	✓	✓
Certificate of Workers' Compensation Insurance	✓	✓
Diagram of floor plan	✓	✓
Financial documents		✓
Corporate surety bond		✓
Advertising and recruitment materials		✓
Pre-enrollment contract and disclosures		✓
A statement attesting that the school complies with local building and fire codes and federal occupational health requirements		✓
Policies about financial aid, refunds, and other rules for students		✓
Inventory of facilities and equipment		✓
Planned curriculum, including course outline, daily lesson plans, text books, hours of instruction, etc.		✓
Roster of instructors and their license types and schedules		✓
Hours of operation		✓

* This list includes most, but not all, of the information that salons and schools must provide.

and \$300 for a salon license to have BCE expedite their initial applications; BCE must process expedited applications within five working days.⁵

Statutes do not establish how quickly BCE must process school applications, which are more involved than practitioner or salon applications. BCE officials estimated that the full application process for schools typically takes two or three months, depending on the initial completeness of the application. They said the process often requires a significant amount of back-and-forth correspondence with the applicant as the applicant prepares all of the requisite materials.

To ensure compliance with statutory deadlines for processing applications, BCE increased its staff in recent years. During the 2015 legislative session, BCE's executive director testified that the agency often had to use its inspectors and investigators to process license applications to meet the statutory deadlines. The Legislature increased BCE's appropriations significantly for the following year, which BCE used to hire more staff.

BCE officials told us that staff review or verify certain information that applicants must submit as part of their applications. For example, staff review applicants' training certificates to make sure they are signed by the school manager or owner and notarized. They verify that applicants for an instructor license have met the requirement to have at least 2,700 hours of work experience within the last three years by (1) checking whether the applicant held an underlying license during the period of time reported on the application and (2) checking whether the salon that the applicant reported working in was licensed. Staff also audit 5 percent of the continuing education credits that

practitioners report on their renewal applications.⁶ In addition, staff must inspect all schools before issuing an initial school license.⁷ (They do not inspect salons before issuing an initial salon license.)

A BCE official estimated that staff mail back about 20 percent of initial practitioner applications and about 35 percent of initial salon applications for corrections. The

⁵ *Minnesota Statutes* 2020, 155A.25, subs. 1a(d)(7)-(8) and 7.

⁶ Statutes require BCE to audit continuing education credits, but do not specify what portion of credits they must audit. *Minnesota Statutes* 2020, 155A.271, subd. 4.

⁷ *Minnesota Rules*, 2020, 2110.0380, <https://www.revisor.mn.gov/rules/2110>, accessed July 21, 2020.

official said they send back far fewer renewal applications because many licensees submit them online, and BCE's online system prevents applicants from submitting incomplete applications.

Statutes authorize BCE to collect licensing fees from practitioners and establishments, which BCE must deposit into the General Fund.⁸ BCE officials told us that when staff mail back applications that need revisions, they do not immediately refund the fees submitted with the applications. Rather, they await corrected applications and issue refunds when applicants cannot meet all of the licensing requirements.

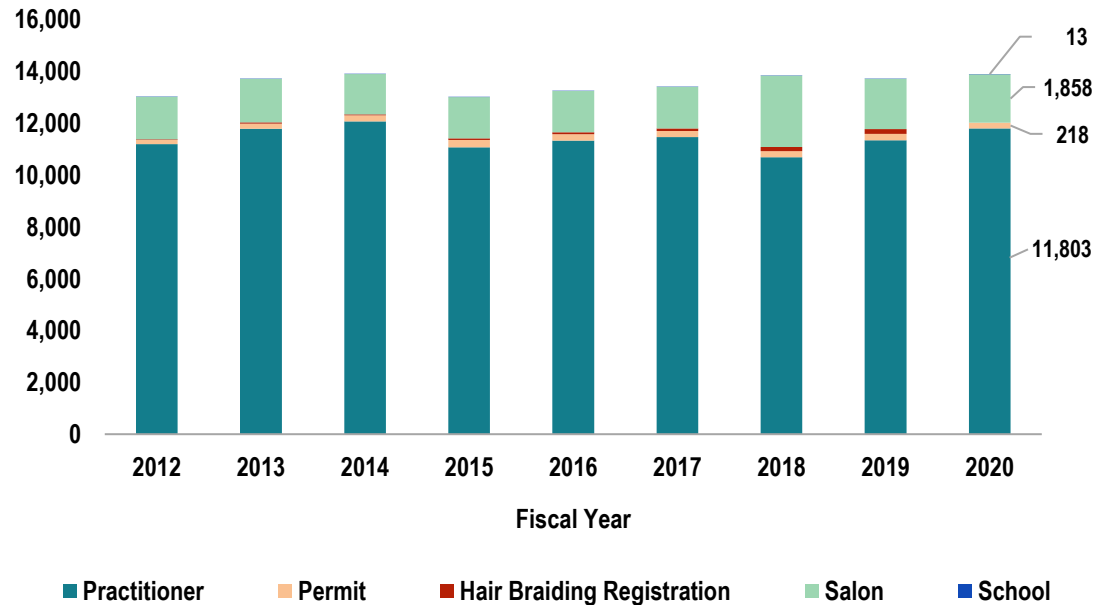
BCE officials told us staff batch-print and mail licenses twice per week. Applicants may check the status of their applications at any time through a "License Lookup Tool" on BCE's website; officials told us the tool is updated automatically when staff approve an application. Applicants may begin to practice as soon as staff mark licenses as approved on the website, even if they have not yet received a paper copy of their license in the mail from BCE.

From fiscal years 2012 through 2020, the number of licenses that the Board of Cosmetology has issued has remained relatively steady, but the amount it has collected in license fees has grown, due to increases in licensing fees.

In fiscal years 2019 and 2020, BCE issued about 27,600 credentials; only 5 of Minnesota's 23 other licensing boards issued more credentials during that period. In 2020, BCE issued about 11,800 practitioner licenses, 1,860 salon licenses, and 13 school licenses, as well as 190 homebound services permits and 28 special event services permits. As Exhibit 3.1 shows, the total number of credentials that BCE issued per year has changed little since Fiscal Year 2012, with an increase of just 1 percent by Fiscal Year 2020.

⁸ *Minnesota Statutes* 2020, 155A.25, subds. 1a and 1b.

Exhibit 3.1: The Board of Cosmetology issued more than 12,000 credentials each fiscal year between 2012 and 2020.



SOURCE: Office of the Legislative Auditor, analysis of the Board of Cosmetology's licensing data.

Although the total number of licenses that BCE issues per year has not changed much, the amount that BCE collected in licensing fees increased by 43 percent between fiscal years 2012 and 2020. As Exhibit 3.2 shows, the Legislature increased both initial and renewal fees in 2015.⁹

Exhibit 3.2: The Legislature increased license fees in 2015.

License Type	Initial License Fees			License Renewal Fees		
	Fee Prior to 2015 Increase	Fee After 2015 Increase ^a	Percentage Increase	Fee Prior to 2015 Increase	Fee After 2015 Increase ^a	Percentage Increase
Operator	\$ 130	\$ 195	50%	\$ 75	\$ 115	53%
Manager	160	195	22	105	145	38
Instructor	160	195	22	105	145	38
Salon	230	350	52	150	225	50
School	2,500	4,000	60	2,000	2,500	25

^a The fee amounts authorized by the 2015 legislation were still in place in 2020.

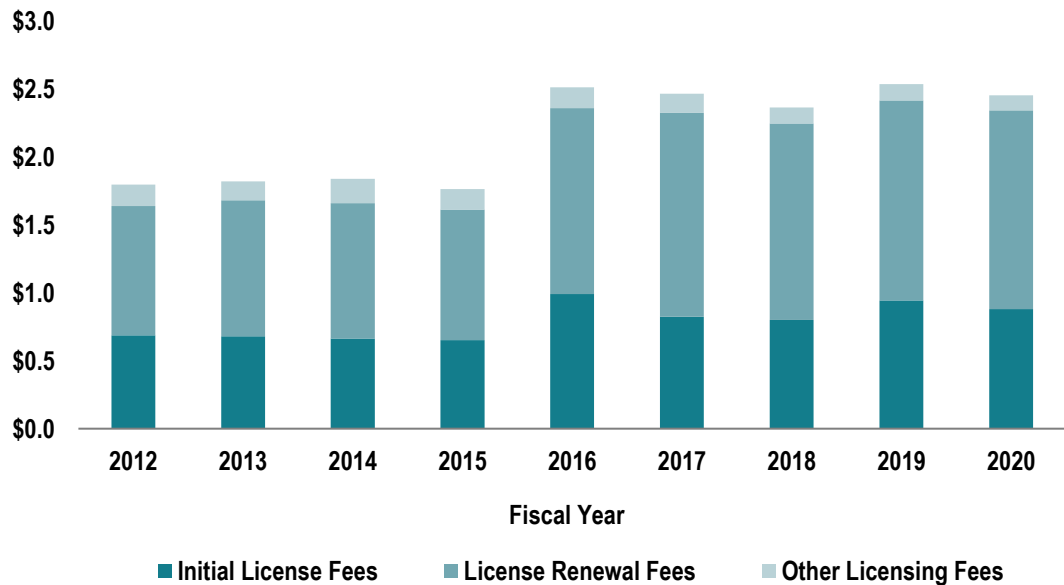
SOURCE: *Laws of Minnesota 2015*, chapter 77, art. 2, sec. 37.

⁹ *Laws of Minnesota 2015*, chapter 77, art. 2, sec. 37.

The bulk of BCE’s license fees come from renewals, as Exhibit 3.3 shows. In 2020, renewal license fees composed about 60 percent of the \$2.5 million that BCE collected in license fees that year; initial license fees composed about 36 percent and other license fees (such as fees for reprinting licenses) composed about 5 percent.

Exhibit 3.3: The license fee receipts collected by the Board of Cosmetology increased significantly between fiscal years 2015 and 2016.

Receipts (in millions)



SOURCE: Office of the Legislative Auditor, analysis of the Board of Cosmetology’s license fee receipts from the state’s accounting system.

In Fiscal Year 2020, the Board of Cosmetology reviewed 94 requests for waivers or variances of licensing requirements, up from 27 the previous year.

State law allows BCE to waive or vary licensing requirements that are established in rules under certain circumstances, such as in cases of “medical necessity” or “hardship.”¹⁰ The full board reviews and votes on such requests.

In Fiscal Year 2020, the board reviewed 94 requests from applicants for waivers or variances, which represented a nearly 250 percent increase from Fiscal Year 2019. Two-thirds of those 2020 requests came from estheticians who had missed the grandfathering deadline to obtain an advanced practice esthetics license, which ended

¹⁰ *Minnesota Statutes* 2020, 14.055; and *Minnesota Rules*, 2105.0820, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

on July 31, 2019.¹¹ Over the past two years, most other waiver or variance requests were clustered around just a handful of issues. For example, a number of schools asked BCE to waive the requirement that they have at least two instructors present during training, a requirement that some schools reported struggling to meet during the COVID-19 pandemic.¹² Another common request came from practitioners asking the board to grant them a salon manager or instructor license without the requisite 2,700 hours of recent work experience.¹³ Other common requests related to practitioners' inability to complete various testing or training requirements, sometimes within mandatory timeframes, or their inability to submit proof that they completed those requirements.

Over the last two years, the board granted the majority of the waiver and variance requests that it reviewed (around 70 percent). Of the requests that the board denied, a handful of people appealed the board's decisions; in those cases, the board reviewed the requests again.

Applicant Experiences

As part of this evaluation, we spoke with and surveyed a sample of current and recent licensees about their experiences with BCE's application processes and requirements.¹⁴ We also compared some of Minnesota's requirements with those of other states. In this section, we discuss what licensees said about their experiences and how Minnesota's requirements compare with those of other states.

Application Processes, Communication, and Customer Service

We begin by discussing licensees' experiences with BCE's application processes, and the customer service and communication that licensees received from BCE as part of those processes.

Although we heard some concerns from licensees about the Board of Cosmetology's licensing processes, customer service, and communication, licensees that we surveyed generally reported satisfaction in these areas.

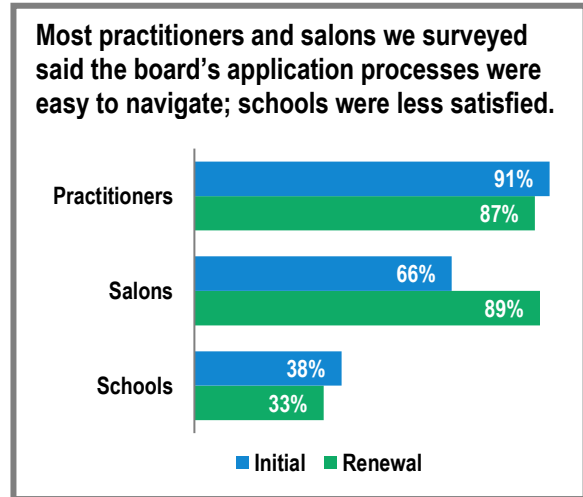
¹¹ Practitioners who held an esthetician or cosmetologist license could obtain an advanced practice esthetician license without undergoing additional training or taking additional exams if they demonstrated that they had at least 900 hours of experience providing advanced practice esthetician services in a licensed salon within the past three years. *Minnesota Rules*, 2105.0155, <https://www.revisor.mn.gov/rules/2105/version/2018-09-06%2014:03:52+00:00>, accessed September 25, 2020, published in 2018.

¹² The board granted the schools' requests in most cases.

¹³ As we discussed in Chapter 2, BCE repealed the experience requirement for salon managers in 2020.

¹⁴ We sent a survey to a random sample of 1,498 practitioners and 357 establishments that had held a license issued by BCE within the past five years. We received responses from 287 practitioners (a response rate of 19 percent) and 117 establishments (a response rate of 33 percent).

As the box at right shows, the majority of practitioners and salon representatives who responded to our survey said they thought BCE's initial application and renewal processes were easy to navigate. However, a small number said in their open-ended comments that BCE's application processes were slow and that the processes for license renewals was difficult. Schools reported markedly less satisfaction with the application processes than practitioners or salons.¹⁵ As we explained above, schools must submit significantly more information than practitioners or salons in their applications.



We also asked licensees about their experiences using BCE's website, which contains resources such as license application materials, BCE's online license-renewal portal, and answers to frequently asked questions about licensing. It also contains a License Lookup Tool that licensees (and members of the public) can use to look up information about a licensee, such as the licenses that a practitioner holds, any disciplinary actions against a licensee, and the last date a salon was inspected.

Eighty-six percent of respondents reported visiting BCE's website in the past year. Of those who visited the website, 82 percent said they were satisfied with the website overall; 77 percent said the website contained useful information about obtaining an initial license, 90 percent said it contained useful information about renewing a license, and 91 percent said it contained useful information about state laws. In our review of the website, we also thought it provided useful information. However, we found that the search function in the License Lookup Tool contained outdated inspection information and was difficult to use. Notably, we could not find the licensees we were looking for without knowing their exact name as it appears in BCE's database, or without using Boolean search operators.

We also asked licensees about e-mail communication they have received from BCE. Eighty-six percent of respondents reported receiving an e-mail from BCE in the past year that explained recent changes to state laws that affected their license. Among those who reported receiving an e-mail, 91 percent said the most recent e-mail they received was clear; 84 percent said it was timely; and 87 percent said it was helpful.



The staff who serve as Licensing Division representatives are knowledgeable, friendly, and timely in their responses.

— Licensee

¹⁵ Note, because we received responses from such a small number of schools (33), which is expected given the small number of schools, the degree of uncertainty we have in the figures that we report for schools is higher.

Finally, we asked licensees about the customer service they received from BCE. Thirty-five percent of survey respondents reported reaching out to BCE in the past year with a licensing question. Among those who had reached out, 72 percent said they were satisfied with the responses they received from staff. However, in their open-ended comments, some survey respondents, as well as others who reached out to us, reported difficulty getting answers to their questions, such as about whether various services are within the scope of practice of certain licenses, as the boxes on this page illustrate.¹⁶



At times it has been a struggle to get a straightforward answer, as there always seems to be a grey area.

— Licensee

In materials it compiled for rulemaking proceedings in 2016, BCE reported that staff do not answer scope-of-practice questions—aside from pointing people to statutory definitions or advising them to consult an attorney—because doing so could be construed as providing legal advice or unauthorized rulemaking.¹⁷

The materials acknowledged that practitioners have not been satisfied by such responses, which our correspondence with licensees affirmed. Additionally, when we asked BCE leadership scope of practice questions—such as whether a cosmetologist may shave a customer’s beard—leadership declined to provide an opinion.



I wish that the board overall was easier to get ahold of and get clear answers from. During the time that they required estheticians to do their advanced practice testing to be grandfathered in, it was very hard for my coworkers and [me] to get clear answers on how to go about the testing and requirements. It is a constant complaint from people in this field of work in this state that the board is difficult to get ahold of and get answers from.

— Licensee



I was calling [BCE] to find out if I needed a license to apply eyelash extensions...I spoke with two different people who wouldn't give me an answer to my question! 'Do I need a license to do lash extensions?' One of them actually read me the definition of cosmetology. And said to me what does that definition say to you? I told her I didn't know, and she told me that [the] only answer she had was the definition of cosmetology. The other said that it wasn't clear at the time.

— Licensee

Training Requirements

We also asked licensees about BCE’s initial and ongoing training requirements. As we discussed in Chapter 2, the U.S. does not have national standards for cosmetology licensure. In the absence of national standards, we used the requirements that other states have established as points of comparison.

¹⁶ “Scope of practice” refers to the range of services that the law authorizes practitioners to perform, as we discussed in Chapter 1.

¹⁷ Minnesota Board of Cosmetologist Examiners, *Statement of Need and Reasonableness: In the Matter of Proposed Revisions of Minnesota Rule Chapters [2105] and 2110, Governing the Licensure and Practice of Cosmetologists, Estheticians, Nail Technicians, Instructors and School Managers, and the Licensure and Operation of Salons and Schools, Revisor’s #4258*, (Minneapolis, 2016), 17.

Minnesota’s training requirements are comparable to those of neighboring states and the national average, but many licensees said they wished they had received more training.

We compared Minnesota’s initial and renewal training requirements for a cosmetologist operator license with the requirements for similar licenses in other states using data compiled in 2017 and published online by the National Conference of State Legislatures (NCSL).¹⁸ In 2017, Minnesota required a similar number of hours of training for an initial cosmetologist license as the national average (1,570 hours); some states required less training, while others, including most of Minnesota’s neighboring states, required more. States like Iowa and South Dakota required as many as 2,100 hours of training, while states like New York required as few as 1,000 hours.

Initial Training and Ongoing Continuing Education Requirements for a Cosmetologist Operator License in 2017

	Required Hours of Initial Training	Required Hours of Continuing Education (Annualized)
Minnesota	1,550	2.7
Iowa	2,100	4
North Dakota	1,800	0
South Dakota	2,100	0
Wisconsin	1,550	2

In our survey, we asked licensees who received their initial training in Minnesota if they thought their training adequately prepared them to work safely and perform the minimum requirements of their field. The vast majority of respondents said they thought it did. However, in their open-ended comments, respondents offered numerous recommendations for changes. Only a small number said they thought their training was longer than necessary. Many, however, said they would have liked more training, citing a wide range of desired subjects. Notably, many said they would have liked more training in: business practices and customer service; hands-on exercises, including on real people and in settings outside of schools; and a more inclusive set of hair textures and skin types. A number of practitioners also said they thought their training was outdated; a few, for example, cited an unnecessary focus on perms, given the decline in demand for such services.



Rolling 70 perms should no longer be a requirement. There needs to be better business training [and] accounting training.... Focus on services that will actually make stylists money and give our industry more credibility.

— Licensee

To ensure practitioners maintain their knowledge and skills, some states require practitioners to meet certain requirements before they may renew their licenses. For example, as the box above shows, in 2017, Minnesota, along with two of its neighbors, required practitioners to complete a certain number of hours of continuing education. Minnesota’s rules previously required practitioners to provide proof of a certain number of hours of experience within the last three years in order to renew their licenses. If practitioners could not provide such proof, they had to complete a 40-hour refresher course in order

¹⁸ National Conference of State Legislatures, *National Occupational Licensing Database*, <https://www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database.aspx>, accessed May 18, 2020.

to renew their license.¹⁹ But, in 2013, the Legislature instead began requiring practitioners to complete four hours of continuing education related to health, safety, infection control, and state cosmetology laws as a condition of license renewal.²⁰ Then, in 2015, the Legislature added another four hours of continuing education requirements related to any of the following:

1. Product chemistry and chemistry interaction
2. Proper use of machines and instruments
3. Business management and human relations
4. Techniques relevant to the type of license held²¹

With the advent of the continuing education requirements, BCE determined that its experience requirements were no longer necessary, and repealed them from rules in 2016.

In their open-ended responses to our survey, licensees reported mixed reactions to the continuing education requirements. Some licensees mentioned that the requirements posed challenges for them, as the box at right shows. One respondent suggested that the continuing education requirements can drive practitioners away from the profession, writing: “While I personally have not had a problem paying for licensing or passing a test, I know dozens of people who have. They let their license expire due to high cost or don’t renew due to [the] cost of [continuing education]...” Another respondent, however, described the continuing education requirements as “a great refresher to keep sanitation in the forefront.”



I [don't] agree continuing education should be a requirement to renew our licenses. While working in the salon and having a family it is extremely hard to put in the required hours for this. That may sound ridiculous to some, but for me it's the truth. I struggle to find the time to meet these requirements and have had my license expire because of that.

— Licensee

License Portability

We asked licensees about their experiences transferring licenses to Minnesota. The variation in licensing requirements across states limits the ability of practitioners to transfer their licenses across states—an issue known as license “portability.”

¹⁹ *Minnesota Rules*, 2105.0200, subp. 2A, <https://www.revisor.mn.gov/rules/2105/version/2016-09-13%2012:08:40+00:00>, accessed December 10, 2020, published in 2016. *Minnesota Rules*, 2105.0200, subp. 2A(1), <https://www.revisor.mn.gov/rules/2105/version/2015-09-28%2009:27:13+00:00/>, accessed December 10, 2020, published in 2015.

²⁰ *Laws of Minnesota* 2013, chapter 85, art. 5, sec. 28, codified as *Minnesota Statutes* 2020, 155A.271, subd. 1. This requirement applied only to operators and salon managers, not to instructors or school managers.

²¹ *Laws of Minnesota* 2015, chapter 77, art. 2, sec. 45, codified as *Minnesota Statutes* 2020, 155A.271, subd. 1. This requirement went into effect for license renewals occurring on or after August 1, 2017.

State law allows practitioners to transfer some licenses to Minnesota; while some licensees reported that these processes were easy to navigate, others reported some difficulty.

Minnesota law allows operators to transfer their licenses to Minnesota from another state if they meet all of the following conditions:

1. Submit a certification of licensure from each state where they have been licensed with information about their license status, history, discipline record, hours of training, and testing
2. Have completed at least as many hours of training as required by Minnesota law
3. Have an active license in the state where they are currently licensed, or have passed a practical skills test
4. Pass the exam on Minnesota cosmetology laws, or all three of BCE's written exams, if they did not already have to take theory and practical exams in the state(s) where they have been licensed²²

Transfer applicants with fewer hours of training than Minnesota requires may still transfer their license if they have had an active license in another state for at least three years.²³ Otherwise, they must apply to a Minnesota-licensed cosmetology school as a transfer student to complete the remaining hours and pass a practical skills test.

Consider, for example, a cosmetologist who received training in Florida, a state that requires 1,200 hours of training, which is less than the 1,550 hours required in Minnesota. If this cosmetologist had an active license in Florida for only two years, then the cosmetologist would need either to apply to a Minnesota-licensed cosmetology school as a transfer student to complete the additional 350 hours of training and pass a practical skills test, or continue practicing in Florida for one more year before moving to Minnesota.



The process of reciprocity was complicated when I attempted to transfer my practitioner and instructor license [from my state].

— Licensee

Among the licensees that we surveyed who reported transferring a license to Minnesota, 80 percent said they thought it was easy to navigate BCE's processes for transferring a license. It is important to note, however, that this figure may overestimate the ease of BCE's processes because our survey included only persons who had successfully

²² Practitioners with instructor or advance practice esthetician operator licenses from other states and practitioners with licenses from other countries must meet other requirements to transfer their licenses to Minnesota. Practitioners may not transfer their salon or school manager licenses to Minnesota. *Minnesota Statutes* 2020, 155A.27, subd. 10; and *Minnesota Rules*, 2105.0183, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²³ *Minnesota Statutes* 2020, 155A.27, subd. 10(b); and *Minnesota Rules*, 2105.0145, subp. 1C(2)(b), <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

become licensed. In their open-ended survey responses, a handful of licensees expressed frustration about their experiences trying to transfer a license. For example, as the box on the previous page illustrates, one practitioner reported difficulty transferring their instructor licenses from their state.

Although Minnesota law waives a number of the cosmetology licensing requirements for practitioners seeking a military temporary license, the license’s cost and limited duration present some barriers.

Among those who may be particularly affected by license portability issues are members of the military and military spouses. State law authorizes BCE to issue temporary cosmetology practitioner licenses to (1) veterans with an honorable or general discharge who left service within the past two years and (2) active duty military members and their spouses, who want to transfer a cosmetology-related license from another state.²⁴ BCE offers a “military temporary” license for each level and area of practice within the practitioner licensing structure.

Under state law, applicants for a military temporary license may bypass some requirements to allow them to more easily transfer their licenses from another jurisdiction to Minnesota. For example, unlike other transfer applicants, rules allow applicants to obtain a military temporary license even if they have had fewer hours of training than required by Minnesota law.²⁵ Additionally, unlike all other transfer applicants, applicants for a military temporary license do not have to pass any of Minnesota’s licensing exams.

Applicants for military temporary licenses do, however, face some barriers that other transfer applicants—and even nontransfer applicants—do not. For example, military temporary licenses cost more on an annualized basis than other types of initial practitioner licenses—\$100 compared to \$65.²⁶ Additionally, Minnesota’s military temporary licenses are good for only one year (compared with three years for a regular license) and rules stipulate that they may not be renewed.²⁷ Instead, practitioners must apply for a regular license to continue practicing after their military temporary license expires. The average length of a military posting in the U.S., however, is between two and three years.²⁸ This means that although the military temporary license may help some people, it may not be cost-effective or worthwhile for those who will need to apply for a permanent license the following year to cover the remainder of their time in Minnesota.

Although BCE issued only seven military temporary licenses from fiscal years 2012 through 2020, it is conceivable that more persons would have applied for them but for these barriers.

²⁴ *Minnesota Rules*, 2105.0184, subp. 1B, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²⁵ *Minnesota Rules*, 2105.0184, subp. 1C, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²⁶ *Minnesota Statutes* 2020, 155A.25, subds. 1a(b)(1) and 1a(d)(6).

²⁷ *Minnesota Rules*, 2105.0184, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²⁸ Jeremy Burke and Amalia R. Miller, RAND National Defense Research Institute, *The Effects of Military Change of Station Moves on Spousal Earnings* (Santa Monica, CA), 14.

RECOMMENDATIONS

- **The Legislature could authorize the Board of Cosmetology to develop an interstate compact among a group of states to recognize those states' cosmetology practitioner licenses.**
 - **The Board of Cosmetology should allow military temporary licenses to be valid for the length of the person's military assignment in Minnesota, up to three years.**
 - **The Legislature should reduce the fees for military temporary licenses to make them equal on an annualized basis to the fees charged for initial practitioner licenses.**
-

In the absence of evidence proving that the precise number of hours of training and experience that Minnesota requires is necessary to ensure public health and safety, we think it is reasonable for Minnesota to provide additional avenues for practitioners with comparable, but not identical, training and experience to transfer their licenses to Minnesota. To facilitate license portability, Minnesota could enter into an interstate compact, under which member states would agree to recognize licenses issued by one another.

Under a compact, Minnesota could choose to recognize only the licenses of states with similar, but not identical, licensing requirements. Such a compact could make it easier for practitioners to transfer their licenses to Minnesota and reduce the administrative burden on BCE to process license transfer applications without compromising public health and safety. With an interstate compact in place, Minnesota could allow persons to become licensed who have slightly fewer hours of education in cosmetology than required by Minnesota if membership in the compact indicates a substantially equivalent education.

In addition, BCE should allow military temporary licenses to be valid for the same length of time as other practitioner licenses (three years) to better accommodate the length of the average military assignment in Minnesota. Minnesota statutes direct the board to determine the length of time for which the military temporary license is valid.²⁹ Therefore, BCE would not need additional legislative action to make this change, although it would need to go through the rulemaking process.

The Legislature should also align the fees for the military temporary license with those for other cosmetology practitioner licenses. BCE leadership told us it is not costlier for the agency to process any one particular type of practitioner license than any other type, so this change should not affect the agency's budget.

²⁹ *Minnesota Statutes* 2020, 197.4552, subd. 2(c).

License Cost

Lastly, we asked licensees what they thought about the cost of licensing in Minnesota, and compared Minnesota's license costs with those of other states.

Minnesota's practitioner license costs are higher than those of its neighboring states; some licensees cited the cost of licensure as a barrier for them.

We compared the cost of a cosmetologist operator license in Minnesota with the cost of similar licenses in Minnesota's neighboring states. On an annualized basis, the cost of both initial and renewal operator licenses in Minnesota are higher than Minnesota's neighboring states, as the box at right shows.

In our survey, we asked licensees what they thought was a reasonable amount to pay to renew a three-year license. On average, licensees generally thought Minnesota's renewal costs were too high. In 2020, a three-year operator license cost \$115 to renew. Survey respondents suggested it should cost amounts ranging from \$0 to \$300, with a median of \$90. In 2020, a three-year instructor or manager license cost \$145 to renew. Survey respondents suggested it should cost amounts ranging from \$0 to \$300, with a median of \$100.

Annualized License Costs in Minnesota and Neighboring States, 2020

	Annualized Initial License Cost	Annualized Renewal License Cost
Minnesota	\$65	\$38
Iowa	30	30
North Dakota	15	15
South Dakota	100 ^a	25
Wisconsin	6	6

* This table shows the cost of licenses in neighboring states that are similar to Minnesota's cosmetologist operator license.

^a South Dakota's initial license fee also includes its exam fee. In Minnesota, the cost of the cosmetologist operator exams totaled \$85.

License fees, however, are not the only cost associated with licensure, as Exhibit 3.4 shows. To obtain a license, applicants must also pay for their initial training. One ten-month cosmetology program in the Twin Cities, for example, cost about \$22,000 in 2020.

Applicants also must pay for their licensing exams. The number of exams they must pay for depends on the level of licensure they are seeking and how many times they must retake a test to pass it. As Exhibit 3.4 shows, for an operator license, an applicant must pass (1) a written practical exam, (2) a written general theory exam, and (3) a written exam on state cosmetology laws. For the salon manager and school manager licenses, an applicant must pass an additional exam on state cosmetology laws. For an instructor license, applicants must pass (1) another written practical exam, (2) another written theory exam, and (3) another written exam on state cosmetology laws.

Exhibit 3.4: The cost to obtain and maintain a license may be a barrier for some prospective and current practitioners.

Type of Cost	Amount in 2020
Training	Costs vary and are set by schools
Exam fees	Operator License: \$28 written practical exam \$33 general theory exam \$24 state cosmetology laws exam Salon Manager License: \$48 state cosmetology laws exam Instructor License: \$68 written practical exam \$33 general theory exam \$24 state cosmetology laws exam School Manager License: \$48 state cosmetology laws exam
Initial license fees for three-year license	\$195 for all practitioners \$350 for salons \$4,000 for schools
Renewal fees for a three-year license	\$115 for operators \$145 for salon managers, school managers, and instructors \$225 for salons \$2,500 for schools
Continuing education fees, required every three years	Costs vary and are set by providers

SOURCES: Office of the Legislative Auditor, based on *Minnesota Statutes* 2020, 155A.25, subd. 1a(b)(1)-(7); and the Board of Cosmetology's application materials.

Finally, to renew a license, applicants must pay for continuing education courses. As we discussed in Chapter 2, the amount of continuing education that a practitioner must take depends on the number and level of licenses they hold. For example, a practitioner with two instructor licenses must take 68 hours of continuing education every three years. The costs of continuing education courses are set by providers and vary by provider and course. In their open-ended survey comments, a small number of licensees said the costs associated with renewing multiple licenses, including the cost of continuing education, can be burdensome for them. For example, one respondent said, "...people who have more than one license need to have them bundled somehow because the fees are excessive..." The recommendations that we made in Chapter 2 for changes to Minnesota's licensing structure should help to reduce some costs for practitioners that must hold multiple licenses.



I hold five licenses, which cost approximately \$725 every three years to renew all of them, along with an additional \$1,500+ in continuing education costs for 90 hours [of continuing education courses] (45 hrs. [for] each instructor license).

— Licensee



Chapter 4: Cosmetology and Barbering

Cosmetology is not the only regulated occupation in Minnesota with practitioners who perform hair- and skin-related cosmetic services—barbering does as well. In this chapter, we discuss the relationship and overlap between cosmetology and barbering, and how using two separate state agencies to regulate these similar occupations has led to regulatory inconsistencies and possible inefficiencies.

Scope of Practice

We begin the chapter by exploring the differences between the scopes of practice of cosmetology and barbering. As we discussed in earlier chapters, “scope of practice” refers to the range of cosmetic services that state law authorizes practitioners to perform.

Historical and Current Scope

Cosmetology and barbering both have long regulatory histories in Minnesota. The Minnesota Legislature began registering barbers in 1897, at the time, authorizing them to shave the beard or cut the hair of any person.¹ That year, the Legislature created what is now called the Board of Barber Examiners to oversee barber regulation.² In 1927, the Legislature began licensing “hairdressers and beauty culturists,” at the time, allowing them to color, curl, wash, and style the hair of any person, and to do “slight hair trimming” on women only.³ The Legislature created another board to oversee that newly regulated occupation—what is now called the Board of Cosmetologist Examiners (BCE).⁴

Two years after Minnesota began licensing hairdressers and beauty culturists, the Legislature passed a provision in the barbering statute that explicitly prohibited them from shaving or trimming beards or cutting the hair of any person—including women.⁵ But, ten

History of the Boards

1897	Legislature establishes a board to oversee barber regulation
1927	Legislature establishes a board to oversee hairdressing and beauty culture regulation
1929	Legislature introduces a provision in the barber statute prohibiting beauty culturists from cutting hair
1939	Minnesota Supreme Court rules that prohibiting beauty culturists from cutting hair is unconstitutional
1974	Minnesota Supreme Court rules that prohibiting cosmetologists from cutting men’s hair is unconstitutional

¹ *Laws of Minnesota* 1897, Chapter 186.

² The original 1897 legislation did not give the board a name.

³ *Laws of Minnesota* 1927, Chapter 245.

⁴ At the time the board was created, it was called the “Board of Hair Dressing and Beauty Culture Examiners.” Although now officially called the “Board of Cosmetologist Examiners” in law, the board rebranded itself as the “Board of Cosmetology” in 2017; we use the abbreviated name when referring to the board throughout this report.

⁵ *Laws of Minnesota* 1929, chapter 270, sec. 4.

years later, the Minnesota Supreme Court ruled that provision was unconstitutional.⁶ Then, in 1974, the Minnesota Supreme Court gave cosmetologists the right to cut men's hair after ruling that prohibiting them from doing so violated the equal protection clause of the Fourteenth Amendment of the U.S. Constitution.⁷

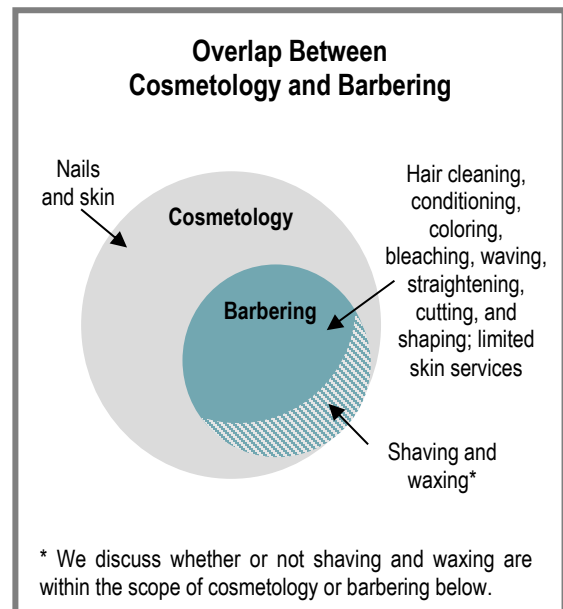
The historical differences between the scopes of practice of cosmetology and barbering continue to influence how the state regulates these occupations and the sentiments of some practitioners. We found that the perceived differences in the occupations' current scopes are in fact greater than the actual differences.

State law allows cosmetologists to perform nearly all, if not all, of the services that barbers may perform.

Today, state law authorizes both cosmetologists and barbers to clean, condition, color, bleach, wave, straighten, cut, and shape hair.⁸ The clearest difference under the law between the two occupations is that cosmetologists are licensed to practice on nails and skin, in addition to hair. Barbers are not allowed to practice on nails and they may perform only limited skin-related services, including light facials as part of a shaving service. State law also limits barber services to the head, face, and neck, while it authorizes cosmetologists to perform services on the head, face, neck, arms, hands, legs, feet, and trunk of the body.⁹

Regulators' and practitioners' interpretations of the scopes of practice for cosmetologists and barbers are incongruous in two areas: shaving and waxing.

Officials we spoke with from the Board of Barber Examiners told us that barbers are allowed to shave beards with a straight-razor—cosmetologists are not. When we asked BCE leadership about this point, they would not offer a position or opinion on whether the law allows cosmetologists to shave, regardless of the type of razor.



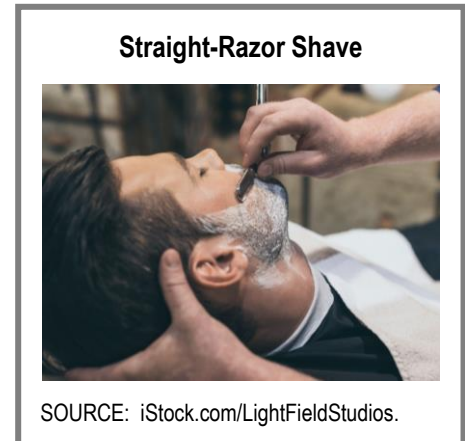
⁶ *Johnson v. Ervin, Atty. Gen., et al.*, 285 N.W. 77, 84, 90 (Minn. 1939). The 1938 law stated that persons practicing beauty culture were exempt from barber requirements; however, the law went on to say that the exemption should “not be construed to authorize [persons practicing beauty culture] to shave or trim the beard or cut the hair of any person for cosmetic purposes.” *1938 Supplement to Mason’s Minnesota Statutes*, §5846-4 (St. Paul, 1938), 820.

⁷ *Minnesota Board of Barber Examiners v. Laurance*, 218 N.W.2d, 692, 696 (Minn. 1974).

⁸ *Minnesota Statutes* 2020, 154.02, subd. 1; 154.07, subd. 1; and 155A.23, subds. 3-4.

⁹ *Minnesota Statutes* 2020, 154.02, subd. 1; and 155A.23, subds. 3-4; and *Minnesota Rules*, 2105.0105, subp. 1D, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

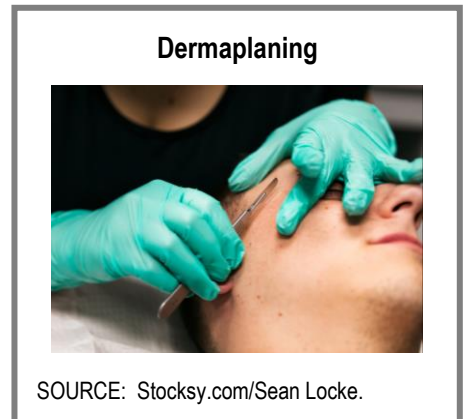
Neither state statutes nor rules for cosmetologists *or barbers* specifically mention the use of straight razors.¹⁰ Statutes clearly authorize barbers to “shave the face or neck” and “trim the beard.”¹¹ Statutes also authorize cosmetologists to “shape” (i.e., cut hair from) the body surface of the head and face.¹² And, rules clarify that cosmetologists may “us[e] a razor to remove hair from the head, face, and neck.”¹³ Further, when advanced practice estheticians perform “dermaplaning” to remove skin cells using an open blade (a service explicitly within their scope of practice according to rules) they are also removing hair from the face.¹⁴



The only provision in law that could be construed to prohibit cosmetologists from performing shaving is in the statutory definition for cosmetology, which states:

“Cosmetology” is the practice of personal services, for compensation, for the cosmetic care of the hair, nails, and skin. These services include cleaning, conditioning, shaping, reinforcing, coloring and enhancing the body surface in the areas of the head, scalp, face, arms, hands, legs, feet, and trunk of the body, *except where these services are performed by a barber.*¹⁵

However, the impact of the italicized portion of this provision above is unclear. One could interpret it to mean that cosmetologists may not perform any of the services performed by barbers, including shaving. But, under such an interpretation, the provision not only would prohibit cosmetologists from performing shaving, but also all of the other services performed by barbers, such as coloring, waving, and cutting hair. Further, such an interpretation would make the provision similar to the 1929 provision that barred cosmetologists from cutting hair, which the Minnesota Supreme Court ruled unconstitutional in 1939.¹⁶



¹⁰ *Minnesota Statutes* 2020, chapters 154 and 155A; and *Minnesota Rules*, chapters 2100 and 2105, <https://www.revisor.mn.gov/rules>, accessed July 21, 2020.

¹¹ *Minnesota Statutes* 2020, 154.02, subd. 1.

¹² Neither statutes nor rules define the term “shape,” and BCE leadership reported that the board has not established an official definition for it.

¹³ *Minnesota Rules*, 2105.0105, subp. 1D, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

¹⁴ *Minnesota Rules*, 2105.0105, subp. 5, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

¹⁵ Emphasis added. *Minnesota Statutes* 2020, 155A.23, subd. 3.

¹⁶ *Johnson v. Ervin, Atty. Gen., et al.*, 285 N.W. 77, 84, 90 (Minn. 1939).

Similar to shaving, we encountered incongruous interpretations about barbers' authority to perform waxing. Statutes allow barbers to shave the face and to "shape" the hair on the head, neck, and face of any person.¹⁷ But neither statutes nor rules explicitly authorize barbers to remove hair through waxing, nor do they explicitly prohibit barbers from doing so. On the other hand, rules explicitly authorize BCE-licensed estheticians to remove hair through waxing.¹⁸ Officials from the Board of Barber Examiners gave us conflicting opinions on whether or not barbers are allowed to wax, and said some barbers do perform waxing.

Some have suggested that cosmetologists and barbers may perform only those services in which they have been trained and tested: Because barbers are not trained to remove hair using wax, they may not perform waxing, and because cosmetologists are not trained to use a straight razor, they may not perform shaving. But this is not the standard established in law. Statutes establish the scopes of practice for cosmetologists and barbers—such as authorizing both cosmetologists and barbers to "shape" the hair of the face.¹⁹ Statutes charge BCE with establishing training and testing standards for cosmetologists based on the scope of practice authorized in law—not the other way around.²⁰

Neither statutes nor rules enumerate every tool or technique in which cosmetology or barber students must be trained or tested, and they do not limit practitioners from providing only those services in which they are trained and tested. If they did, then training and testing would need to be much more expansive, and the scope of a practitioner's license would quickly become outdated as new tools and techniques emerged.

RECOMMENDATION

The Legislature should clarify its intention about whether or not cosmetology practitioners may shave beards. It should also clarify whether or not barbers may wax hair on the head, face, or neck.

State law appears both to authorize cosmetologists to shave beards and barbers to perform waxing on the head, face, and neck. At the very least, it does not clearly prohibit these practices. If the Legislature intends for either of these practices to be solely in the domain of one occupation or the other, then it should clarify this in law.

Alternatively, if the Legislature intends for one or both of these services to be performed by both occupations, then it should clarify that as well. Practitioners may not feel confident providing shaving or waxing services without additional clarification, for fear

¹⁷ *Minnesota Statutes* 2020, 154.02, subd. 1. Neither statutes nor rules define the term "shape."

¹⁸ Cosmetologists and advanced practice estheticians may perform all of the services that estheticians may provide. *Minnesota Rules*, 2105.0105, subps. 1, 2D, and 5, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

¹⁹ *Minnesota Statutes* 2020, 154.02, subd. 1; and 155A.23, subd. 3.

²⁰ *Minnesota Statutes* 2020, 154.07; 154.09; 155A.29, subds. 2 and 4; and 155A.30, subd. 2; *Minnesota Rules*, 2100.5100, subp. 2, <https://www.revisor.mn.gov/rules/2100/>, accessed July 31, 2020; and *Minnesota Rules*, 2110.0510-2110.0530, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

of civil penalties or other enforcement actions from regulators. As we discussed earlier, BCE officials have refused to provide such clarification; officials from the Board of Barber Examiners, on the other hand, have provided varying interpretations.

We did not identify any public health or safety rationale for limiting shaving to the realm of barbering, or for limiting waxing to the realm of cosmetology—aside from differences in training, which we discuss more in the following section. Numerous states that use a single board to regulate both cosmetology and barbering explicitly allow both cosmetologists and barbers to shave or trim beards. Other states' laws are similar to Minnesota's in that they authorize cosmetologists to remove hair by various means, but do not explicitly state that cosmetologists may shave beards.

Reciprocity

Given the significant overlap between the scopes of practice of cosmetology and barbering, we reviewed the extent to which practitioners can transfer their credentials across the two occupations.

Minnesota law offers no reciprocity between cosmetology and barbering credentials.

Both cosmetology and barber schools must teach students the subjects listed in the box at right.²¹ Beyond the fact that nails and skin are (for the most part) out of the scope of practice for barbers, the primary difference between the services that must be part of cosmetology and barber training is shaving.²² State law explicitly requires barber schools to provide instruction in shaving; it neither requires *nor prohibits* cosmetology schools from teaching the subject.²³ Rules specify only that cosmetology schools must provide students with at least 150 hours of instruction in “hair design shaping.”²⁴

Subjects Required by Law	Cosmetology	Barbering
Infection control	✓	✓
Safety procedures	✓	✓
Anatomy	✓	✓
Dermatology	✓	✓
Chemistry	✓	✓
Cutting hair	✓	✓
Chemical hair treatments (such as coloring and waving)	✓	✓
Simple facials	✓	✓
Shaving	✗	✓
Manicures	✓	✗
More intensive skin services performed by estheticians	✓	✗

SOURCES: *Minnesota Statutes* 2020, 154.07, subd. 1; and *Minnesota Rules*, 2110.0500-2110.0580.

²¹ *Minnesota Statutes* 2020, 155A.23, subd. 3; and 154.07, subd. 1; and *Minnesota Rules*, 2110.0510, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

²² Some other minor differences in required training subjects exist. For example, cosmetologists must receive some training in business practices and labor relations, which the law does not require of barbers.

²³ *Minnesota Statutes* 2020, 154.07; and *Minnesota Rules*, Chapter 2110, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

²⁴ As we discussed earlier, neither statutes nor rules define “shaping.”

Despite the overlap in their scopes of practice and training, state law offers no reciprocity between a barber registration and a cosmetologist license (or any of the BCE cosmetology practitioner licenses), or vice versa. As a result, a BCE-licensed cosmetology practitioner would need to complete all of the barber training and testing requirements to obtain a barber registration; likewise, a barber would need to complete all of the training and testing requirements for a cosmetology practitioner to earn a cosmetology license.²⁵

In contrast, rules allow cosmetology practitioners to apply some of their training toward other cosmetology licenses, as Exhibit 4.1 shows.²⁶ For example, a licensed esthetician may count 550 hours of their training toward a cosmetology license. Such reciprocity between BCE licenses is reasonable, given that rules require practitioners from each area of practice to receive instruction in some of the same subjects, such as infection control, safety procedures, anatomy, dermatology, and chemistry.

Exhibit 4.1: State law allows practitioners to credit some of the hours of training they received for an initial credential toward some, but not all, other credentials.

Existing Credential		New Credential	Training Hours from Existing Credential Credited Toward New Credential
Esthetician	→	Cosmetologist	550 out of 1,550 hours needed
Nail technician	→	Cosmetologist	300 out of 1,550 hours needed
Nail technician	→	Esthetician	200 out of 600 hours needed
Esthetician	→	Nail Technician	100 out of 350 hours needed
Any BCE License	→	Barber	None
Barber	→	Any BCE License	None

NOTE: To earn a credential, state law requires a total of 1,550 hours of training for a cosmetologist, 600 hours for an esthetician, 350 hours for a nail technician, and 1,500 hours for a barber.

SOURCES: *Minnesota Statutes* 2020, 154.05; and *Minnesota Rules*, 2105.0145, subp. 1C(1), <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020; and 2110.0550, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

Barber officials told us they have tried unsuccessfully to allow cosmetology practitioners to count some of their training toward a barber registration. One official said cosmetologists routinely inquire about how to obtain a barber license. In 2016, the Board of Barber Examiners initiated a bill—which received bipartisan support—to allow cosmetologists to count 1,000 hours of their 1,550-hour cosmetology training toward the 1,500 hours of training required for barber registration.²⁷ The bill, however, did not pass. Outside of Minnesota, several states either allow cosmetologists to count some of their training toward a barber license (and vice versa), or offer a crossover

²⁵ To become a licensed cosmetologist, a person must receive 1,550 hours of instruction, take multiple exams, and pay a \$195 three-year licensing fee. To become a registered barber, a person must receive 1,500 hours of instruction, pass an exam, and pay an \$85 annual registration fee.

²⁶ *Minnesota Rules*, 2110.0550, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

²⁷ S.F. 2745, 2016 Leg., 89th Sess. (MN), as introduced.

cosmetologist-barber license. (As we discussed earlier, some other states allow both cosmetologists and barbers to perform shaving, alleviating any need for reciprocity.)

RECOMMENDATIONS

- **The Legislature should allow practitioners with a cosmetology license to count some of their training toward a barber registration, and vice versa.**
 - **The Board of Cosmetology could establish cosmetology school curriculum and testing standards related to shaving.**
-

Given the overlap in both the training and scopes of practice of cosmetology and barbering, the Legislature should allow cosmetology practitioners and barbers to count some of their training toward a credential from the other occupation.

Reducing barriers to licensure, such as redundancies in training requirements, could facilitate practitioners' ability to grow their skills, client bases, businesses, and opportunities. For example, if the Legislature allowed reciprocity between cosmetology and barbering, barbers might seek out a cosmetologist license in order to work in a BCE-licensed salon, since far more salons exist throughout the state than barbershops. Or—in the absence of legislation clarifying their ability to perform waxing—barbers might seek out an esthetics license, which would give them explicit authority to perform waxing.²⁸

Reciprocity between cosmetology and barbering credentials could be implemented in a variety of ways. State law has already established mechanisms for practitioners from other states to transfer their credentials to Minnesota; similar mechanisms could be used to facilitate reciprocity across cosmetology and barbering credentials. For example, the Legislature could allow cosmetologists to obtain a barber license if they complete a specified number of hours of additional training in shaving and pass the shaving portion of the barber practical exam. Or, the Legislature could allow cosmetologists to obtain a barber license with no additional training if they can demonstrate that they were trained in shaving in cosmetology school and pass the shaving portion of the barber practical exam.

Either with the advent of reciprocity, or in the absence of it, the Board of Cosmetology could establish additional training and testing standards in rules related to shaving.²⁹ Rules currently provide schools with broad latitude in the kind of hair-related training they must provide.³⁰ Barber officials told us that it may be difficult for barber schools to offer training to cosmetology practitioners in shaving alone, given the structure of barber school programs. Additionally, the state of Minnesota currently has just five registered barber schools, all of which are located in the Twin Cities metropolitan area. Therefore, offering shaving instruction in cosmetology schools for cosmetology practitioners may make such training more accessible, particularly to those living in outstate Minnesota.

²⁸ *Minnesota Rules*, 2105.0105, subp. 2D, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

²⁹ Statutes authorize the Board of Cosmetology to establish curriculum and testing standards. *Minnesota Statutes* 2020, 155A.30, subd. 2.

³⁰ *Minnesota Rules*, 2110.0510, <https://www.revisor.mn.gov/rules/2110/>, accessed July 21, 2020.

Regulation and Governance

In the second half of this chapter, we explore the governance and regulation of cosmetology and barbering in Minnesota.

Regulatory Inconsistencies

State law authorizes the two boards that regulate cosmetology and barbering in Minnesota to perform largely the same key functions. Both boards have the authority to process and issue credentials to practitioners, establishments, and schools; inspect establishments; take enforcement actions; and promulgate rules.

Although state law authorizes the Board of Cosmetology and the Board of Barber Examiners to perform similar regulatory functions over two highly related occupations, the two boards have used different regulatory approaches.

BCE and the Board of Barber Examiners have operated separately for most of their histories, pursuing different legislation and developing different rules for the occupations that they regulate. Therefore, despite the significant overlap between their scopes of practice, the two occupations are subject to different requirements. Exhibit 4.2 highlights some of these differences.

One difference lies in the renewal requirements for the credentials for the two occupations. State law requires BCE practitioners to complete continuing education coursework on health, safety, and infection control matters as a condition of renewing their license.³¹ In contrast, state law does not require barbers to complete continuing education requirements as a condition of renewing their registration.

Another difference between the two occupations is that state law requires barbers to have completed at least ten grades of education; a similar requirement does not exist for cosmetologists.³² Until recently, however, BCE's educational requirement for cosmetologists was higher than the barber requirement, not lower. In 2020, BCE changed a rule that required cosmetologists to have a high school diploma or equivalent.³³ Now, practitioners simply need to be at least 17 years old; the Board of Barber Examiners, by contrast, does not impose an age requirement on practitioners.³⁴

³¹ *Minnesota Statutes* 2020, 155A.271, subd. 1(a).

³² *Minnesota Statutes* 2020, 154.05 (a)(1); and *Minnesota Rules*, 2105.0145, subp. 1, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

³³ *Minnesota Rules*, 2105.0145, subp. 1B, <https://www.revisor.mn.gov/rules/2105/version/2018-10-08T09:55:33-05:00>, accessed September 25, 2020, published in 2018; and *Minnesota Rules*, 2105.0145, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

³⁴ *Minnesota Statutes* 2020, 154.05 (a)(1); and *Minnesota Rules*, 2105.0145, subp. 1, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

Exhibit 4.2: Although the practices of cosmetology and barbering overlap significantly, requirements in law vary.

Requirement	Cosmetology	Barbering
Policy purpose for regulation	To protect public health and safety	To protect public health and safety
Genders served and genders of practitioners	Any gender	Any gender
Region of the body practiced on	Hair, nails , and skin of the head, face, neck, arms, hands, legs, feet, and trunk of the body	Hair and skin of the head, face, and neck
Scope of practice	Cleaning, conditioning, coloring, bleaching, waving, straightening, cutting, and shaping the hair; cosmetic skin services; nail services	Cleaning, conditioning, coloring, bleaching, waving, straightening, cutting, and shaping the hair; limited cosmetic skin services
Board composition	Two cosmetologists One esthetician One nail technician Two school instructors One public member	Four barbers One public member
Practice outside of licensed establishments	Allowed by licensed practitioners with a homebound services permit for residents of nursing homes and other homebound persons; allowed by licensed practitioners with a special event services permit	Not allowed
Mobile establishments	Allowed	Not Allowed
Qualifications for licensure	1,550 hours of classroom and practical instruction; passage of written and practical exams; at least 17 years old	1,500 hours of classroom and practical instruction; passage of written and practical exams; 10 grades of education completed
Type of credential	License	Registration
Credential renewal schedule	Every three years	Annual
Continuing education requirements	8 hours every three years (for most operators)	None
Credential levels	Operator, Salon Manager , Instructor, School Manager , Salon, School	Student (permit) , Operator, Instructor, Barbershop, School

SOURCES: *Minnesota Statutes* 2020, chapters 154 and 155A; *Minnesota Rules*, chapters 2100 and 2105; and *Minnesota Board of Barber Examiners v. Laurance*, 218 N.W.2d, 692, 696 (Minn. 1974).

Cosmetologists may provide some compensated services outside of a credentialed establishment (with a permit), such as at special events or in the homes of persons who are homebound; barbers may not.³⁵ Similarly, cosmetologists may work in a mobile establishment; barbers may not.³⁶

Both salons and barbershops must designate a practitioner as being in charge of the establishment.³⁷ But, as we discussed in Chapter 2, state law requires cosmetologists—

³⁵ *Minnesota Statutes* 2020, 154.01 (b); 155A.23, subd. 9; and 155A.275; and *Minnesota Rules*, 2105.0410, <https://www.revisor.mn.gov/rules/2105/>, accessed July 21, 2020.

³⁶ *Minnesota Statutes* 2020, 155A.29, subd. 2a.

³⁷ *Minnesota Statutes* 2020, 154.02, subd. 5; and 155A.23, subd. 15.



License vs. Registration

One difference between cosmetology and barber practitioners is that barbers are **registered**, while cosmetologists are **licensed**.

State law sets standards for occupations that must be licensed versus registered. In licensed occupations, a person is prohibited from *practicing* without a license. In registered occupations, a person is prohibited from *using the designated title* of the occupation without registration. In both cases, a person must meet predetermined qualifications to achieve the relevant credentialing.

The term “registration” has been used to describe the barber credential since it was first established in 1897; Minnesota did not establish its credentialing standards until 1976.

Under the law, barbers are prohibited from *practicing* without a state credential, which means the occupation meets the standard for licensure. However, under state law, barbers are registered—not licensed.

Under the law, cosmetologists are prohibited from *practicing* without a *license*, which is consistent with the state’s credentialing standards.

but not barbers—to obtain an additional manager license in order to serve in this capacity.³⁸

Finally, the two agencies use different approaches to enforcement. The Board of Cosmetology sometimes assesses civil penalties against each license responsible for a given violation. This means that, if a person has multiple licenses, such as a salon license, a manager license, and an operator license (as in the case of owner-operated salons), and that person is responsible in each of those capacities for the violation, then BCE sometimes issue multiple civil penalties to that person for the same violation. By contrast, according to the Board of Barber Examiners, it does not issue multiple civil penalties for the same violation in such situations.

Efficiency

Using two different agencies to regulate cosmetology and barbering may not be the most efficient use of state resources. The boards spend resources on the same kinds of activities. For example, they both spend resources on staff to process licenses, answer practitioners’ questions, inspect establishments, and investigate complaints.

They both also spend resources on overhead costs, such as administrators, space rental, license printing, and travel for inspections. In fact, a BCE inspector might travel to one corner of the state one day, and an inspector from the Board of Barber Examiners might travel to the same corner of the state the next. The two inspectors might even inspect the same establishment and cite the same individuals for the same violations if those establishments and individuals are licensed by both boards. The Board of Barber Examiners estimated that between 20 and 30 percent of barbershops are dual-licensed as salons.³⁹

	Board of Cosmetology	Board of Barber Examiners
Employees, FY19-20 ^a	31	3
Appropriations, FY19-20	\$5,689,000	\$686,000
Licensees, FY19-20	38,252	2,936
Credentials issued, FY19-20	27,614	603
Inspections conducted, FY19-20	8,466	1,081
Complaints received, FY19-20	492	80

^a Includes vacancies.

³⁸ *Minnesota Statutes* 2020, 155A.23, subds. 8 and 15.

³⁹ In its biennial report, the Board of Barber Examiners reported a total of 788 registered barbershops in Minnesota at the end of Fiscal Year 2020. Minnesota Board of Barber Examiners, *Biennial Report for the Period July 1, 2018-June 30, 2020* (St. Paul, 2020), 3.

Both boards also must spend time and resources considering how to address emerging infection control and safety issues, such as in response to the COVID-19 pandemic, and how to ensure their statutes and rules stay current with emerging practices.

The Board of Barber Examiners oversees a much smaller pool of licensees than does BCE; in turn, it has fewer staff and performs fewer activities than BCE, as the box on the previous page shows. For example, in fiscal years 2019 to 2020, the Board of Barber Examiners issued about 600 credentials, which represents just about 2 percent of the roughly 27,600 that BCE issued in those years. According to the Board of Barber Examiners' biennial reports, the number of registered barbers has dropped by 21 percent since Fiscal Year 2002, and the number of registered barbershops has dropped by 32 percent.⁴⁰ If this trend continues, then the inefficiencies associated with using two separate boards to regulate cosmetology and barbering may increase.

Board Merger

Although the cosmetology and barber boards have operated separately for most of their histories, they have not always done so. In 2004, the Legislature created the "Board of Barber and Cosmetologist Examiners" to regulate both cosmetology and barbering.⁴¹ The merger allowed for the sharing of resources and functions, such as those related to administration, processing applications, inspections, and handling complaints.

However, problems arose in the merged board. Notably, officials said some practitioners had strong sentiments toward their professional identity and were reluctant to be associated with the other occupation. Officials said tensions arose from historical differences in how the agencies had approached their work. And, although the Legislature had merged the board members and the staff, it did not align the requirements in law for the two occupations, which meant regulatory inconsistencies remained.

In 2009, amidst these various tensions, the Legislature split the Board of Barber and Cosmetologist Examiners into two separate boards.⁴²

Recommendation Options

We conclude this chapter with a discussion of the pros and cons of various options that the Legislature could pursue to reduce regulatory inconsistencies between cosmetology and barbering, and to create efficiencies.

⁴⁰ Board of Barber Examiners, *Biennial Report: July 1, 2000-June 30, 2002* (St. Paul, 2002); and Board of Barber Examiners, *Biennial Report: July 1, 2018-June 30, 2020* (St. Paul, 2020).

⁴¹ *Laws of Minnesota* 2004, chapter 269, art. 3, secs. 18-43. From 1927 to 1971, the State Board of Hairdressing and Beauty Culture Examiners regulated cosmetology. In 1971, the Legislature renamed the board as the Minnesota State Board of Cosmetology. In 1981, the Legislature transferred the board's duties to the Department of Commerce and created a Cosmetology Advisory Council. The department regulated cosmetology from 1981 until the Legislature moved that responsibility to the new Board of Barber and Cosmetologist Examiners in 2004.

⁴² *Laws of Minnesota* 2009, chapter 78, art. 6, secs. 9-26, codified as *Minnesota Statutes* 2020, chapters 154 and 155A.

RECOMMENDATION OPTIONS

- **Option 1: The Legislature could merge the Board of Cosmetology and the Board of Barber Examiners.**
 - **Option 2: The Legislature could make no changes to the governance structures of the boards, but grant reciprocity between cosmetology and barbering credentials or clarify the scopes of those credentials.**
-

Option 1: Merger.

As it did in 2004, the Legislature could merge the Board of Cosmetology and the Board of Barber Examiners. A merger could take a variety of forms.

Merge the staff, but not the boards. The Legislature could merge the staff of the two agencies, but keep the governing boards separate. This option would likely create some efficiencies by reducing overhead expenditures, such as in office space rental, administration, and travel for inspections. However, these efficiencies may be relatively minor, given the small size of the barber board, and this option could create administrative challenges for staff who would need to take direction from two boards.

Merge the staff and the boards. Another option that the Legislature could pursue is merging both the staff and the boards, as it did in 2004. In addition to administrative efficiencies, this option could promote fairness and consistency in the regulation of two highly related occupations. Under this model, a single board would pursue future regulatory changes—instead of two separate boards pursuing changes that affect one occupation and not the other, even when there is no public health or safety rationale for such differences.

One concern we heard about merging the boards relates to the allocation of seats among board members. Officials from the Board of Barber Examiners told us that a combined board should have even representation between barbering and cosmetology. But, BCE oversees roughly 13 times as many practitioners and establishments as the Board of Barber Examiners, including numerous specialty licenses in addition to cosmetologists (i.e., estheticians, advanced practice estheticians, nail technicians, and eyelash extension technicians). Because of this asymmetry, even representation on the board may not be equal or fair to cosmetology practitioners.

We identified one possible solution to this problem in our review of the composition of other states' boards and the composition of other non-health-related licensing boards in Minnesota: reserving more seats for public members. In several of the more than two dozen states that use a single board to regulate cosmetology and barbering, neither cosmetologists nor barbers hold a majority of board seats because as many or more seats are reserved for public members (or some other types of members).

In Minnesota, the number of seats reserved for public members varies across the state’s licensing boards, as the box at right shows. The Private Detective and Protective Agent Services Board has the largest percentage of public members; its two public members constitute 40 percent of the five-member board. Like BCE, the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design (AELSLAGID), regulates multiple occupations. It has five seats reserved for public members; the remaining seats are allocated among the various occupations that the board regulates, which means that no one occupation has a majority and cross-occupational agreement is required to achieve a majority.⁴³

The number of board seats reserved for public members varies among Minnesota’s non-health-related licensing boards.

Non-Health-Related Licensing Board	Total Number of Seats	Public Members	
		Number of Seats	Percentage of Seats
Private Detective and Protective Agent Services	5	2	40%
AELSLAGID	21	5	24
Peace Officer Standards and Training	17	4	24
Accountancy	9	2	22
Assessors	9	2	22
Barber Examiners	5	1	20
Cosmetology	7	1	14
Professional Educator and Licensing Standards	11	1	9

Taking from these examples, the Legislature could increase the number of public members on a merged cosmetology and barber board so that as many or more public members serve on the board than do cosmetology practitioners or barbers.

Merge the staff and boards, and align requirements in law. In addition to merging the staff and boards, the Legislature could align the requirements in law for cosmetology practitioners and barbers, and/or merge the statutes that govern the occupations. This would help ensure that the two occupation groups are subject to equal requirements under the law.

This option could work well with the endorsement-based licensing structure that we discussed in Chapter 2. Under a merged board with merged statutes, an endorsement-based licensing structure could offer a single endorsement in hair services for practitioners currently licensed as cosmetologists or barbers. Such a license structure could include an endorsement in beard shaving that could be available to practitioners currently registered as barbers (or to cosmetologists or others who receive additional training in shaving).

Additionally, under merged statutes, the merged board could issue a single type of establishment credential—rather than one for salons and another for barbershops. This would allow establishments that are currently required to hold credentials from both boards to hold just one, and it would allow them to be inspected under just one set of standards and by just one board.

⁴³ The AELSLAGID board has 21 members, with seats distributed as follows: 3 architects, 5 engineers, 2 landscape architects, 2 land surveyors, 2 interior designers, 2 geoscientists, and 5 public members. *Minnesota Statutes* 2020, 326.04, subd. 1.

Although these various merger options could make the state's regulation of cosmetology and barbering more equal, they would likely be met with some of the same resistance that the merged board faced 17 years ago.

It is worth noting that merging the boards will take resources, which could offset any efficiencies that may be gained through a merger. For example, a merged board may need to invest in new or modified information technology systems, and staff may need to be trained to enforce new or modified regulatory requirements.

Option 2: Make no changes to the governing structure, but grant reciprocity between cosmetology and barbering credentials, or clarify their scopes of practice.

The Legislature could make no changes to the governance structures of the Board of Cosmetology and the Board of Barber Examiners. Officials we spoke with from both boards said they do not support a merger. However, if cosmetology specialties outpace the growth of barbering as the Bureau of Labor Statistics projects them to do nationally, the inefficiencies that exist in using two separate agencies to regulate these occupations may grow. Further, continuing to regulate these highly related occupations separately will not address the regulatory inconsistencies that we discussed throughout this chapter.

If the Legislature chooses to make no changes to the governance structures of the boards, then we recommend that the Legislature authorize reciprocity between the cosmetology and barbering credentials, as we discussed earlier in the chapter.

Alternatively, the Legislature could clarify the scopes of practice for cosmetology and barbering in law, as we recommended earlier in this chapter. It could affirm what the law already suggests—that cosmetologists may shave beards and that barbers may wax. As we discussed earlier, numerous states offer two credentialing options in which both barbers and cosmetologists may perform the same services.

List of Recommendations

- The Legislature should consider repealing the salon manager license. (p. 19)
- The Legislature should allow instructor and school manager licenses to supersede underlying licenses, and it should modify their renewal requirements. (p. 24)
- The Legislature should allow practitioners with an operator license in any specialty—not just cosmetologists—to obtain a school manager license. (p. 24)
- The Legislature could adopt an endorsement-based licensing structure. (p. 24)
- The Legislature should create a hair-only specialty license; it could also consider creating other narrow-scope specialty licenses. (p. 27)
- The Legislature should amend state law so salons no longer must be licensed by area of practice. (p. 30)
- Option 1: The Legislature could repeal the 2020 legislation, which would require practitioners offering makeup application and hairstyling to hold a license and a special event services permit; but it could lower the requirements for the permit. (p. 34)
- Option 2: The Legislature could repeal the special event services permit entirely, and allow unlicensed practitioners to perform nail polish services if they take the four-hour course required of those who perform makeup application and hairstyling. (p. 34)
- The Legislature should require unlicensed practitioners who perform makeup application and hairstyling (and nail polish services) to register with the Board of Cosmetology. (p. 34)
- The Board of Cosmetology should publish the registration list of unlicensed practitioners who have taken the four-hour course on its website, along with any enforcement actions against them, and audit a sample of the registrations. (p. 34)
- The Legislature should require unlicensed practitioners who perform makeup application and hairstyling (and nail polish services) to renew their registrations and take the required four-hour course at a regular interval. (p. 34)
- The Legislature and the Board of Cosmetology should reevaluate the scope and requirements for the special event services and homebound services permits and consider merging them. (p. 36)
- The Legislature could authorize the Board of Cosmetology to develop an interstate compact among a group of states to recognize those states' cosmetology practitioner licenses. (p. 49)

- The Board of Cosmetology should allow military temporary licenses to be valid for the length of the person's military assignment in Minnesota, up to three years. (p. 49)
- The Legislature should reduce the fees for military temporary licenses to make them equal on an annualized basis to the fees charged for initial practitioner licenses. (p. 49)
- The Legislature should clarify its intention about whether or not cosmetology practitioners may shave beards. It should also clarify whether or not barbers may wax hair on the head, face, or neck. (p. 56)
- The Legislature should allow practitioners with a cosmetology license to count some of their training toward a barber registration, and vice versa. (p. 59)
- The Board of Cosmetology could establish cosmetology school curriculum and testing standards related to shaving. (p. 59)
- Option 1: The Legislature could merge the Board of Cosmetology and the Board of Barber Examiners. (p. 64)
- Option 2: The Legislature could make no changes to the governance structures of the boards, but grant reciprocity between cosmetology and barbering credentials or clarify the scopes of those credentials. (p. 64)



May 19, 2021

James Nobles
Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Dear Mr. Nobles:

Thank you for the opportunity to review and comment on the report titled Board of Cosmetology Licensing. We appreciate the hard work and thorough program evaluation of the Board of Cosmetology ("Board") that was conducted by your staff.

Our goal is to protect the health and safety of Minnesota citizens and licensees. With that in mind, the Board strives for continuous improvement in our processes and procedures. We appreciate the recommendations you have outlined in the report. Our response to the key recommendations is summarized below.

The Legislature should simplify Minnesota's licensing structure for practitioners and modify certain licensing requirements.

- The Board is open to changing its licensing structure. With over 33,000 licensed practitioners, 5,200 licensed salons and 35 licensed schools, licensees may hold more than one license. We understand holding multiple licenses can feel burdensome and expensive and streamlining the process could be beneficial. The Board believes it would be valuable for the Legislature to establish an advisory committee to study and develop a revised licensing structure to streamline the process.

The Legislature should create a hair-only specialty license; it could also consider creating other narrow-scope specialty licenses.

- The Board is open to creating specialty licenses and believes the knowledge of a dedicated advisory committee of licensed professionals and stakeholders should be utilized to meet this goal. This will assist in determining sufficient requirements to adequately establish training and licensing requirements to meet standards for public protection.

The Legislature should allow BCE to issue just one type of salon license, since the health and safety requirements for all salons are now the same.

- The Board agrees that this is the best, most streamlined approach for our licensees.



The Legislature should require unlicensed practitioners who perform makeup and hairstyling to register with BCE, and BCE should post the registrations on its website.

- The Board is open to registering, and publishing registrations of, makeup artists and hairstylists with the ability to regulate and enforce applicable laws and rules. The Legislature previously authorized the Board to register hair braiders. The Legislature did not grant the Board the statutory authority to enforce the registration and applicable laws and rules. Without the ability to regulate and enforce laws and rules, registration was simply meaningless and gave the public a false perception of protection.

The Legislature should clarify the scope of practice for cosmetology practitioners and barbers, and consider whether it makes sense to continue regulating them separately.

The Board does not support the merging of cosmetology and barbering. As outlined in the report, the boards were merged by the Legislature in 2004. The merger only lasted until 2009, when the boards were again separated by the Legislature into what they are today. Cosmetologists perform a much wider scope of services than barbers and the physical setup of salons and barbershops are generally very different. Re-merging the professions in any capacity will likely lead to frustration and confusion for licensees and public.

Cosmetologists provide services in nearly every community throughout the state of Minnesota. We are proud of the work we do throughout the board to keep the public safe. Again, we appreciate this opportunity to respond to the report. If you have any further questions, please contact myself at rhonda.besel@riverland.edu or (507) 438-3115 or the Executive Director Gina Fast at gina.fast@state.mn.us or (651) 201-2744.

Sincerely,

Rhonda Besel,
Board Chair
Cosmetologist
Cosmetologist Instructor

Gina Fast, JD
Executive Director

May 20, 2021

Judy Randall
Deputy Legislative Auditor
658 Cedar Street Room 140
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Sent via e-mail: laura.schwartz@state.mn.us

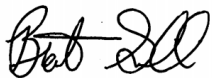
Dear Deputy Legislative Auditor Judy Randall:

Please accept this letter as the Minnesota Board of Barber Examiners overall reaction to the Board of Cosmetology licensing report. Board Chair Collette Lease and I thank you for the opportunity to share our reaction of the report. I would like to commend your staff on the professionalism and expertise they displayed during the auditing process. This is an important process and I felt like our feedback and knowledge was valued.

Board Chair Lease and I were glad to see a number of recommendations included in the Board of Cosmetology Licensing Report. For the past few years, the Board of Barber Examiners has been actively trying to address many of the concerns identified in the report. Allowing reciprocity between cosmetologists and barbers and clarification of barber and cosmetologist scope of practice are two of the biggest. The Barber Board has done a lot of work drafting proposed legislation on these very topics and we are hoping that this report will help us find some momentum in getting this legislation passed.

Board Chair Lease and I also agree that the goals and recommendations in the Board of Cosmetology licensing report can be met without combining the Barber and Cosmetology Boards. We look forward to taking the recommendations in the report and working with the legislature to ensure that the citizens of Minnesota enjoy receiving their barber services in a safe and sanitary manner.

Respectfully,



Brent Grebinoski
Executive Director
Minnesota Board of Barber Examiners



Forthcoming OLA Evaluations

Child Protection Removals and Reunifications

Recent OLA Evaluations

Agriculture

Pesticide Regulation, March 2020

Agricultural Utilization Research Institute (AURI),
May 2016

Agricultural Commodity Councils, March 2014

Criminal Justice and Public Safety

Driver Examination Stations, March 2021

Safety in State Correctional Facilities, February 2020

Guardian ad Litem Program, March 2018

Mental Health Services in County Jails, March 2016

Health Services in State Correctional Facilities,
February 2014

Law Enforcement's Use of State Databases,
February 2013

Economic Development

Minnesota Investment Fund, February 2018

Minnesota Research Tax Credit, February 2017

Iron Range Resources and Rehabilitation Board (IRRRB),
March 2016

Education, K-12 and Preschool

*Collaborative Urban and Greater Minnesota Educators
of Color (CUGMEC) Grant Program*, March 2021

Compensatory Education Revenue, March 2020

Debt Service Equalization for School Facilities,
March 2019

Early Childhood Programs, April 2018

Minnesota State High School League, April 2017

Standardized Student Testing, March 2017

Perpich Center for Arts Education, January 2017

Minnesota Teacher Licensure, March 2016

Education, Postsecondary

*Collaborative Urban and Greater Minnesota Educators
of Color (CUGMEC) Grant Program*, March 2021

*Preventive Maintenance for University of Minnesota
Buildings*, June 2012

MnSCU System Office, February 2010

MnSCU Occupational Programs, March 2009

Energy

*Public Utilities Commission's Public Participation
Processes*, July 2020

Renewable Energy Development Fund, October 2010

Biofuel Policies and Programs, April 2009

Environment and Natural Resources

*Public Facilities Authority: Wastewater Infrastructure
Programs*, January 2019

Clean Water Fund Outcomes, March 2017

*Department of Natural Resources: Deer Population
Management*, May 2016

Recycling and Waste Reduction, February 2015

Government Operations

*Office of Minnesota Information Technology Services
(MNIT)*, February 2019

Mineral Taxation, April 2015

Councils on Asian-Pacific Minnesotans, Black

*Minnesotans, Chicano/Latino People, and Indian
Affairs*, March 2014

Helping Communities Recover from Natural Disasters,
March 2012

Health

Office of Health Facility Complaints, March 2018

*Minnesota Department of Health Oversight of HMO
Complaint Resolution*, February 2016

*Minnesota Board of Nursing: Complaint Resolution
Process*, March 2015

Minnesota Health Insurance Exchange (MNSure),
February 2015

Human Services

DHS Oversight of Personal Care Assistance, March 2020

*Home- and Community-Based Services: Financial
Oversight*, February 2017

Managed Care Organizations' Administrative Expenses,
March 2015

Medical Assistance Payment Rates for Dental Services,
March 2013

State-Operated Human Services, February 2013

Child Protection Screening, February 2012

Civil Commitment of Sex Offenders, March 2011

Housing and Local Government

Economic Development and Housing Challenge Program,
February 2019

Consolidation of Local Governments, April 2012

Jobs, Training, and Labor

State Protections for Meatpacking Workers, 2015

State Employee Union Fair Share Fee Calculations,
July 2013

Workforce Programs, February 2010

Miscellaneous

Board of Cosmetology Licensing, May 2021

*Minnesota Department of Human Rights: Complaint
Resolution Process*, February 2020

Minnesota State Arts Board Grant Administration,
February 2019

*Board of Animal Health's Oversight of Deer and
Elk Farms*, April 2018

Voter Registration, March 2018

Minnesota Film and TV Board, April 2015

Transportation

MnDOT Workforce and Contracting Goals, May 2021

MnDOT Measures of Financial Effectiveness,
March 2019

MnDOT Highway Project Selection, March 2016

*MnDOT Selection of Pavement Surface for Road
Preservation*, March 2014

MnDOT Noise Barriers, October 2013



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