

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-SECOND SESSION**

**S.F. No. 691**

(SENATE AUTHORS: HOUSLEY and Kiffmeyer)

DATE	D-PG	OFFICIAL STATUS
02/04/2021	255	Introduction and first reading
		Referred to State Government Finance and Policy and Elections
03/04/2021	667a	Comm report: To pass as amended and re-refer to Health and Human Services Finance and Policy

1.1 A bill for an act

1.2 relating to occupations; authorizing local government licensing of facilities for

1.3 barbering and cosmetology; repealing state licensing of barbers and cosmetologists;

1.4 proposing coding for new law in Minnesota Statutes, chapter 415; repealing

1.5 Minnesota Statutes 2020, sections 154.001; 154.002; 154.003; 154.01; 154.02;

1.6 154.04; 154.05; 154.065, subdivisions 2, 4; 154.07, subdivisions 1, 3, 3a, 4, 5, 5a,

1.7 5b, 6; 154.08; 154.09; 154.10; 154.11, subdivisions 1, 3; 154.14; 154.15; 154.161;

1.8 154.162; 154.19; 154.20; 154.21; 154.24; 154.25; 154.26; 154.27; 154.28; 155A.20;

1.9 155A.21; 155A.22; 155A.23, subdivisions 1, 2, 3, 4, 4a, 4b, 5, 5a, 7, 8, 8a, 9, 10,

1.10 11, 12, 13, 14, 15, 16, 17, 18, 19, 20; 155A.24, subdivisions 1, 2; 155A.25,

1.11 subdivisions 1a, 1b, 2, 3, 4, 5, 6, 7, 8; 155A.26; 155A.27, subdivisions 1, 2, 4, 5,

1.12 5a, 6, 7, 8, 9, 10; 155A.271; 155A.275; 155A.28, subdivisions 2, 5; 155A.29;

1.13 155A.30; 155A.31; 155A.32; 155A.33; 155A.34; 155A.35; 155A.355; 155A.36.

1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.15 Section 1. **[415.20] LICENSING BARBERSHOPS, SALONS.**

1.16 Subdivision 1. **Definitions.** The terms defined in this section apply to sections 415.20

1.17 to 415.24.

1.18 Subd. 2. **Barbering.** "Barbering" means any one or any combination of the following

1.19 practices when done upon the head, face, and neck for cosmetic purposes and not for the

1.20 treatment of disease or physical or mental ailments, and when done for payment directly or

1.21 indirectly, or without payment for the public: to shave the face or neck, trim the beard, or

1.22 clean, condition, cut, color, shape, or straighten the hair of any person of either sex; to give

1.23 facial and scalp massage with oils, creams, lotions, or other preparations either by hand or

1.24 mechanical appliances; to singe, shampoo the hair, or apply hair tonics; or to apply cosmetic

1.25 preparations, antiseptics, powders, oils, clays, or lotions to hair, scalp, face, or neck.

2.1 Subd. 3. **Cosmetology.** "Cosmetology" means providing personal cosmetic care of the  
2.2 hair, nails, and skin for compensation. Cosmetology services include cleaning, conditioning,  
2.3 shaping, reinforcing, coloring, and enhancing the body surface in the areas of the head,  
2.4 scalp, face, arms, hands, legs, feet, and trunk of the body. Natural hair braiding and threading  
2.5 are not the practice of cosmetology.

2.6 Subd. 4. **Municipality.** "Municipality" means a town, acting through its town board of  
2.7 supervisors, or a home rule charter or statutory city.

2.8 Subd. 5. **Salon.** "Salon" means an area, room, or rooms used to offer barbering or  
2.9 cosmetology services. "Salon" does not include the home of a customer.

2.10 Sec. 2. **[415.21] MUNICIPAL AUTHORITY TO LICENSE SALONS.**

2.11 Subdivision 1. **Ordinance.** A municipality may adopt an ordinance governing the  
2.12 licensing and inspection of salons. A salon licensing and inspection ordinance must provide  
2.13 for the health, safety, and welfare of the public using a salon. The ordinance may provide  
2.14 for penalties for failure to obtain and maintain a license or for failure to pass an inspection.  
2.15 A penalty must not exceed \$3,000 per inspection or per salon. A municipality may impose  
2.16 reasonable fees for a license and for an inspection in order to cover the costs the city incurs  
2.17 in administering salon licensing and inspections.

2.18 Subd. 2. **Salon must be licensed by municipality.** A salon may not offer barbering or  
2.19 cosmetology services unless it holds a valid license issued by the municipality in which it  
2.20 is located. A salon license must indicate if the salon is a barber shop, cosmetology salon,  
2.21 nail salon, esthetician salon, advanced practice esthetician salon, or eyelash extension salon.  
2.22 A salon may hold more than one type of salon license.

2.23 Subd. 3. **May not regulate barbers or cosmetologists.** A municipality may not require  
2.24 a person who works in a salon to have a current occupational license or other credential  
2.25 reflecting qualifications based on education, training, or other personal qualifications.

2.26 Sec. 3. **[415.22] INSPECTIONS.**

2.27 Subdivision 1. **May inspect.** A municipality may inspect salons licensed by the  
2.28 municipality as provided in this section. An inspector must have an official photo  
2.29 identification issued by the municipality and produce it upon request by the salon owner or  
2.30 designee.

2.31 Subd. 2. **Protocol.** A salon must allow an inspector, in the exercise of official duties, to  
2.32 inspect the salon on the inspector's arrival at the salon. The salon owner or designee must

3.1 cooperate with an inspector. A salon owner or designee must have access and provide to  
 3.2 the inspector access to all areas of the salon, including leased space within the salon.

3.3 Subd. 3. **Violations; orders to comply.** The inspector must give the salon owner or  
 3.4 designee a written report when a violation is found during an inspection. The salon owner  
 3.5 or designee must immediately address each violation and, within ten business days, bring  
 3.6 the salon into compliance with the municipality's ordinance and license requirements. If an  
 3.7 order to comply is issued by the inspector, the salon owner or designee must report to the  
 3.8 municipality by means required in the ordinance within ten business days of the order's  
 3.9 issuance, using a form provided by the inspector. The report must:

3.10 (1) explain how each violation was corrected and the date of correction; and

3.11 (2) for each violation that was not corrected within ten days, provide a written explanation  
 3.12 of the reason for the delay, the specific steps the salon will take to correct the violation, and  
 3.13 the projected date the outstanding violation will be corrected.

3.14 The municipality must grant an extension, if requested in writing, when the health and safety  
 3.15 of the public is not at immediate risk and when the delay is warranted based on the  
 3.16 information provided by the salon owner or designee.

3.17 **Sec. 4. [415.23] CONSUMER PROTECTION.**

3.18 Subdivision 1. **Salon responsibilities.** The salon owner is responsible to ensure the  
 3.19 education, training, skills, and competence of persons who work in the owner's salon.

3.20 Subd. 2. **Remedies.** In addition to remedies otherwise provided by law, in an action  
 3.21 based on an injury alleged to have occurred in a salon, a person may recover reasonable  
 3.22 attorney fees and receive other equitable relief as determined by the court.

3.23 **Sec. 5. [415.24] EXEMPTIONS.**

3.24 Sections 415.20 to 415.23 do not apply to funeral homes, hospitals, nursing homes,  
 3.25 theaters, or similar venues where barbering or cosmetology is provided as an auxiliary  
 3.26 service.

3.27 **Sec. 6. REPEALER.**

3.28 Minnesota Statutes 2020, sections 154.001; 154.002; 154.003; 154.01; 154.02; 154.04;  
 3.29 154.05; 154.065, subdivisions 2 and 4; 154.07, subdivisions 1, 3, 3a, 4, 5, 5a, 5b, and 6;  
 3.30 154.08; 154.09; 154.10; 154.11, subdivisions 1 and 3; 154.14; 154.15; 154.161; 154.162;  
 3.31 154.19; 154.20; 154.21; 154.24; 154.25; 154.26; 154.27; 154.28; 155A.20; 155A.21;

- 4.1 155A.22; 155A.23, subdivisions 1, 2, 3, 4, 4a, 4b, 5, 5a, 7, 8, 8a, 9, 10, 11, 12, 13, 14, 15,
- 4.2 16, 17, 18, 19, and 20; 155A.24, subdivisions 1 and 2; 155A.25, subdivisions 1a, 1b, 2, 3,
- 4.3 4, 5, 6, 7, and 8; 155A.26; 155A.27, subdivisions 1, 2, 4, 5, 5a, 6, 7, 8, 9, and 10; 155A.271;
- 4.4 155A.275; 155A.28, subdivisions 2 and 5; 155A.29; 155A.30; 155A.31; 155A.32; 155A.33;
- 4.5 155A.34; 155A.35; 155A.355; and 155A.36, are repealed.

**154.001 BOARD OF BARBER EXAMINERS CREATED; TERMS.**

Subdivision 1. **Definition.** For the purposes of this chapter, "board" means the Board of Barber Examiners.

Subd. 2. **Board of Barber Examiners.** (a) A Board of Barber Examiners is established to consist of four barber members and one public member, as defined in section 214.02, appointed by the governor.

(b) The barber members shall be persons who have practiced as registered barbers in this state for at least five years immediately prior to their appointment; shall be graduates from the 12th grade of a high school or have equivalent education, and shall have knowledge of the matters to be taught in registered barber schools, as set forth in section 154.07. One of the barber members shall be a member of, or recommended by, a union of journeymen barbers that has existed at least two years, and one barber member shall be a member of, or recommended by, a professional organization of barbers.

Subd. 3. **Membership terms.** (a) Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

(b) Members appointed to fill vacancies caused by death, resignation, or removal shall serve during the unexpired term of their predecessors.

Subd. 4. **Comprehensive examination.** "Comprehensive examination" means all parts of a test administered by the board, including but not limited to written, oral, and practical components.

**154.002 OFFICERS; COMPENSATION; FEES; EXPENSES.**

The Board of Barber Examiners shall annually elect a chair and secretary. It shall adopt and use a common seal for the authentication of its orders and records. The board shall appoint an executive secretary or enter into an interagency agreement to procure the services of an executive secretary. The executive secretary shall not be a member of the board and shall be in the unclassified civil service. The position of executive secretary may be a part-time position.

The executive secretary shall keep a record of all proceedings of the board. The expenses of administering this chapter shall be paid from the appropriations made to the Board of Barber Examiners.

Each member of the board shall take the oath provided by law for public officers.

A majority of the board, in meeting assembled, may perform and exercise all the duties and powers devolving upon the board.

The members of the board shall receive compensation, as provided in section 214.09, for each day spent on board activities, but not to exceed 20 days in any calendar month nor 100 days in any calendar year.

The board shall have authority to employ such inspectors, clerks, deputies, and other assistants as it may deem necessary to carry out the provisions of this chapter.

**154.003 FEES.**

(a) The fees collected, as required in this chapter, chapter 214, and the rules of the board, shall be paid to the board. The board shall deposit the fees in the general fund in the state treasury.

(b) The board shall charge the following fees:

(1) examination and certificate, registered barber, \$85;

(2) retake of written examination, \$10;

(3) examination and certificate, instructor, \$180;

(4) certificate, instructor, \$65;

(5) temporary teacher permit, \$80;

(6) temporary registered barber, military, \$85;

(7) temporary barber instructor, military, \$180;

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- (8) renewal of registration, registered barber, \$80;
- (9) renewal of registration, instructor, \$80;
- (10) renewal of temporary teacher permit, \$65;
- (11) student permit, \$45;
- (12) renewal of student permit, \$25;
- (13) initial shop registration, \$85;
- (14) initial school registration, \$1,030;
- (15) renewal shop registration, \$85;
- (16) renewal school registration, \$280;
- (17) restoration of registered barber registration, \$95;
- (18) restoration of shop registration, \$105;
- (19) change of ownership or location, \$55;
- (20) duplicate registration, \$40;
- (21) home study course, \$75;
- (22) letter of registration verification, \$25; and
- (23) reinspection, \$100.

**154.01 REGISTRATION MANDATORY.**

(a) The registration of the practice of barbering serves the public health and safety of the people of the state of Minnesota by ensuring that individuals seeking to practice the profession of barbering are appropriately trained in the use of the chemicals, tools, and implements of barbering and demonstrate the skills necessary to conduct barber services in a safe, sanitary, and appropriate environment required for infection control.

(b) No person shall practice, offer to practice, or attempt to practice barbering without a current certificate of registration as a registered barber, issued pursuant to provisions of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 by the Board of Barber Examiners.

(c) A registered barber must only provide barbering services in a registered barber shop or barber school, unless prior authorization is given by the board.

(d) No person shall operate a barber shop unless it is at all times under the direct supervision and management of a registered barber and the owner or operator of the barber shop possesses a current shop registration card, issued to the barber shop establishment address, under sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 by the Board of Barber Examiners.

(e) No person shall serve, offer to serve, or attempt to serve as an instructor of barbering without a current certificate of registration as a registered instructor of barbering or a temporary permit as an instructor of barbering, as provided for the board by rule, issued under sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 by the Board of Barber Examiners. Barber instruction must be provided in registered barber schools only.

(f) No person shall operate a barber school unless the owner or operator possesses a current certificate of registration as a barber school, issued under sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 by the Board of Barber Examiners.

**154.02 DEFINITIONS.**

Subdivision 1. **What constitutes barbering.** Any one or any combination of the following practices when done upon the head, face, and neck for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or without payment for the public generally constitutes the practice of barbering within the meaning of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28: to shave the face or neck, trim the beard, clean, condition, cut, color, shape, or straighten the hair of any person of either sex for compensation or other reward received by the person performing such

service or any other person; to give facial and scalp massage with oils, creams, lotions, or other preparations either by hand or mechanical appliances; to singe, shampoo the hair, or apply hair tonics; or to apply cosmetic preparations, antiseptics, powders, oils, clays, or lotions to hair, scalp, face, or neck.

Subd. 2. **Barber school.** A "barber school" is a place that holds a registration as a barber school in which barbering, as defined in subdivision 1, is practiced by registered student barbers under the direction of registered barber instructors for the purpose of learning and teaching barber skills.

Subd. 3. **Barber shop.** A "barber shop" is a place other than a barber school that holds a registration as a barber shop under this chapter in which barbering, as defined in subdivision 1, is practiced.

Subd. 4. **Certificate of registration.** A "certificate of registration" means the certificate issued to an individual, barber shop, or barber school that is in compliance with the requirements of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28.

Subd. 5. **Designated registered barber.** The "designated registered barber" is a registered barber designated as the manager of a barber shop.

Subd. 6. **Registered barber.** A "registered barber" is an individual who, for compensation, performs the personal services as defined in subdivision 1, in compliance with this chapter.

#### **154.04 PERSONS EXEMPT FROM REGISTRATION.**

The following persons are exempt from the provisions of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 while in the proper discharge of their professional duties:

(1) persons authorized by the law of this state to practice medicine, surgery, osteopathic medicine, and chiropractic;

(2) commissioned medical or surgical officers of the United States armed services;

(3) registered nurses, licensed practical nurses, and nursing aides performing services under the direction and supervision of a licensed physician or licensed registered nurse, provided, however, that no additional compensation shall be paid for such service and patients who are so attended shall not be charged for barbering;

(4) licensed cosmetologists, when providing cosmetology services as defined in section 155A.23, subdivision 3, provided, however, that cosmetologists shall not hold themselves out as barbers or practice their occupation in a barber shop; and

(5) persons who perform barbering services for charitable purposes in nursing homes, shelters, missions, individual homes, or other similar facilities, provided, however, that no direct or indirect compensation is received for the services, and that persons who receive barbering services are not charged for the services.

#### **154.05 WHO MAY RECEIVE CERTIFICATES OF REGISTRATION AS A REGISTERED BARBER.**

(a) A person is qualified to receive a certificate of registration as a registered barber if the person:

(1) has successfully completed ten grades of education;

(2) has successfully completed 1,500 hours of study in a board-approved barber school; and

(3) has passed an examination conducted by the board to determine fitness to practice barbering.

(b) A first-time applicant for a certificate of registration to practice as a registered barber who fails to pass the comprehensive examination conducted by the board and who fails to pass a onetime retake of the written examination, shall complete an additional 500 hours of barber education before being eligible to retake the comprehensive examination as many times as necessary to pass.

#### **154.065 BARBER SCHOOLS AND COLLEGES.**

Subd. 2. **Qualifications.** A person is qualified to receive a certificate of registration as an instructor of barbering who:

(1) is a graduate of an approved high school, or its equivalent, as determined by examination by the Department of Education;

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(2) has successfully completed vocational instructor training from a board-approved program or accredited college or university program that includes the following courses or their equivalents as determined by the board:

- (i) introduction to career and technical education training;
- (ii) philosophy and practice of career and technical education;
- (iii) course development for career and technical education;
- (iv) instructional methods for career and technical education; and
- (v) human relations;

(3) is currently a registered barber and has at least three years experience as a registered barber in this state, or its equivalent in another state or jurisdiction as determined by the board; and

(4) has passed an examination conducted by the board to determine fitness to instruct in barbering.

Subd. 4. **Examinations.** Examinations under this section shall be held not to exceed twice a year at times and at a place or places to be determined by the board. In case of an emergency, there being no registered instructor of barbering available, a temporary certificate as an instructor of barbering may be issued upon such terms and conditions as the board may prescribe.

**154.07 BARBER SCHOOLS; REQUIREMENTS.**

Subdivision 1. **Admission requirements; course of instruction.** No barber school shall be approved by the board unless it requires, as a prerequisite to admission, ten grades of an approved school or its equivalent, as determined by educational transcript, high school diploma, high school equivalency certificate, or an examination conducted by the commissioner of education, which shall issue a certificate that the student has passed the required examination, and unless it requires, as a prerequisite to graduation, a course of instruction of at least 1,500 hours of not more than ten hours of schooling in any one working day. The course of instruction must include the following subjects: scientific fundamentals for barbering; hygiene; practical study of the hair, skin, muscles, and nerves; structure of the head, face, and neck; elementary chemistry relating to sanitation; disinfection; sterilization and antiseptics; diseases of the skin, hair, and glands; massaging and manipulating the muscles of the face and neck; haircutting; shaving; trimming the beard; bleaching, tinting and dyeing the hair; and the chemical waving and straightening of hair.

Subd. 3. **Costs.** It is permissible for barber schools to make a reasonable charge for materials used and services rendered by students for work done in the schools by students.

Subd. 3a. **Number of instructors.** There must be one registered instructor of barbering for every 20 students in attendance at the same time. Instruction must not be performed by persons not possessing a certificate of registration as an instructor of barbering or a temporary permit as an instructor of barbering.

Subd. 4. **Building requirements.** Each barber school must be conducted and operated in one building, or in connecting buildings, and a barber school must not have any department or branch in a building completely separated or removed from the remainder of the barber school.

Subd. 5. **Owner's requirements.** Any person may own a barber school provided the person first secures from the board an annual certificate of registration as a barber school, keeps it prominently displayed, and before commencing business:

(1) files with the secretary of state a bond to the state approved by the attorney general in the sum of \$25,000, conditioned upon the faithful compliance of the barber school with sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28, and to pay all judgments that may be obtained against the school, or the owners thereof, on account of fraud, misrepresentation, or deceit practiced by them or their agents; and

(2) keeps prominently displayed on the exterior a substantial sign indicating that the establishment is a barber school.

Subd. 5a. **Student permits.** All barber schools upon receiving students shall immediately apply to the board for student permits upon forms for that purpose furnished by the board.

Subd. 5b. **Designated operator.** All barber schools shall be operated by a barber with no less than six years of continuous experience as a registered barber in this state or another state or jurisdiction as determined by the board. When a person who owns a barber school does not meet the requirements of this section to operate a barber school, the owner shall notify the board in



writing and under oath of the identity of the person designated to operate the barber school and shall notify the board of any change of operator by telephone within 24 hours of such change, exclusive of Saturdays, Sundays, and legal holidays, and shall notify the board in writing and under oath within 72 hours of such change.

**Subd. 6. Operation by technical college or state institution.** A public technical college or a state institution may operate a barber school provided it has in its employment a qualified instructor holding a current certificate of registration as a barber instructor and provided that it secures from the board an annual certificate of registration and does so in accordance with sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 and the rules of the board for barber schools but without the requirement to file a performance bond with the secretary of state.

#### **154.08 APPLICATION; FEE.**

Each applicant for an examination shall:

(1) make application to the Board of Barber Examiners on blank forms prepared and furnished by it, the application to contain proof under the applicant's oath of the particular qualifications and identity of the applicant;

(2) provide all documentation required in support of the application;

(3) pay to the board the required fee; and

(4) upon acceptance of the notarized application present a corresponding government-issued photo identification when the applicant appears for examination.

#### **154.09 EXAMINATIONS, CONDUCT AND SCOPE.**

The board shall conduct examinations of applicants for certificates of registration to practice as registered barbers not more than six times each year, at such time and place as the board may determine. Additional written examinations may be scheduled by the board and conducted by board staff as designated by the board. The proprietor of a barber school must file an affidavit with the board of hours completed by students applying to take the registered barber examination. Students must complete the full 1,500-hour curriculum in a barber school approved by the board within the past four years to be eligible for examination. Barber students who have completed barber school more than four years prior to application, that have not obtained a barber registration, license, or certificate in any jurisdiction must complete an additional 500 hours of barber school education to be eligible for the registered barber examination. Registered barbers that fail to renew their registration for four or more years are required to take the registered barber examination to reinstate the registration.

The examination of applicants for certificates of registration as barbers shall include a practical demonstration and a written test. The examination must cover the subjects taught in barber schools registered with the board, including applicable state statute and rule.

#### **154.10 APPLICATION; CERTIFICATES OF REGISTRATION; FEES.**

**Subdivision 1. Application.** Each applicant for an initial certificate of registration shall make application to the board on forms prepared and furnished by the board with proof under oath of the particular qualifications and identity of each applicant. This application shall be accompanied by a fee prescribed by law or the rules of the board to defray the expenses of making investigation and for the examination of such applicant.

**Subd. 2. Certificates of registration; fees.** When the provisions of this chapter have been complied with, the board shall issue a certificate of registration as a registered barber, as a registered instructor of barbering, or as a registered barber school, a temporary permit as an instructor of barbering, or a barber shop registration card upon payment of the required fee. Certificates of registration, temporary permits, and shop registration cards are not transferable.

#### **154.11 EXAMINATION OF NONRESIDENT BARBERS AND INSTRUCTORS OF BARBERING AND TEMPORARY MILITARY PERMITS.**

**Subdivision 1. Examination of nonresidents.** (a) A person who meets all of the requirements for barber registration in sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 and either has a currently active license, certificate of registration, or equivalent as a practicing barber or instructor of barbering as verified from another state or, if presenting foreign country credentials as verified by a board-approved professional credential evaluation

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provider, which in the discretion of the board has substantially the same requirements for registering barbers and instructors of barbering as required by sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 shall, upon payment of the required fee, be issued a certificate of registration without examination.

(b) Individuals without a current documented license, certificate of registration, or equivalent, as verified in paragraph (a), must have a minimum of 1,500 hours of barber education as verified by the barber school attended in the other state or if presenting foreign country education as verified by a board-approved professional credential evaluation provider, completed within the previous four years, which, in the discretion of the board, has substantially the same requirements as required in sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 will be eligible for examination.

(c) Individuals unable to meet the requirements in paragraph (a) or (b) shall be subject to all the requirements of section 154.05.

Subd. 3. **Temporary military permits.** (a) In accordance with section 197.4552, the board shall issue a temporary:

- (1) certificate for registered barbers; and
- (2) certificate for registered barber instructors.

(b) Fees for temporary military permits and certificates of registration under this subdivision are listed under section 154.003.

(c) Permits or certificates of registration issued under this subdivision are valid for one year from the date of issuance, after which the individual must complete a full application as required by section 197.4552.

**154.14 CERTIFICATES OF REGISTRATION AND TEMPORARY PERMITS TO BE DISPLAYED.**

Every holder of a certificate of registration as a registered barber shall display the certificate or permit, with a photograph of the certificate or permit holder that meets the same standards as required for a United States passport, in a conspicuous place adjacent to or near the chair where work is performed. Every holder of a certificate of registration as an instructor of barbering or a temporary permit as an instructor of barbering shall display the certificate or permit, with a photograph of the certificate or permit holder that meets the same standards as required for a United States passport, in a conspicuous place within the barber school that is accessible to the public. Every holder of a certificate of registration as a barber school and of a barber shop registration card shall display it in a conspicuous place within the establishment that is accessible to the public.

**154.15 CERTIFICATES OF REGISTRATION MUST BE RENEWED ANNUALLY.**

Subdivision 1. **Annual renewal required.** All registered barbers and registered instructors of barbering who continue in active practice or service shall, on or before December 31 each year, renew their certificates of registration for the following year and pay the required fee. Every certificate of registration which has not been renewed during the month of December in any year shall expire on the 31st day of December in that year. All shop registration cards shall be renewed on or before June 30 of each year upon payment of the required fee. All certificates of registration as a barber school shall be renewed on or before December 31 of each year upon payment of the required fee.

Subd. 2. **Effect of failure to renew.** A registered barber who has not renewed a certificate of registration may be reinstated within four years of such failure to renew without examination upon the payment of the required restoration fee for each year the certificate is lapsed. A registered instructor of barbering who has not renewed a certificate of registration may be reinstated within four years of such failure to renew without examination upon payment of the required restoration fee for each year the certificate is lapsed. All registered barbers who allow their certificates of registration to lapse for more than four years shall be required to reexamine before being issued a certificate of registration. All registered instructors of barbering who allow their certificates of registration to lapse for more than four years shall be required to reexamine before being issued a certificate of registration. A barber shop owner who has not renewed the barber shop certificate for more than one year may reinstate the barber shop registration upon payment of the restoration fee for each year the shop card was lapsed. If lapsed or unregistered status is discovered by the barber inspector during inspection, penalties under section 154.162 shall apply.

**154.161 REGISTRATION; ISSUANCE, REVOCATION, SUSPENSION, DENIAL.**

Subdivision 1. **Proceedings.** If the board, or a complaint committee if authorized by the board, has a reasonable basis for believing that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board or complaint committee may proceed as provided in subdivision 2 or 3. Except as otherwise provided in this section, all hearings must be conducted in accordance with the Administrative Procedure Act.

Subd. 2. **Legal actions.** (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the District Court of Ramsey County in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's registration, certificate, or application for examination, registration, or renewal.

Subd. 3. **Cease and desist orders.** (a) The board, or complaint committee if authorized by the board, may issue and have served upon an unregistered person, or a holder of a certificate of registration or a shop registration card, an order requiring the person to cease and desist from an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must (1) give reasonable notice of the rights of the person named in the order to request a hearing, and (2) state the reasons for the entry of the order. No order may be issued under this subdivision until an investigation of the facts has been conducted under section 214.10.

(b) Service of the order under this subdivision is effective when the order is personally served on the person or counsel of record, or served by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) The board must hold a hearing under this subdivision not later than 30 days after the board receives the request for the hearing, unless otherwise agreed between the board, or complaint committee if authorized by the board, and the person requesting the hearing.

(d) Notwithstanding any rule to the contrary, the administrative law judge must issue a report within 30 days of the close of the contested case hearing. Within 30 days after receiving the report and subsequent exceptions and argument, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the board.

Subd. 4. **Registration actions.** (a) With respect to a person who is a holder of or applicant for registration or a shop registration card under sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, certificate of registration, or shop registration card, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of barbering, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of barbering;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of barbering;

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(4) employed fraud or deception in obtaining a certificate of registration, shop registration card, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a certificate of registration or shop registration card, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's certificate of registration or shop registration card;

(7) practiced as a barber while having an infectious or contagious disease;

(8) advertised by means of false or deceptive statements;

(9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(10) demonstrated unprofessional conduct or practice;

(11) permitted an employee or other person under the person's supervision or control to practice as a registered barber or registered instructor of barbering unless that person has (i) a current certificate of registration as a registered barber or registered instructor of barbering, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of barbering;

(12) practices, offered to practice, or attempted to practice by misrepresentation;

(13) failed to display a certificate of registration as required by section 154.14;

(14) used any room or place of barbering that is also used for any other purpose, or used any room or place of barbering that violates the board's rules governing sanitation;

(15) in the case of a barber or other person working in or in charge of any barber shop, or any person in a barber school engaging in the practice of barbering, failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a barber or other person in charge of any barber shop or barber school, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the shop or barbering service for the school, (ii) failed to have water and sewer connections from the shop or barber school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a certificate of registration or shop registration card when remaining in practice, pay the required fee, or issue a worthless check;

(19) permitted the practice of barbering by a person not registered with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of sections 136A.82 to 136A.834, or a provision of another chapter that relates to barber schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may as a condition of continued registration, termination of suspension, reinstatement of registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) complete to the board's satisfaction continuing education as the board requires.

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(c) Service of an order under this subdivision is effective if the order is served personally on, or is served by certified mail to the most recent address provided to the board by the certificate holder, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

**Subd. 5. Temporary suspension.** (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the certificate holder or counsel of record. The order must specify the statute, rule, or order violated by the certificate holder. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the certificate holder.

(b) An order under this subdivision may (1) prohibit the certificate holder from engaging in the practice of barbering in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision, the certificate holder may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at such a hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the Administrative Procedure Act. Evidence presented to the board or the certificate holder may be in affidavit form only. The certificate holder or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

**Subd. 6. Violations; penalties; costs.** (a) The board may impose a civil penalty of up to \$2,000 per violation on a person who violates a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(b) In addition to any penalty under paragraph (a), the board may impose a fee to reimburse the board for all or part of the cost of (1) the proceedings resulting in disciplinary action authorized under this section, (2) the imposition of a civil penalty under paragraph (a), or (3) the issuance of a cease and desist order. The board may impose a fee under this paragraph when the board shows that the position of the person who has violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce is not substantially justified unless special circumstances make such a fee unjust, notwithstanding any rule to the contrary. Costs under this paragraph include, but are not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorneys' fees, court reporter costs, witness costs, reproduction of records, board members' compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

**Subd. 7. Reinstatement.** The board may reinstate a suspended, revoked, or surrendered certificate of registration or shop registration card, on petition of the former or suspended registrant. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered certificate of registration or shop registration card that it finds appropriate and necessary to ensure that the purposes of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 are met. No certificate of registration or shop registration card may be reinstated until the former registrant has completed at least one-half of the suspension period.

**154.162 ADMINISTRATIVE PENALTIES.**

The board shall impose and collect the following penalties:

(1) missing or lapsed shop registration discovered upon inspection; penalty imposed on shop owner: up to \$500;

(2) unregistered barber, first occurrence discovered upon inspection; penalty imposed on shop owner and unlicensed or unregistered individual: up to \$500; and

(3) unregistered barber, second occurrence discovered upon inspection; penalty imposed on shop owner and unlicensed or unregistered individual: up to \$1,000.

**154.19 VIOLATIONS.**

Each of the following constitutes a misdemeanor:

- (1) The violation of any of the provisions of section 154.01;
- (2) Permitting any person in one's employ, supervision, or control to practice as a registered barber unless that person has a certificate of registration as a registered barber;
- (3) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;
- (4) Practicing or attempting to practice by fraudulent misrepresentation;
- (5) The willful failure to display a certificate of registration as required by section 154.14;
- (6) The use of any room or place for barbering which is also used for residential or business purposes, except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package, and such commodities as are used and sold in barber shops, and except that shoeshining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes, and where a barber shop is situated in a residence, poolroom, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store, or soft drink parlor, there must be an outside entrance leading into the barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this section and except that a barber shop and cosmetology salon may be operated in conjunction, without the same being separated by partition of ceiling height;
- (7) The failure or refusal of any barber or other person in charge of any barber shop, or any person in barber schools or colleges doing barber service work, to use separate and clean towels for each customer or patron, or to discard and launder each towel after once being used;
- (8) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college, in a sanitary manner, or the failure or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with municipal water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of not less than five gallons;
- (9) For the purposes of this section, barbers, students, or the proprietor or manager of a barber shop, or barber school or barber college, shall be responsible for all violations of the sanitation and disinfection provisions of this section. If any barber workstation in any barber shop, or barber school or barber college, upon inspection, shall be found to be in an unsanitary condition, the person making such inspection shall immediately issue an order to place the barber shop, or barber school, or barber college, in a sanitary condition, in a manner and within a time satisfactory to the Board of Barber Examiners, and for the failure to comply with such order the board shall immediately file a complaint for the arrest of the persons upon whom the order was issued, and any registered barber who shall fail to comply with the rules adopted by the Board of Barber Examiners, with the approval of the state commissioner of health, or the violation or commission of any of the offenses described in this section and section 154.161, subdivision 4, paragraph (a), clauses (1), (3), and (4) to (12), shall be fined not less than \$10 or imprisoned for ten days and not more than \$100 or imprisoned for 90 days.

**154.20 RECEPTACLES FOR TOWELS.**

In each barber shop there shall be provided a receptacle or receptacles for soiled towels. Each barber shall, immediately after the completion of the service to the customer, place the towels used on the customer in the receptacles and no towel shall be withdrawn from the receptacle and used on any customer until the towel has been laundered. A violation of any provision of this section shall be a misdemeanor.

**154.21 PERJURY.**

The willful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 is perjury and punishable as such.

**154.24 RULES.**

The Board of Barber Examiners shall have authority to make reasonable rules for the administration of the provisions of sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28 and prescribe sanitation and disinfection requirements for barber shops and barber schools, subject to the approval of the state commissioner of health. Any member of the board, or its agents or assistants, shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules adopted by the board shall be furnished by it to the owner or manager of each barber shop or barber school and such copy shall be posted in a conspicuous place in such barber shop or barber school.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall contain the name, place of business, and residence of each registered barber, and the date and number of the certificate of registration. This record shall be open to public inspection at all reasonable times.

**154.25 NOT TO SERVE CERTAIN PERSONS.**

No person practicing the occupation of a barber in any barber shop, barber school, or college in this state shall knowingly serve a person afflicted, in a dangerous or infectious state of disease, with any contagious or infectious disease. Any person so afflicted is hereby prohibited from being served in any barber shop, barber school, or college in this state. Any violation of this section shall be considered a misdemeanor as provided for in sections 154.001, 154.002, 154.003, 154.01 to 154.162, 154.19 to 154.21, and 154.24 to 154.28.

**154.26 MUNICIPALITIES; REGULATION AUTHORIZED.**

The governing body of any city of this state may regulate by ordinance the opening and closing hours of barber shops within its municipal limits in addition to all other applicable local regulations.

**154.27 MISREPRESENTATION.**

No person shall represent themselves to the public, solicit business, advertise as a registered barber or as operating a registered barber shop, use the title or designation of barber or barber shop, engage in any other act or practice that would create the impression to members of the public that the person is a registered barber or is operating a registered barber shop unless the person holds the appropriate registration under this chapter. Violation of this section is a petty misdemeanor.

**154.28 SYMBOLS; BARBER POLE.**

No person shall place a barber pole in a location that would create or tend to create the impression to the public that the business is a barber shop unless the operator holds a valid registration under this chapter. For the purposes of this section, "barber pole" means a red and white or red, white, and blue striped vertical cylinder commonly recognized as a barber pole. Violation of this section is a petty misdemeanor.

**155A.20 BOARD OF COSMETOLOGIST EXAMINERS CREATED; TERMS.**

(a) A Board of Cosmetologist Examiners is established to consist of seven members, appointed by the governor as follows:

(1) two cosmetologists, one of whom is recommended by a professional association of cosmetologists, nail technicians, and estheticians;

(2) two school instructors, one of whom is teaching at a public cosmetology school in the state and one of whom is teaching at a private cosmetology school in the state;

(3) one esthetician;

(4) one nail technician; and

(5) one public member, as defined in section 214.02.

(b) All cosmetologist, esthetician, and nail technician members must be currently licensed in the field of cosmetology, nail technology, or esthetology, in Minnesota, have practiced in the licensed

occupation for at least five years immediately prior to their appointment, be graduates from grade 12 of high school or have equivalent education, and have knowledge of sections 155A.21 to 155A.36 and Minnesota Rules, chapters 2105 and 2110.

(c) Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

(d) Members appointed to fill vacancies caused by death, resignation, or removal shall serve during the unexpired term of their predecessors.

#### **155A.21 POLICY.**

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.

To this end, the public will best be served by vesting these responsibilities in the Board of Cosmetologist Examiners.

#### **155A.22 PROHIBITION; LIMITATION.**

It shall be unlawful for any person to engage in cosmetology, or to conduct or operate a cosmetology school or salon, except as provided in sections 155A.23 to 155A.36.

#### **155A.23 DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of sections 155A.23 to 155A.36, and unless the context clearly requires otherwise, the words defined in this section have the meanings given them.

Subd. 2. **Board.** "Board" means the Board of Cosmetologist Examiners.

Subd. 3. **Cosmetology.** "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 under sections 154.001, 154.002, 154.003, 154.01 to 154.161, 154.19 to 154.21, and 154.24 to 154.26.

Subd. 4. **Cosmetologist.** A "cosmetologist" is any person who, for compensation, performs the personal services, as defined in subdivision 3.

Subd. 4a. **Eyelash extensions.** "Eyelash extensions" means the application, removal, and trimming of threadlike natural or synthetic fibers to an eyelash, and includes the cleansing of the eye area and lashes. Eyelash extensions do not include color agents, straightening agents, permanent wave solutions, bleaching agents, applications to the eyebrow, or any other cosmetology service.

Subd. 4b. **Eyelash technician.** An "eyelash technician" is any person who is not a cosmetologist, esthetician, or advanced practice esthetician who, for compensation, performs the personal services limited to eyelash extensions as defined in subdivision 4a only.

Subd. 5. **Esthetician.** An "esthetician" is any person who, for compensation, performs personal services for the cosmetic care of the skin only.

Subd. 5a. **Individual license.** "Individual license" means a license described in section 155A.25, subdivision 1a, paragraph (b), clause (1).

Subd. 7. **Nail technician.** A "nail technician" is any person who, for compensation, performs personal services for the cosmetic care of the hands, feet, and nails only.

Subd. 8. **Manager.** A "manager" is any person who is a cosmetologist, esthetician, advanced practice esthetician, nail technician practitioner, or eyelash technician practitioner, and who has a manager license and provides any services under that license, as defined in subdivision 3.

Subd. 8a. **Mobile salon.** A "mobile salon" is a salon that is operated in a mobile vehicle or mobile structure for exclusive use to offer personal services, as defined in subdivision 3.



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Subd. 9. **Salon.** A "salon" is an area, room, or rooms employed to offer personal services, as defined in subdivision 3. "Salon" does not include the home of a customer but the board may adopt health and infection control rules governing practice in the homes of customers.

Subd. 10. **School.** A "school" is a place where any person operates and maintains a class to teach cosmetology to the public for compensation. "School" does not include a place where the only teaching of cosmetology is done by a licensed cosmetologist as part of a community education program of less than ten hours duration, provided that the program does not permit practice on persons other than students in the program, and provided that the program is intended solely for the self-improvement of the students and not as preparation for professional practice.

Subd. 11. **Instructor.** An "instructor" is any person employed by a school to prepare and present the theoretical and practical education of cosmetology to persons who seek to practice cosmetology. An instructor must maintain an active operator or manager's license in the area in which the instructor holds an instructor's license.

Subd. 12. **Person.** The term "person" may extend and be applied to bodies politic and corporate, and to partnership and other unincorporated associations.

Subd. 13. **Threading.** "Threading" is a method of removing hair from the eyebrows, upper lip, or other body parts by using cotton thread to pull hair from follicles. Threading does not include the use of chemicals or any type of wax. Threading may include the use of (1) over-the-counter astringents, gels, and powders; and (2) tweezers and scissors incidental to threading.

Subd. 14. **Advanced practice esthetician.** An "advanced practice esthetician" is a person who for compensation performs personal services for the cosmetic care of the skin, including the use of mechanical or electrical skin care apparatuses or appliances that are used on the epidermal layer of the skin.

Subd. 15. **Designated licensed salon manager.** A "designated licensed salon manager" is a manager designated by a salon owner and registered with the board, who is responsible with the salon owner for salon and practitioner compliance.

Subd. 16. **School manager.** A "school manager" is a cosmetologist who is a salon manager and who has a school manager license. A school manager must maintain an active salon manager's license.

Subd. 17. **Designated school manager.** A "designated school manager" is a school manager who is designated by the school owner and registered with the board, who is responsible with the school owner for school and instructor compliance.

Subd. 18. **Practitioner.** A "practitioner" is any person licensed in the practice of cosmetology, esthology, nail technology services, or eyelash technology services.

Subd. 19. **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.

Subd. 20. **Makeup services.** "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.

#### **155A.24 ADMINISTRATION.**

Subdivision 1. **Board's powers and duties; generally.** The board has the power and duties necessary for the administration of the provisions of this chapter.

Subd. 2. **Hiring and assignment of employees.** The board has the authority to hire qualified personnel in the classified service to assist in administering the law, including those for the testing and licensing of applicants, conducting inspections, and complaint investigations.

#### **155A.25 COSMETOLOGY FEES; LICENSE EXPIRATION DATE.**

Subd. 1a. **Schedule.** (a) The schedule for fees and penalties is as provided in this subdivision.

(b) Three-year license fees are as follows:

(1) \$195 initial practitioner, manager, or instructor license, divided as follows:

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- (i) \$155 for each initial license; and
- (ii) \$40 for each initial license application fee;
- (2) \$115 renewal of practitioner license, divided as follows:
  - (i) \$100 for each renewal license; and
  - (ii) \$15 for each renewal application fee;
- (3) \$145 renewal of manager or instructor license, divided as follows:
  - (i) \$130 for each renewal license; and
  - (ii) \$15 for each renewal application fee;
- (4) \$350 initial salon license, divided as follows:
  - (i) \$250 for each initial license; and
  - (ii) \$100 for each initial license application fee;
- (5) \$225 renewal of salon license, divided as follows:
  - (i) \$175 for each renewal; and
  - (ii) \$50 for each renewal application fee;
- (6) \$4,000 initial school license, divided as follows:
  - (i) \$3,000 for each initial license; and
  - (ii) \$1,000 for each initial license application fee; and
- (7) \$2,500 renewal of school license, divided as follows:
  - (i) \$2,000 for each renewal; and
  - (ii) \$500 for each renewal application fee.
- (c) Penalties may be assessed in amounts up to the following:
  - (1) reinspection fee, \$150;
  - (2) manager and owner with expired practitioner found on inspection, \$150 each;
  - (3) expired practitioner or instructor found on inspection, \$200;
  - (4) expired salon found on inspection, \$500;
  - (5) expired school found on inspection, \$1,000;
  - (6) failure to display current license, \$100;
  - (7) failure to dispose of single-use equipment, implements, or materials as provided under section 155A.355, subdivision 1, \$500;
  - (8) use of prohibited razor-type callus shavers, rasps, or graters under section 155A.355, subdivision 2, \$500;
  - (9) performing nail or cosmetology services in esthetician salon, or performing esthetician or cosmetology services in a nail salon, \$500;
  - (10) owner and manager allowing an operator to work as an independent contractor, \$200;
  - (11) operator working as an independent contractor, \$100;
  - (12) refusal or failure to cooperate with an inspection, \$500;
  - (13) practitioner late renewal fee, \$45; and
  - (14) salon or school late renewal fee, \$50.
- (d) Administrative fees are as follows:
  - (1) homebound service permit, \$50 three-year fee;
  - (2) name change, \$20;

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- (3) certification of licensure, \$30 each;
- (4) duplicate license, \$20;
- (5) special event permit, \$75 per year;
- (6) \$100 for each temporary military license for a cosmetologist, nail technician, esthetician, or advanced practice esthetician one-year fee;
- (7) expedited initial individual license, \$150;
- (8) expedited initial salon license, \$300;
- (9) instructor continuing education provider approval, \$150 each year; and
- (10) practitioner continuing education provider approval, \$150 each year.

Subd. 1b. **Fees disposition.** (a) All fees established in subdivisions 1 and 1a must be paid to the executive secretary of the board.

(b) The executive secretary of the board shall deposit all fees in the general fund in the state treasury.

Subd. 2. **Refunds.** Refunds shall be given in the following situations: overpayment; death or permanent disability before the effective date of a license; or an individual's ineligibility for licensure. Applicants determined ineligible to receive a license will be refunded the license fee minus any processing fee and minus any application fee this section requires.

Subd. 3. **Other licenses.** A licensee who applies for licensing in a second category shall pay the full license fee and application fee for the second category of license.

Subd. 4. **License expiration date.** Individual licenses expire on the last day of the licensee's birth month of the year due. Salon and school licenses expire on the last day of the month of initial licensure of the year due.

Subd. 5. **Board must approve or deny application; timeline.** Within 15 working days of receiving a complete application and the required fees to apply for or renew an individual or salon license that is not an expedited license or a military license, the board must (1) issue the license, (2) deny the license and notify the applicant of the denial, or (3) if the conditions in subdivision 6 are met, notify the applicant that the board must conduct additional review.

Subd. 6. **Additional review for certain licenses.** If an application contains discrepancies, the applicant is the subject of a complaint investigation, or the applicant has pending disciplinary actions before the board, the board will comply with the time limits prescribed in section 15.992 to process the application.

Subd. 7. **Temporary military license or expedited license.** Within five business days of receiving a completed application and the required fees for an individual or salon license that meets requirements for an expedited license or a temporary military license, the board must: (1) issue the license; (2) deny the license and notify the applicant of the denial; or (3) notify the applicant that the board must conduct additional review if the application meets the conditions in subdivision 8.

Subd. 8. **Additional review for certain temporary military license or expedited license.** If an application under subdivision 7 contains discrepancies, the applicant is the subject of a complaint investigation, or the applicant has pending disciplinary actions before the board, the board will process the application according to the time limits in section 15.992.

#### **155A.26 RULES.**

The board may develop and adopt rules according to chapter 14 that the board considers necessary to carry out sections 155A.21 to 155A.36.

#### **155A.27 PRACTITIONER.**

Subdivision 1. **Licensing.** A person must hold an individual license to practice in the state as a cosmetologist, esthetician, nail technician, eyelash technician, advanced practice esthetician, manager, or instructor.

Subd. 2. **Qualifications.** Qualifications for licensing in each classification shall be determined by the board and established by rule, and shall include educational and experiential prerequisites. The rules shall require a demonstrated knowledge of procedures necessary to protect the health and

safety of the practitioner and the consumer of cosmetology services, including but not limited to infection control, use of implements, apparatuses and other appliances, and the use of chemicals.

Subd. 4. **Testing.** All theory, practical, and Minnesota law and rule testing must be done by a board-approved provider. Appropriate standardized tests shall be used and shall include subject matter relative to the application of Minnesota law. In every case, the primary consideration shall be to safeguard the health and safety of consumers by determining the competency of the applicants to provide the services indicated.

Subd. 5. **Licensing without test.** Licensing of persons without testing may be allowed as determined by rule.

Subd. 5a. **Temporary military license.** The board shall establish temporary licenses for a cosmetologist, nail technician, and esthetician in accordance with section 197.4552.

Subd. 6. **Duration of license.** Licensing in each classification shall be for a period of three years.

Subd. 7. **Renewals.** Renewal of license shall be for a period of three years under conditions and process established by rule and subject to continuing education requirements of section 155A.271.

Subd. 8. **Fees.** Examination and licensing fees shall be in the amounts specified in section 155A.25.

Subd. 9. **Exemptions.** (a) Persons licensed to provide cosmetology services in other states visiting this state for cosmetology demonstrations shall be exempted from the licensing provisions of sections 155A.21 to 155A.36 if services to consumers are in the physical presence of a licensed cosmetologist.

(b) A person who performs threading shall be exempt from the licensing provisions of sections 155A.21 to 155A.36.

(c) A person who performs only hairstyling and makeup services shall be exempt from the licensing provisions of sections 155A.21 to 155A.36 if the person has completed a four-hour course in health, safety, and infection-control matters and state law online or in person under section 155A.271, subdivision 1, paragraph (a), from a board-approved continuing education provider, and carries proof of completion of the course when providing these services.

Subd. 10. **Nonresident licenses.** (a) A nonresident cosmetologist, nail technician, or esthetician may be licensed in Minnesota if the individual has completed cosmetology school in a state or country with the same or greater school hour requirements, has an active license in that state or country, and has passed a board-approved theory and practice-based examination, the Minnesota-specific written operator examination for cosmetologist, nail technician, or esthetician. If a test is used to verify the qualifications of trained cosmetologists, the test should be translated into the nonresident's native language within the limits of available resources. Licenses shall not be issued under this subdivision for managers or instructors.

(b) If an individual has less than the required number of school hours, the individual must have had a current active license in another state or country for at least three years and have passed a board-approved theory and practice-based examination, and the Minnesota-specific written operator examination for cosmetologist, nail technician, or esthetician. If a test is used to verify the qualifications of trained cosmetologists, the test should be translated into the nonresident's native language within the limits of available resources. Licenses must not be issued under this subdivision for managers or instructors.

(c) Applicants claiming training and experience in a foreign country shall supply official English-language translations of all required documents from a board-approved source.

#### **155A.271 CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **Continuing education requirements.** (a) To qualify for license renewal under this chapter as an individual cosmetologist, nail technician, esthetician, advanced practice esthetician, eyelash technician, or salon manager, the applicant must complete four hours of continuing education credits from a board-approved continuing education provider during the three years prior to the applicant's renewal date. One credit hour of the requirement must include instruction pertaining to state laws and rules governing the practice of cosmetology. Three credit hours must include instruction pertaining to health, safety, and infection control matters consistent with the United States Department of Labor's Occupational Safety and Health Administration standards applicable to the practice of cosmetology, or other applicable federal health, infection control, and safety

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standards, and must be regularly updated so as to incorporate newly developed standards and accepted professional best practices. Credit hours earned are valid for three years and may be applied simultaneously to all individual licenses held by a licensee under this chapter.

(b) Effective August 1, 2017, in addition to the hours of continuing education credits required under paragraph (a), to qualify for license renewal under this chapter as an individual cosmetologist, nail technician, esthetician, advanced practice esthetician, or salon manager, the applicant must also complete a four credit hour continuing education course from a board-approved continuing education provider based on any of the following within the licensee's scope of practice:

- (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.

Credits are valid for three years and must be completed with a board-approved provider of continuing education during the three years prior to the applicant's renewal date and may be applied simultaneously to other individual licenses held as applicable, except that credits completed under this paragraph must not duplicate credits completed under paragraph (a).

(c) Paragraphs (a) and (b) do not apply to an instructor license, a school manager license, or an inactive license.

**Subd. 1a. Product sales or marketing prohibited.** The marketing or sale of any product is prohibited during a continuing education class receiving credit under subdivision 1.

**Subd. 2. Continuing education providers.** (a) Only a board-licensed school of cosmetology, a postsecondary institution as defined in section 136A.103, paragraph (a), or a board-recognized professional association organized under chapter 317A may be approved by the board to offer continuing education for credit under subdivision 1, paragraph (a). Continuing education under subdivision 1, paragraph (b), may be offered by a:

- (1) board-licensed school of cosmetology;
- (2) board-recognized professional association organized under chapter 317A; or
- (3) board-licensed salon.

An approved school or professional association may offer web-based continuing education instruction to achieve maximum involvement of licensees. Continuing education providers are encouraged to offer classes available in foreign language formats.

(b) Board approval of any continuing education provider is valid for one calendar year and is contingent upon submission and preapproval of the lesson plan or plans with learning objectives for the class to be offered and the payment of the application fee in section 155A.25, subdivision 1a, paragraph (d), clause (10). The board shall maintain a list of approved providers and courses on the board's website. The board may revoke authorization of a continuing education provider at any time for just cause and the board may demand return of documents required under subdivision 3.

**Subd. 3. Proof of credits.** The continuing education provider shall provide to licensees documentation establishing completion of the class. Licensees shall retain proof of their continuing education credits for one year beyond the credit's expiration. The continuing education provider shall retain documentation of all licensees completing a class and the licensee's credit hours awarded by them for five years.

**Subd. 4. Audit.** The board shall conduct random audits of active licensees and continuing education providers to ensure compliance with the requirements of this section. To initiate an audit, the board shall notify an active licensee of the audit and request proof of credits earned during a specified period. The licensee must provide the requested proof to the board within 30 days of an audit notice. The board may request that a continuing education provider verify a licensee's credits. The provider must furnish verification, or a written statement that the credits are not verified, within 15 days of the board's request for verification. If the board determines that a licensee has failed to provide proof of necessary credits earned during the specified time, the board may revoke the individual's license and may deem the individual an expired practitioner subject to penalty under section 155A.25 or 155A.36. The board staff shall have unrestricted free access to any provider's

class offerings to verify adherence to the provider's approved lesson plan and overall compliance with this chapter.

#### **155A.275 SPECIAL EVENTS.**

Subdivision 1. **Special event services.** For purposes of this section, "special event services" means services rendered for compensation and performed at a location other than a licensed salon. These services are limited to the practice of nonpermanent manipulation of the hair, including: styling, setting, reinforcing, or extending the hair; the application of nail polish to the nails; and the application of makeup to the skin.

Subd. 2. **Special event services permit.** (a) No person shall perform special event services without first obtaining a special event services permit from the board. To be eligible for a special event services permit, a person must have a valid manager's license issued by the board under the authority of section 155A.27.

(b) An individual applying for a special event services permit must submit to the board, on a form approved by the board, an application for a special event services permit.

(c) An individual providing services under a special event services permit may only perform services within the individual's specific field of licensure and as defined by the permit. The services provided pursuant to the special event services permit must comply with the requirements of this chapter and all federal, state, and local laws.

#### **155A.28 HAIR BRAIDING.**

Subd. 2. **Definition.** "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. Hair braiding includes the making of customized wigs from natural hair, natural fibers, synthetic fibers, and hair extensions. Hair braiding includes the use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos. Hair braiding does not involve the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents applied to growing human hair. For purposes of this section, "simple hair braiding devices" means clips, combs, curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair binders including adhesives, if necessary, that are required solely for hair braiding.

Subd. 5. **Hair braiders exempt.** The practice of hair braiding is exempt from the requirements of this chapter.

#### **155A.29 SALONS.**

Subdivision 1. **Licensing.** A person must not offer cosmetology services for compensation unless the services are provided by a licensee in a licensed salon or as otherwise provided in this section. Each salon must be licensed as a cosmetology salon, a nail salon, esthetician salon, advanced practice esthetician salon, or eyelash extension salon. A salon may hold more than one type of salon license.

Subd. 2. **Requirements.** The conditions and process by which a salon is licensed shall be established by the board by rule. In addition to those requirements, no license shall be issued unless the board first determines that the conditions in clauses (1) to (5) have been satisfied:

(1) compliance with all local and state laws, particularly relating to matters of infection control, health, and safety;

(2) the employment of a manager, as defined in section 155A.23, subdivision 8;

(3) if applicable, evidence of compliance with workers' compensation section 176.182; and

(4) evidence of continued professional liability insurance coverage of at least \$25,000 for each claim and \$50,000 total coverage for each policy year for each operator.

Subd. 2a. **Requirements for mobile salon.** In addition to complying with the requirements for a salon in subdivision 2, the holder of a salon license for a mobile salon must:

(1) maintain a permanent business address; and

(2) notify the board of the locations and schedule of operation of a mobile salon.

Subd. 3. **Infection control standards.** Minimum infection control standards for the operation of a salon shall be established by rule. The salon may be inspected as often as the board considers necessary to affirm compliance.

Subd. 3a. **Residential salons.** A salon shall not be located in a room used for residential purposes. If a salon is in the residence of a person practicing cosmetology, the rooms used for the practice of cosmetology shall be completely partitioned off from the living quarters.

Subd. 4. **Renewal.** Licenses shall be renewed every three years by a process established by rule.

Subd. 5. **Fees.** The licensing and inspection fees are as specified in section 155A.25.

Subd. 6. **Threading exemption.** The facility in which a person provides threading and no other services requiring licensure by this chapter is exempt from the requirement for a salon license under this section.

Subd. 7. **Hairstyling and makeup exemption.** The facility in which all persons provide hairstyling and makeup services exempted under section 155A.27, subdivision 9, paragraph (c), and no other services requiring licensure by this chapter, is exempt from the requirement for a salon license under this section.

### **155A.30 SCHOOLS.**

Subdivision 1. **Licensing.** Any person who establishes or conducts a school in this state shall be licensed. A license issued to postsecondary licensed cosmetology schools meeting the provisions of subdivision 12 shall include the designation "Postsecondary Cosmetology School License."

Subd. 2. **Standards.** The board shall by rule establish minimum standards of course content and length specific to the educational preparation prerequisite to testing and licensing as cosmetologist, esthetician, and nail technician.

Subd. 3. **Applications.** Application for a license shall be prepared on forms furnished by the board and shall contain the following and such other information as may be required:

(1) the name of the school, together with ownership and controlling officers, members, and managing employees;

(2) the specific fields of instruction which will be offered and reconciliation of the course content and length to meet the minimum standards, as prescribed in subdivision 2;

(3) the place or places where instruction will be given;

(4) a listing of the equipment available for instruction in each course offered;

(5) the maximum enrollment to be accommodated;

(6) a listing of instructors, all of whom shall be licensed as provided in section 155A.27, subdivision 2, except that any school may use occasional instructors or lecturers who would add to the general or specialized knowledge of the students but who need not be licensed;

(7) a current balance sheet, income statement or documentation to show sufficient financial worth and responsibility to properly conduct a school and to assure financial resources ample to meet the school's financial obligations;

(8) other financial guarantees which would assure protection of the public as determined by rule; and

(9) a copy of all written material which the school uses to solicit prospective students, including but not limited to a tuition and fee schedule, and all catalogues, brochures and other recruitment advertisements. Each school shall annually, on a date determined by the board, file with the board any new or amended materials which it has distributed during the past year.

Subd. 4. **Verification of application.** Each application shall be signed and certified to under oath by the proprietor if the applicant is a proprietorship, by the managing partner if the applicant is a partnership, or by the authorized officers of the applicant if the applicant is a corporation, association, company, firm, society or trust.

Subd. 5. **Conditions precedent to issuance.** A license must not be issued unless the board first determines that the applicant has met the requirements in clauses (1) to (9):

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(1) the applicant must have a sound financial condition with sufficient resources available to meet the school's financial obligations; to refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school; to provide adequate service to its students and prospective students; and to maintain proper use and support of the school;

(2) the applicant must have satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to adequately train the students currently enrolled, and those proposed to be enrolled;

(3) the applicant must employ a sufficient number of qualified instructors trained by experience and education to give the training contemplated;

(4) the premises and conditions under which the students work and study must be sanitary, healthful, and safe according to modern standards;

(5) each occupational course or program of instruction or study must be of such quality and content as to provide education and training that will adequately prepare enrolled students for testing, licensing, and entry level positions;

(6) the school must have coverage by professional liability insurance of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

(7) the applicant shall provide evidence of the school's compliance with section 176.182;

(8) the applicant, except the state and its political subdivisions as described in section 13.02, subdivision 11, must file with the board a continuous corporate surety bond in the amount of no less than ten percent of the preceding year's gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. New schools must base the bond amount on the anticipated gross income from student tuition, fees, and other required institutional charges for the third year of operation, but in no event less than \$10,000. The applicant must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision. The bond shall run to the board and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The surety of the bond may cancel it upon giving 60 days' notice in writing to the board and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation; and

(9) the applicant must appoint a designated school manager.

Subd. 6. **Fees; renewals.** (a) Applications for initial license under sections 155A.21 to 155A.36 shall be accompanied by a nonrefundable application fee set forth in section 155A.25.

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee set forth in section 155A.25.

(c) Application for renewal of license shall be made as provided in rules adopted by the board and on forms supplied by the board.

Subd. 7. **Inspections.** All schools may be inspected as often as the board considers necessary to affirm compliance. The board shall have the authority to assess the cost of the inspection to the school.

Subd. 8. **List of licensed schools; availability.** The board shall maintain and make available to the public a list of licensed schools.

Subd. 9. **Separation of school and professional departments.** A school shall display in the entrance reception room of its student section a sign prominently and conspicuously indicating that all work therein is done exclusively by students. Professional departments of a school shall be run as entirely separate and distinct businesses and shall have separate entrances.

Nothing contained in sections 155A.21 to 155A.36 shall prevent a school from charging for student work done in the school to cover the cost of materials used and expenses incurred in and for the operation of the school. All of the student work shall be prominently and conspicuously advertised and held forth as being student work and not otherwise.

Subd. 10. **Discrimination prohibited.** Each school must comply with the Minnesota Human Rights Act under chapter 363A.



Subd. 11. **Instruction requirements.** (a) Instruction may be offered for no more than ten hours per day per student.

(b) Instruction must be given within a licensed school building. Online instruction is permitted for board-approved theory-based classes. Practice-based classes must not be given online.

Subd. 12. **Minnesota state authorization.** A cosmetology school licensed or applying for licensure under this section shall maintain recognition as an institution of postsecondary study by meeting the following conditions, in addition to Minnesota Rules, part 2110.0310:

(1) the school must admit as regular students only those individuals who have a high school diploma or a diploma based on passing commissioner of education-selected high school equivalency tests or their equivalent, or who are beyond the age of compulsory education as prescribed by section 120A.22; and

(2) the school must be licensed by name and authorized by the Office of Higher Education and the board to offer one or more training programs beyond the secondary level.

#### **155A.31 INSPECTIONS.**

The board is responsible for inspecting salons and schools licensed pursuant to sections 155A.21 to 155A.36 to assure compliance with the requirements of sections 155A.21 to 155A.36. The board shall direct board resources first to the inspection of those licensees who fail to meet the requirements of law, have indicated that they present a greater risk to the public, or have otherwise, in the opinion of the board, demonstrated that they require a greater degree of regulatory attention.

#### **155A.32 DISPLAY OF LICENSE.**

Every holder of a license granted by the board shall display it in a conspicuous place in the place of business.

#### **155A.33 ENFORCEMENT.**

Subdivision 1. **Proceedings.** If the board, or a complaint committee if authorized by the board, has a reasonable basis for believing that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board or complaint committee may proceed as provided in subdivision 2 or 3. Except as otherwise provided in this section, all hearings must be conducted in accordance with the Administrative Procedure Act.

Subd. 2. **Legal actions.** (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the District Court of Ramsey County in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's license or registration, or application for examination, license, registration, or renewal.

Subd. 3. **Cease and desist orders.** (a) The board, or complaint committee if authorized by the board, may issue and have served upon an unlicensed or unregistered person, or a holder of a license or registration, an order requiring the person to cease and desist from an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must (1) give reasonable notice of the rights of the person named in the order to request a hearing, and (2) state the reasons for the entry of the order. No order may be issued under this subdivision until an investigation of the facts has been conducted under section 214.10.

(b) Service of the order under this subdivision is effective when the order is personally served on the person or counsel of record, or served by certified mail to the most recent address provided to the board for the person or counsel of record.

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(c) The board must hold a hearing under this subdivision not later than 30 days after the board receives the request for the hearing, unless otherwise agreed between the board, or complaint committee if authorized by the board, and the person requesting the hearing.

(d) Notwithstanding any rule to the contrary, the administrative law judge must issue a report within 30 days of the close of the contested case hearing. Within 30 days after receiving the report and subsequent exceptions and argument, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the board.

**Subd. 4. Licensing and registration actions.** (a) With respect to a person who is a holder of or applicant for a license or registration under this chapter, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, license, or registration, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, related to the practice of a profession regulated by this chapter, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of the profession;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of a profession regulated by this chapter;

(4) employed fraud or deception in obtaining a license, registration, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a license, registration, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's license or registration;

(7) advertised by means of false or deceptive statements;

(8) performed licensed services while consuming or under the influence of an intoxicant or controlled substance;

(9) demonstrated unprofessional conduct or practice;

(10) permitted an unlicensed person under the person's supervision or control to offer or practice services regulated by this chapter for compensation;

(11) practices, offered to practice, or attempted to practice by misrepresentation;

(12) failed to display a license or permit as required by rules adopted by the board;

(13) violated the board's rules governing infection control;

(14) refused to permit the board to make an inspection permitted or required by this chapter, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request; or

(15) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may, as a condition of continued licensure or registration, termination of suspension, reinstatement of licensure or registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) completes to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served in person, or is served by certified mail to the most recent address provided to the board by the licensee, registrant, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

**Subd. 5. Temporary suspension.** (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the licensee, registrant, or counsel of record. The order must specify the statute, rule, or order violated by the licensee or registrant. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the licensee or registrant.

(b) An order under this subdivision may (1) prohibit the licensee or registrant from engaging in the practice of a profession regulated by the board in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision, the licensee or registrant may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at the hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the Administrative Procedure Act. Evidence presented to the board or the licensee or registrant may be in affidavit form only. The licensee, registrant, or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

**Subd. 6. Violations; penalties; costs.** (a) The board may impose a civil penalty of up to \$2,000 per violation on a person who violates a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(b) In addition to any penalty under paragraph (a), the board may impose a fee to reimburse the board for all or part of the cost of (1) the proceedings resulting in disciplinary action authorized under this section, (2) the imposition of a civil penalty under paragraph (a), or (3) the issuance of a cease and desist order. The board may impose a fee under this paragraph when the board shows that the position of the person who has violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce is not substantially justified unless special circumstances make such a fee unjust, notwithstanding any rule to the contrary. Costs under this paragraph include, but are not limited to, the amount paid by the board for services from the Office of Administrative Hearings, attorney fees, court reporter costs, witness costs, reproduction of records, board members' compensation, board staff time, and expenses incurred by board members and staff.

(c) All hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

**Subd. 7. Reinstatement.** Upon petition of the former or suspended licensee or registrant, the board may reinstate a suspended, revoked, or surrendered license or registration. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered license or registration that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No license or registration may be reinstated until the former licensee or registrant has completed at least one-half of the suspension period.

#### **155A.34 SERVICES EXCEPTED; EMERGENCY.**

Nothing in sections 155A.21 to 155A.36 prohibits services in cases of emergency where compensation or other reward is not received, nor in domestic service, nor in the practice of medicine, surgery, dentistry, podiatry, osteopathic medicine, chiropractic, or barbering. This section shall not be construed to authorize any of the persons so exempted to wave the hair, or to color, tint, or bleach the hair, in any manner.

#### **155A.35 APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.**

Any person, firm, partnership, or corporation, not a resident of Minnesota, who engages in Minnesota in the practices regulated in sections 155A.21 to 155A.36 shall file with the board the

name and address of a duly authorized agent for service of legal process, which agent for service shall be a resident of the state of Minnesota.

**155A.355 PROHIBITED USES.**

Subdivision 1. **Single-use equipment and materials.** Single-use equipment, implements, or materials that are made or constructed of paper, wood, or other porous materials must only be used for one application or client service. Presence of used articles in the work area is prima facie evidence of reuse. Failure to dispose of the materials in this subdivision is punishable by penalty under section 155A.25, subdivision 1a, paragraph (c), clause (7).

Subd. 2. **Skin-cutting equipment.** Razor-type callus shavers, rasps, or graters designed and intended to cut growths of skin such as corns and calluses, including but not limited to credo blades, are prohibited. Presence of these articles in the work area is prima facie evidence of use and is punishable by penalty in section 155A.25, subdivision 1a, paragraph (c), clause (8).

Subd. 3. **Substances.** Licensees must not use any of the following substances or products in performing cosmetology services:

- (1) methyl methacrylate liquid monomers, also known as MMA; and
- (2) fumigants, including but not limited to formalin tablets or formalin liquids.

**155A.36 VIOLATIONS; PENALTIES.**

Any person who violates any of the provisions of sections 155A.21 to 155A.36 is guilty of a misdemeanor.