

November 30, 2010

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REVISOR OF STATUTES

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75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155-1606

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Director
Legislative Coordinating Commission
72 State Office Building
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Senator Richard J. Cohen, Chair
Senate Finance Committee
121 State Capitol
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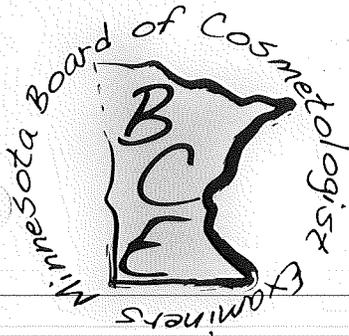
Representative Lyndon Carlson, Sr., Chair
House Finance Committee
479 State Office Building
100 Rev. Dr. Martin Luther King Jr
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✓ Michele Timmons, Revisor
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Senator David J. Tomassoni, Chair
Senate Economic Development and Housing
Budget Division
317 State Capitol
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Representative Tom Rukavina, Chair
Higher Education and Workforce
Development, Finance and Policy Division
477 State Office Building
100 Dr. Martin Luther King Jr Blvd
St. Paul, Minnesota 55155-1206

**Subject: Annual Report on Obsolete, Unnecessary or Duplicative Rules, as Required by
Minnesota Statutes, Section 14.05, Subdivision 5.**



Minnesota Board of Cosmetologist Examiners
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November 30, 2010

Governor Tim Pawlenty

Legislative Coordinating Commission

Senate Finance Committee

Senate Economic Development and Housing Budget Division

House Finance Committee

House Higher Education and Workforce Development Finance and Policy Division

Revisor of Statutes

Subject: Annual Report on Obsolete, Unnecessary or Duplicative Rules, as Required by
Minnesota Statutes, Section 14.05, Subdivision 5.

Dear Governor Pawlenty, Senators, Representatives, and Revisor Timmons:

Minnesota Statutes, section 14.05, subdivision 5, directs the Board of Cosmetologist Examiners to report to you by December 1 of each year whether any of its rules are obsolete, unnecessary, or duplicative of other state or federal statutes or rules.

At this time, we can identify the following rules or portions of rules of the Board of Cosmetologist Examiners that are obsolete, unnecessary, or duplicative and that should be repealed.

- Minnesota Rules, Chapter 2105.0130 EXAMINATION ADMINISTRATION, Subpart 5 Exam Administered in English
"Examinations shall be administered and conducted in English. A reader may be used if documentation is provided that substantiates a reading disability. Documentation must be adequate so as to allow the board to identify the reading disability, verify its existence as to the examination applicant, and confirm that it prevents the applicant from taking the examination in the prescribed manner. Use of a reader must be approved by the board prior to application for the examination."

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Board Explanation: This rule is obsolete, as the exams are offered in English, Spanish, Vietnamese and Korean languages. In addition, the Board does not pre-approve the use of readers or other reasonable accommodations administered by the third-party testing vendor. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0640 ENROLLMENT CONTRACTS**

"The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract. The contract shall state the starting date of schooling. A notice stating that the licensing examination is given only in English shall accompany the contract copy provided to the student, parent, or guardian."

Board Explanation: A portion of this rule is obsolete as the licensing examination is offered in English, Spanish, Vietnamese and Korean languages. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0130 EXAMINATION ADMINISTRATION**

" Subpart 1.Schedules and sites.

Examination schedules and sites shall be determined by the board.

Subp. 2.Exam space.

Each school shall make space available on its premises for the performance of the licensing examinations upon request by the board, if the request is reasonable and timely.

Subp. 3.Instructor examination.

Instructor examination:

A.The board shall have access to the clinic area of a licensed school no more than once per year and to licensed instructors no more than twice per year for assistance in conducting the practical examination for instructors.

B.Each examinee is responsible for providing the model for the practical examination and shall be responsible for insuring the suitability of that model for the examination. Models shall be over 16 years of age. The model shall not be a licensed cosmetologist or a cosmetology student.

Subp. 4.Re-exam limit.

A passing exam score is valid for 12 months.

Subp. 5.Exam administered in English.

Examinations shall be administered and conducted in English. A reader may be used if documentation is provided that substantiates a reading disability. Documentation must be adequate so as to allow the board to identify the reading disability, verify its existence as to the examination applicant, and confirm that it prevents the applicant from taking the examination in the prescribed manner. Use of a reader must be approved by the board prior to application for the examination."

Board Explanation: This rule is duplicated in its entirety by Minnesota Rules, Chapter 2105.0130 Examination Administration, and should be repealed. The Board will include repeal in the next rule packet in 2011.

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- **Minnesota Rules, Chapter 2105.0140 C. APPLICANTS FOR INDIVIDUAL LICENSE**
“The applicant shall pay the required examination and license fees. Applicants whose professional training is documented under parts 2105.0150, items B and C, and 2105.0210, subparts 2 and 3, shall also pay the processing fee.”

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0150 B. COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS**
“successful completion, as documented by the school and including a certification of skills, of a full course of training of at least the same number of hours in a state other than Minnesota. If an applicant has received training in another state, but has not completed that state’s prescribed course of training, or if that course is less than the number of hours required by this rule, completion of training and certification of skills in a Minnesota school shall be attained. The applicant shall receive credit for all hours of training earned in the non-Minnesota school. He or she shall then attend a Minnesota school until the required number of hours has been completed; or ”

Board Explanation:
The Board relies on licensed cosmetology schools to evaluate transcripts of transferring students to determine which credits will transfer from the student’s previous school. This portion of the rule is unnecessary. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0150 c. COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS**
“current licensure from another state, District of Columbia, territory, or country. A certified statement from the licensing body that the applicant is currently licensed shall be attached to the application. If the other jurisdiction does not issue a license, the applicant shall provide documentation of lawful practice for at least 1,800 hours within three years prior to the application. Applicants claiming training and experience in a foreign country shall supply official English language transcripts of all documentation and evidence submitted to the board.”

Board Explanation: BCE does not issue licenses to applicants who have neither licensure nor training, but have practiced for 1,800 hours in another jurisdiction. This provision is obsolete. The Board will include repeal in the next rule packet in 2011.

- Minnesota Rules, Chapter 2105.0160 MANAGERS

"In addition to the requirements of part 2105.0140, the applicant shall provide documentation of a current cosmetologist, esthetician, or manicurist license, and at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- Minnesota Rules, Chapter 2105.0190 MAINTAINING INDIVIDUAL LICENSES
Subp 2 Change of name or address.

"The licensee shall advise the board of a change of name or address in writing, including both new and old name and address, within 30 days of the change, and pay the duplicate license fee,"

Board Explanation: The portion of the rule referring to the duplicate license fee is obsolete as address changes are processed online and do not require a duplicate license fee, and name changes require a name change fee identified in Minnesota Statutes, Chapter 155A Subd 1 (c) (3). The Board will include repeal in the next rule packet in 2011.

- Minnesota Rules, Chapter 2105.0200 LICENSE RENEWAL FOR INDIVIDUALS
Subp. 2 A Practical and educational requirements.

"A cosmetologist, manicurist, esthetician, or manager shall provide documentation of having practiced in a licensed salon, or school for school managers, for at least 1,800 hours at any time within the three years prior to the license expiration, or 400 hours acquired through approximately regular weekly experience within each of the last three years, or successfully completed an approved refresher course, of at least 40 hours, within the three years prior to the license expiration or reactivation."

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Board Explanation: The requirement that the 400 hours be acquired through regular weekly experience is not necessary, is obsolete, and should be repealed. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0200 LICENSE RENEWAL FOR INDIVIDUALS**

- **Subp. 2 B Practical and educational requirements.**

- B. An instructor shall pay the processing fee and shall provide evidence of having successfully completed 45 hours of continuing education approved by the board, within three years before the license expiration or reactivation, including at least 15 hours of teaching-related material and 15 hours related to analysis and use of professional clinical products."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0210 PROCEDURE FOR ACTIVATING A LAPSED OR INACTIVE LICENSE**

- **Subp. 1 Procedure for lapsed licensee.**

- "If an individual's license has expired, the individual shall be reissued a license after submission of a request for renewal, proof of experience or education as required in part 2105.0200, subpart 2, payment of the license fee, and payment of the processing fee"

- **Subp. 2 Procedure for inactive license**

- "An individual who has an "inactive" Minnesota license and whose most recent active license has expired by less than three years shall be reissued an active license for the remainder of the licensing period, after completion of an application, evidence of compliance with part 2105.0200, subpart 2, and payment of the processing fee."

Board Explanation: The portions of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0310 SALON LICENSURE**

- Subpart 1. All salon licenses.

- "The requirements of parts 2105.0300, 2105.0310, 2105.0360, 2105.0370, and 2105.0400 shall be met by all applicants proposing to establish a salon. Upon compliance, the board will issue a provisional license which will enable the salon to open for business. The

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salon's compliance with this chapter and Minnesota Statutes, chapter 155, shall be confirmed by an operational inspection by the board. A permanent license for the balance of the three-year license cycle shall be issued upon confirmation of the salon's compliance."

Board Explanation: BCE does not issue provisional licenses, and does not require inspection prior to license issuance. This rule is unnecessary and should be repealed. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0340 DELINQUENT SALON LICENSES**

Subp. 2. Renewal.

"If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written request for renewal of license, the license fee, and the processing fee. If more than 30 days have elapsed, the salon shall cease operation until a new salon application has been submitted and a provisional license has been issued."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2.

The portion of the rule referring to a provisional license is obsolete as a provisional license is not issued.

The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2105.0350 SALON REQUIREMENTS**

Subpart 5 Change of name

"The salon owner shall inform the board in writing, within 60 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the board upon receipt of the license in the new name."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as Minnesota Statutes, Chapter 155A Subd 1 (c) (3) requires a name

change fee, not a processing fee. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0140 INSTRUCTORS**

- **Subpart 1 Full Instructors**

"In addition to the requirements of part 2105.0140, the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of...."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0340 (A) DELINQUENT SCHOOL LICENSES**

"If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written request for renewal of license, the license fee, and the processing fee."

Board Explanation: The portion of the rule referring to the processing fee is obsolete as BCE does not require and has never required a separate processing fee in addition to other fees identified by statute. Processing fees are retained only when refunds are issued as required by Minnesota Statutes, Chapter 155A.25 Subd 2. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0400 E FIXTURES, FURNITURE, EQUIPMENT**

"A school shall meet the following minimum requirements:

E. There shall be at least one heat cap."

Board Explanation: The use of heat caps is obsolete in the practice of cosmetology, and therefore, this requirement should be repealed. The Board will include repeal in the next rule packet in 2011.

- **Minnesota Rules, Chapter 2110.0560 ADDITIONAL LICENSES**

"A licensed esthetician or a licensed manicurist who returns to school for an additional license shall not perform any clinical services in the area for which he or she is already licensed."

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Board Explanation: This rule is obsolete as students returning to school are required to learn new techniques and applications, and are required to demonstrate competence in practical exams. The provision should be repealed . The Board will include repeal in the next rule packet in 2011.

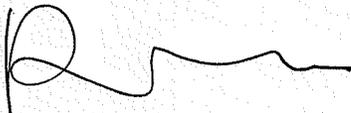
- **Minnesota Rules, Chapter 2110.0690 STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN REQUIRED TIME.**

“A license applicant must pass the examination and be licensed within a period of not more than three years from the date of successful completion of the required training. A student who does not meet this requirement will be required to complete a reactivation course or complete the required training in addition to the skills certification, whichever is greater, before making application for examination.”

Board Explanation: Reactivation courses do not exist, and this provision is obsolete. The Board will include repeal in the next rule packet in 2011.

If you have any questions regarding this report, please contact me at rebecca.gaspard@state.mn.us or (651) 201-2751.

Sincerely,



Rebecca Gaspard
Program Administrator