

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the Board of Cosmetologist Examiners Relating to Education, Licensing, and Practice of Cosmetology, Minnesota Rules Chapter 2110

ORDER ON REQUEST FOR REVIEW AND APPROVAL OF ADDITIONAL NOTICE PLAN AND DUAL NOTICE

This matter came before Administrative Law Judge Ann C. O'Reilly upon the request of the Board of Cosmetologist Examiners (Board) for review and approval of its Additional Notice Plan under Minn. R. 1400.2060 (2021), and its Dual Notice under Minn. Stat. §§ 14.14, .22 (2022), and Minn. R. 1400.2080 (2021).

On September 2, 2022, the Board submitted to the Administrative Law Judge a draft Dual Notice of Intent to Adopt Rules With or Without a Hearing (Dual Notice), a draft of the proposed rules (with a certificate of approval as to form by the Revisor's Office), and a draft Statement of Need and Reasonableness (SONAR). The filing also included a cover letter summarizing the Board's Additional Notice Plan, which is set forth in more detail in the draft SONAR at page 44.

On September 8, 2022, the Board submitted a revised Dual Notice (revised Dual Notice) for consideration. The revised Dual Notice included more specific information and instructions for a WebEx hearing and other changes.

Based upon a review of the Board's written submissions, and for the reasons set forth in the Memorandum set forth below and incorporated herewith,

IT IS HEREBY ORDERED THAT:

1. The Additional Notice Plan, as described in the Board's draft SONAR, is **APPROVED**, subject to the conditions that the Board: (a) provide email notice to the 5,200 salons licensed by the Board; and (b) provide email or mailed notice to all of the 38 schools licensed by the Board.

2. The revised Dual Notice is **APPROVED**.

Dated: September 9, 2022



ANN O'REILLY
Administrative Law Judge

MEMORANDUM

In the SONAR, the Board states that “there are approximately 33,000 practitioners, 5,200 salons, and 38 schools licensed by the Board.”¹ In its Additional Notice Plan, the Board states that it intends to send an email with hyperlinks to the Dual Notice, draft rules, and the SONAR, to “every Board licensee who has an email address listed with the Board.” However, the Board goes on to state that “Approximately 98% of our 33,000 licensees have an email address on file with the Board.” It is unclear from the Additional Notice Plan whether the Board intends to serve notice on the 5,200 licensed salons and the 38 licensed schools, in addition to its 33,000 licensed practitioners.

The proposed rules address the education requirements for practitioners, licensing requirements for practitioners and schools, training requirements, cosmetology school regulations, and other matters affecting beauty salons and cosmetology school programs. The SONAR asserts that the proposed rules will most affect “cosmetology schools, instructors, school managers, applicants for school licenses,” as well as students and clients receiving services from students in cosmetology schools. Moreover, the SONAR notes that licensed cosmetology schools will bear the costs associated with the implementation of the rules. Therefore, it is important that all 38 schools licensed by the Board receive specific notice of the proposed rules.

While the Board states that it intends to notify 98 percent of its 33,000 licensed practitioners, it does not indicate in its Additional Notice Plan that it also intends to send notice to the 5,200 salons and 38 schools licensed by the Board. Because the rules most impact the licensed schools, the Board should specifically include these licensees in its Additional Notice Plan. It is particularly important to serve all 38 licensed schools, including those without an email address on file with the Board. In cases where an email address for a school is not known to the Board, the Board should mail the notice to the school at the address provided to the Board in the license file. Thus, as a condition of approval of the Additional Notice Plan, the Board must amend the Additional Notice Plan to include email notice to the 5,200 salons licensed by the Board and mail or email notice to all 38 schools licensed by the Board.

As part of its general Notice Plan, the Board is further advised that it must provide a copy of the SONAR to the Legislative Reference Library as required in Minn. R. 1400.2070, subp. 3 (2021).

With these clarifications and additions, the Additional Notice Plan evidences a reasonable effort to notify persons or classes of person who may be significantly affected by the proposed rules. Thus, subject to these conditions and additions to the Plan, the Additional Notice Plan is **APPROVED**.

A. C. O.

¹ SONAR at 5.