

CHAPTER 155A

COSMETOLOGY

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155A.01 [Renumbered 154.40]

155A.02 [Renumbered 154.41]

155A.03 Subdivision 1. [Renumbered 154.42, subd 1]

Subd. 1a. [Renumbered 154.42, subd 2]

Subd. 2. [Renumbered 154.42, subd 3]

Subd. 3. [Renumbered 154.42, subd 4]

Subd. 4. [Renumbered 154.42, subd 5]

Subd. 4a. [Renumbered 154.42, subd 6]

Subd. 5. [Renumbered 154.42, subd 7]

Subd. 6. [Renumbered 154.42, subd 8]

Subd. 7. [Renumbered 154.42, subd 9]

Subd. 8. [Renumbered 154.42, subd 10]

Subd. 9. [Renumbered 154.42, subd 11]

Subd. 10. [Repealed, 1983 c 289 s 119]

Subd. 11. [Repealed, 2006 c 212 art 1 s 26]

Subd. 12. [Renumbered 154.42, subd 12]

Subd. 13. [Repealed, 2005 c 27 s 10]

Subd. 14. [Repealed, 1Sp2003 c 1 art 4 s 4]

Subd. 15. [Repealed, 1Sp2003 c 1 art 4 s 4]

155A.04 [Renumbered 154.43]

155A.045 [Renumbered 154.44]

155A.05 [Renumbered 154.45]

155A.06 [Repealed, 2005 c 27 s 10]

155A.07 Subdivision 1. [Renumbered 154.46, subd 1]

Subd. 2. [Renumbered 154.46, subd 2]

Subd 2a. [Recodify 154.46, subd 3]

Subd. 3. [Renumbered 154.46, subd 4]

Subd. 4. [Renumbered 154.46, subd 5]

Subd. 5. [Renumbered 154.46, subd 6]

Subd. 6. [Renumbered 154.46, subd 7]

Subd. 7. [Renumbered 154.46, subd 8]

Subd. 8. [Renumbered 154.46, subd 9]

Subd. 9. [Repealed, 1Sp2003 c 1 art 4 s 4]

Subd. 10. [Renumbered 154.46, subd 10]

155A.08 [Renumbered 154.47]

155A.09 [Renumbered 154.48]

155A.095 [Renumbered 154.49]

155A.10 [Renumbered 154.50]

155A.11 [Repealed, 1993 c 204 s 28]

155A.12 [Repealed, 1993 c 204 s 28]

155A.13 [Repealed, 1993 c 204 s 28]

155A.135 [Renumbered 154.51]

155A.14 [Renumbered 154.52]

155A.15 [Renumbered 154.53]

155A.16 [Renumbered 154.54]

155A.17 [Repealed, 1983 c 289 s 119]

155A.18 [Repealed, 1993 c 204 s 28]

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

(a) A Board of Cosmetologist Examiners is established to consist of three cosmetologist members and one public member, as defined in section 214.02, appointed by the governor.

(b) All cosmetologist members must be currently licensed in the field of cosmetology, manicuring, 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. The cosmetologist members shall be members of, or recommended by, a professional organization of cosmetologists, manicurists, or estheticians.

(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.

History: 2009 c 78 art 6 s 14,26

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 the use of chemicals, 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.

History: *1981 c 357 s 31; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92 subd 1; 2004 c 269 art 3 s 22; 2005 c 27 s 9; 2009 c 78 art 6 s 26*

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.

History: *1981 c 357 s 32; 2004 c 269 art 3 s 23; 2005 c 27 s 9; 2009 c 78 art 6 s 26*

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

Subd. 6. **Licensed practice.** "Licensed practice" means the practice of cosmetology in a licensed salon or the practice of an esthetician in connection with medical care in relation to esthiology in the office of a licensed physician.

Subd. 7. **Manicurist.** A "manicurist" 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 conducts, operates, or manages a cosmetology school or salon and who also instructs in or provides any services, as defined in subdivision 3.

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 sanitation 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.

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

History: 1981 c 357 s 33; 1983 c 289 s 99,114 subd 1; 1984 c 655 art 1 s 92; 1993 c 204 s 8; 2002 c 387 s 12,13; 2004 c 269 art 3 s 24-28; 2005 c 10 art 1 s 26; 2005 c 27 s 3,9; 2009 c 78 art 6 s 26

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 and the continuing inspections required.

History: 1981 c 357 s 34; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92 subd 1; 2005 c 27 s 4,9; 2009 c 78 art 6 s 26

155A.25 FEES.

Subdivision 1. **Schedule.** The fee schedule for licensees is as follows:

(a) Three-year license fees:

(1) cosmetologist, manicurist, esthetician, \$90 for each initial license, and \$60 for each renewal;

(2) instructor, manager, \$120 for each initial license, and \$90 for each renewal;

(3) salon, \$130 for each initial license, and \$100 for each renewal; and

(4) school, \$1,500.

(b) Penalties:

(1) reinspection fee, variable;

- (2) manager and owner with lapsed practitioner, \$150 each;
- (3) expired cosmetologist, manicurist, esthetician, manager, school manager, and instructor license, \$45; and
- (4) expired salon or school license, \$50.
- (c) Administrative fees:
 - (1) certificate of identification, \$20;
 - (2) school original application, \$150;
 - (3) name change, \$20;
 - (4) letter of license verification, \$30;
 - (5) duplicate license, \$20;
 - (6) processing fee, \$10; and
 - (7) special event permit, \$75 per year.
- (d) All fees established in this subdivision must be paid to the executive secretary of the board. The executive secretary of the board shall deposit the 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 this section requires.

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

History: 1993 c 204 s 9; 1997 c 200 art 1 s 63; 2004 c 269 art 3 s 29; 2005 c 27 s 5,9; 2009 c 78 art 6 s 12,26

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.

History: 1981 c 357 s 35; 1982 c 424 s 130; 1983 c 289 s 100; 1984 c 640 s 32; 1993 c 204 s 10; 2004 c 269 art 3 s 30; 2005 c 27 s 9; 2009 c 78 art 6 s 26

155A.27 PRACTITIONER.

Subdivision 1. **Licensing.** Individual licensing shall be required for persons seeking to practice in the state as a cosmetologist, esthetician, manicurist, 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 of the practitioner and the consumer of cosmetology services, including but not limited to chemical applications.

Subd 3. **Licensing; felons.** The board shall adopt rules to establish a uniform process and criteria by which an applicant who has been convicted of a felony shall be considered for licensing.

Subd. 4. **Testing.** 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. 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.

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

Subd. 9. **Exemptions.** 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.

Subd. 10. **Nonresident licenses.** A nonresident cosmetologist, manicurist, 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 the Minnesota-specific written operator examination for cosmetologist, manicurist, 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.

History: 1981 c 357 s 37; 1983 c 289 s 114 subd 1; 1983 c 293 s 64; 1984 c 655 art 1 s 92; 1993 c 204 s 12-15; 2002 c 387 s 14; 2004 c 269 art 3 s 31-33; 2005 c 27 s 9; 2006 c 260 art 3 s 5; 2009 c 78 art 6 s 26

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 include, but are not limited to, the practice of nonpermanent manipulation of the hair, such as 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.

History: 2009 c 78 art 6 s 15,26

155A.28 HAIR BRAIDING.

Subdivision 1. **Registration.** Any person engaged in hair braiding solely for compensation as a profession, except persons licensed as cosmetologists, shall register with the Minnesota Board of Cosmetologist Examiners in a form determined by the board.

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. 3. **Requirements.** In order to qualify for initial registration, any person engaged in

hair braiding solely for compensation as a profession, except persons licensed as cosmetologists, shall satisfactorily complete instruction at either an accredited school, professional association, or by an individual approved by the board. Instruction includes coursework covering the topics of health, safety, sanitation, and state laws related to cosmetology not to exceed 30 hours. The coursework is encouraged to be provided in a foreign language format and such availability shall be reported to and posted by the Minnesota Board of Cosmetologist Examiners.

Subd. 4. **Curriculum.** An accredited school, professional association, or an individual approved by the board desiring to provide the coursework required under subdivision 3 shall have curriculum in place by January 1, 2008.

History: 2007 c 135 art 3 s 3; 2009 c 78 art 6 s 26

155A.29 SALONS.

Subdivision 1. **Licensing.** Any person who offers cosmetology services for compensation in this state shall be licensed as a salon if not employed by another licensed salon or as an esthetician in connection with medical care in relation to esthiology in the office of a licensed physician.

Subd. 2. **Requirements.** (a) 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 sanitation, health, and safety;

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

(3) inspection and licensing prior to the commencing of business;

(4) if applicable, evidence of compliance with section 176.182; and

(5) 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.

(b) A licensed esthetician or manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the board to operate a salon solely for the performance of those personal services defined in section 155A.23, subdivision 5, in the case of an esthetician, or subdivision 7, in the case of a manicurist.

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

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.

History: 1981 c 357 s 38; 1983 c 289 s 114 subd 1; 1983 c 293 s 65; 1984 c 655 art 1 s 92; 1985 c 247 s 19; 1993 c 204 s 16,17; 1996 c 439 art 1 s 13; 2004 c 269 art 3 s 34-36; 2005 c 27 s 6,9; 2009 c 78 art 6 s 26

155A.30 SCHOOLS.

Subdivision 1. **Licensing.** Any person who establishes or conducts a school in this state shall be licensed.

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 manicurist.

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 (8).

(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 which will adequately prepare enrolled students for testing, licensing, and entry level positions as a cosmetologist, esthetician, or manicurist.

(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 471.617, subdivision 1, shall file with the board a continuous corporate surety bond in the amount of \$10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota 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 aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed \$10,000. 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.

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.** No school, duly approved under sections 155A.21 to 155A.36, shall refuse to teach any student, otherwise qualified, on account of race, sex, creed, color, citizenship, national origin, or sexual preference.

History: 1981 c 357 s 39; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1993 c 204 s 18-21; 1996 c 439 art 1 s 14; 2004 c 269 art 3 s 37; 2005 c 27 s 9; 2009 c 78 art 6 s 26

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.

History: 1993 c 204 s 22; 1996 c 439 art 1 s 15; 2004 c 269 art 3 s 38; 2005 c 27 s 9; 2009 c 78 art 6 s 26

155A.32 DISPLAY OF LICENSE.

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

(b) Notwithstanding the provisions of paragraph (a), nothing contained in sections 155A.21 to 155A.36 shall be construed to prohibit a person licensed to provide cosmetology services from engaging in any practices defined in sections 155A.21 to 155A.36 in the homes of customers or patrons, under the sanitary and health rules promulgated by the board.

History: 1981 c 357 s 40; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1993 c 204 s 23; 2004 c 269 art 3 s 39; 2005 c 27 s 9; 2009 c 78 art 6 s 26

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.

(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, whether or not the conduct or acts relate 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) practiced in a profession regulated by this chapter 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 licensee, registrant, or instructor of a profession regulated by this chapter unless that person has (i) a current license or registration issued by the board, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of a profession regulated by the board;

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

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

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

(15) 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 licensee, registrant, or other person in charge of any school or place of practice of a profession regulated by the board, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the service or practice of the profession regulated by the board, (ii) failed to have water and sewer connections from the place of practice or 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 this chapter, 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 license or registration when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise an apprentice, or permitted the practice of a profession regulated by the board by a person not registered or licensed 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 chapter 141 or a provision of another chapter that relates to 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 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.

History: 1993 c 204 s 24; 2004 c 269 art 3 s 40; 2005 c 27 s 7,9; 2009 c 78 art 6 s 13,26

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, osteopathy, 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.

History: *1981 c 357 s 44; 1993 c 204 s 25; 2004 c 269 art 3 s 41; 2005 c 27 s 9; 2009 c 78 art 6 s 26*

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.

History: *1981 c 357 s 45; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1993 c 204 s 26; 2004 c 269 art 3 s 42; 2005 c 27 s 9; 2009 c 78 art 6 s 26*

155A.36 VIOLATIONS; PENALTIES.

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

History: *1981 c 357 s 46; 1984 c 628 art 3 s 11; 1993 c 204 s 27; 2004 c 269 art 3 s 43; 2005 c 10 art 3 s 9; 2005 c 27 s 9; 2009 c 78 art 6 s 26*