

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2762**

03/06/2014 Authored by Uglem, Lohmer, Gunther and Mahoney
The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance and Policy

03/13/2014 Adoption of Report: Amended and re-referred to the Committee on Government Operations

03/20/2014 Adoption of Report: Amended and re-referred to the Committee on Jobs and Economic Development Finance and Policy

03/27/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time

1.1 A bill for an act

1.2 relating to cosmetology; making changes to the Board of Cosmetologist

1.3 Examiners; requiring expedited rulemaking; amending Minnesota Statutes

1.4 2012, sections 155A.23, subdivision 6; 155A.275, subdivision 1; 155A.29,

1.5 subdivisions 1, 3, by adding a subdivision; 155A.30, subdivision 1, by adding

1.6 a subdivision; 155A.32; 155A.33, subdivision 4; Minnesota Statutes 2013

1.7 Supplement, sections 155A.20; 155A.25, subdivision 4; 155A.27, subdivision

1.8 10; 155A.271, subdivision 2; repealing Minnesota Statutes 2012, sections

1.9 155A.24, subdivisions 3, 4; 155A.27, subdivision 3.

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

1.11 Section 1. Minnesota Statutes 2013 Supplement, section 155A.20, is amended to read:

1.12 **155A.20 BOARD OF COSMETOLOGIST EXAMINERS CREATED; TERMS.**

1.13 (a) A Board of Cosmetologist Examiners is established to consist of ~~three~~

1.14 ~~cosmetologist~~ seven members ~~and one public member, as defined in section 214.02,~~

1.15 appointed by the governor; as follows:

1.16 (1) two cosmetologists, one of whom is recommended by a professional association

1.17 of cosmetologists, nail technicians, and estheticians;

1.18 (2) two school instructors, one of whom is teaching at a public cosmetology school

1.19 in the state and one of whom is teaching at a private cosmetology school in the state;

1.20 (3) one esthetician;

1.21 (4) one nail technician; and

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

1.23 (b) All cosmetologist, esthetician, and nail technician members must be currently

1.24 licensed in the field of cosmetology, nail technology, or esthetology, in Minnesota, have

1.25 practiced in the licensed occupation for at least five years immediately prior to their

1.26 appointment, be graduates from grade 12 of high school or have equivalent education,

2.1 and have knowledge of sections 155A.21 to 155A.36 and Minnesota Rules, chapters
2.2 2105 and 2110. ~~The cosmetologist members shall be members of, or recommended by, a~~
2.3 ~~professional organization of cosmetologists, nail technicians, or estheticians.~~

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

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

2.11 Sec. 2. Minnesota Statutes 2012, section 155A.23, subdivision 6, is amended to read:

2.12 Subd. 6. **Licensed practice.** "Licensed practice" means (1) the practice of
2.13 cosmetology in a licensed salon or (2) the practice of an esthetician or cosmetologist
2.14 employed in the office of a licensed physician in connection with medical care in relation
2.15 related to esthiology in the office of a licensed physician.

2.16 Sec. 3. Minnesota Statutes 2013 Supplement, section 155A.25, subdivision 4, is
2.17 amended to read:

2.18 Subd. 4. **License expiration date.** ~~The board shall, in a manner determined by the~~
2.19 ~~board and without the need for rulemaking under chapter 14, phase in changes to initial~~
2.20 ~~and renewal license expiration dates so that by January 1, 2014:~~

2.21 ~~(1) Individual licenses expire on the last day of the licensee's birth month of the~~
2.22 ~~year due; and~~

2.23 ~~(2) Salon and school licenses expire on the last day of the month of initial licensure~~
2.24 ~~of the year due.~~

2.25 Sec. 4. Minnesota Statutes 2013 Supplement, section 155A.27, subdivision 10, is
2.26 amended to read:

2.27 Subd. 10. **Nonresident licenses.** (a) A nonresident cosmetologist, nail technician,
2.28 or esthetician may be licensed in Minnesota if the individual has completed cosmetology
2.29 school in a state or country with the same or greater school hour requirements, has an
2.30 active license in that state or country, and has passed a board-approved theory and
2.31 practice-based examination, the Minnesota-specific written operator examination for
2.32 cosmetologist, nail technician, or esthetician. If a test is used to verify the qualifications
2.33 of trained cosmetologists, the test should be translated into the nonresident's native

3.1 language within the limits of available resources. Licenses shall not be issued under this
3.2 subdivision for managers or instructors.

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

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

3.13 Sec. 5. Minnesota Statutes 2013 Supplement, section 155A.271, subdivision 2, is
3.14 amended to read:

3.15 Subd. 2. **Schools and professional associations.** (a) Only a board-licensed school
3.16 of cosmetology, a postsecondary institution as defined in section 136A.103, paragraph (a),
3.17 or a board-recognized professional association may offer continuing education curriculum
3.18 for credit under this section. The school and professional association may offer online
3.19 and independent study options to achieve maximum involvement of licensees and is
3.20 encouraged to offer classes available in foreign language formats.

3.21 (b) Board recognition of a professional association is valid for three years and is
3.22 contingent upon submission and preapproval of the general curriculum to be offered. The
3.23 board may revoke recognition at any time for just cause. The professional association
3.24 offering continuing education must be organized under chapter 317A.

3.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.26 Sec. 6. Minnesota Statutes 2012, section 155A.275, subdivision 1, is amended to read:

3.27 Subdivision 1. **Special event services.** For purposes of this section, "special event
3.28 services" means services rendered for compensation and performed at a location other than
3.29 a licensed salon. These services ~~include, but are not limited to;~~ the practice of nonpermanent
3.30 manipulation of the hair, ~~such as~~ including: styling, setting, reinforcing, or extending the
3.31 hair; the application of nail polish to the nails; and the application of makeup to the skin.

3.32 Sec. 7. Minnesota Statutes 2012, section 155A.29, subdivision 1, is amended to read:

4.1 Subdivision 1. **Licensing.** Any person who offers cosmetology services for
4.2 compensation in this state shall be (1) licensed as a salon if not employed by another
4.3 licensed salon or (2) employed as an esthetician or cosmetologist in connection with
4.4 medical care in relation to esthiology in the office of a licensed physician.

4.5 Sec. 8. Minnesota Statutes 2012, section 155A.29, subdivision 3, is amended to read:

4.6 Subd. 3. ~~Health and sanitary~~ **Infection control standards.** Minimum ~~health and~~
4.7 ~~sanitary~~ infection control standards for the operation of a salon shall be established by
4.8 rule. ~~A salon shall not be located in a room used for residential purposes. If a salon is~~
4.9 ~~in the residence of a person practicing cosmetology, the rooms used for the practice of~~
4.10 ~~cosmetology shall be completely partitioned off from the living quarters.~~ The salon may
4.11 be inspected as often as the board considers necessary to affirm compliance.

4.12 Sec. 9. Minnesota Statutes 2012, section 155A.29, is amended by adding a subdivision
4.13 to read:

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

4.18 Sec. 10. Minnesota Statutes 2012, section 155A.30, subdivision 1, is amended to read:

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

4.23 Sec. 11. Minnesota Statutes 2012, section 155A.30, is amended by adding a
4.24 subdivision to read:

4.25 Subd. 12. **Minnesota state authorization.** A cosmetology school licensed or
4.26 applying for licensure under this section shall maintain recognition as an institution of
4.27 postsecondary study by meeting the following conditions, in addition to the provisions of
4.28 Minnesota Rules, parts 2110.0310 and 2110.0370:

4.29 (1) the school must admit as regular students only those individuals who have a high
4.30 school diploma or a diploma based on passing general education development (GED) tests
4.31 or their equivalent, or who is beyond the age of compulsory education as prescribed
4.32 by section 120A.22; and

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

5.3 Sec. 12. Minnesota Statutes 2012, section 155A.32, is amended to read:

5.4 **155A.32 DISPLAY OF LICENSE.**

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

5.7 ~~(b) Notwithstanding the provisions of paragraph (a), nothing contained in sections~~
5.8 ~~155A.21 to 155A.36 shall be construed to prohibit a person licensed to provide~~
5.9 ~~cosmetology services from engaging in any practices defined in sections 155A.21 to~~
5.10 ~~155A.36 in the homes of customers or patrons, under the sanitary and health rules~~
5.11 ~~promulgated by the board.~~

5.12 Sec. 13. Minnesota Statutes 2012, section 155A.33, subdivision 4, is amended to read:

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

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

5.22 (2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, ~~whether~~
5.23 ~~or not the conduct or acts relate~~ related to the practice of a profession regulated by this
5.24 chapter, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the
5.25 person's ability or fitness to engage in the practice of the profession;

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

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

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

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

6.1 ~~(7) practiced in a profession regulated by this chapter while having an infectious or~~
6.2 ~~contagious disease;~~

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

6.4 ~~(9) demonstrated intoxication or indulgence in the use of drugs, including but not~~
6.5 ~~limited to narcotics as defined in section 152.01 or in United States Code, title 26, section~~
6.6 ~~4731, barbiturates, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants,~~
6.7 ~~stimulants, or tranquilizers;~~

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

6.10 ~~(10) (9) demonstrated unprofessional conduct or practice;~~

6.11 ~~(11) (10) permitted an employee or other unlicensed person under the person's~~
6.12 ~~supervision or control to practice as a licensee, registrant, or instructor of a profession~~
6.13 ~~offer or practice services regulated by this chapter unless that person has (i) a current~~
6.14 ~~license or registration issued by the board, (ii) a temporary apprentice permit, or (iii) a~~
6.15 ~~temporary permit as an instructor of a profession regulated by the board for compensation;~~

6.16 ~~(12) (11) practices, offered to practice, or attempted to practice by misrepresentation;~~

6.17 ~~(13) (12) failed to display a license or registration permit as required by rules~~
6.18 ~~adopted by the board;~~

6.19 ~~(14) used any room or place of practice of a profession regulated by the board that~~
6.20 ~~is also used for any other purpose, or used any room or place of practice of a profession~~
6.21 ~~regulated by the board that violates (13) violated the board's rules governing sanitation~~
6.22 ~~infection control;~~

6.23 ~~(15) failed to use separate and clean towels for each customer or patron, or to discard~~
6.24 ~~and launder each towel after being used once;~~

6.25 ~~(16) in the case of a licensee, registrant, or other person in charge of any school or~~
6.26 ~~place of practice of a profession regulated by the board, (i) failed to supply in a sanitary~~
6.27 ~~manner clean hot and cold water in quantities necessary to conduct the service or practice~~
6.28 ~~of the profession regulated by the board, (ii) failed to have water and sewer connections~~
6.29 ~~from the place of practice or school with municipal water and sewer systems where they~~
6.30 ~~are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a~~
6.31 ~~capacity of at least five gallons;~~

6.32 ~~(17) (14) refused to permit the board to make an inspection permitted or required by~~
6.33 ~~this chapter, or failed to provide the board or the attorney general on behalf of the board~~
6.34 ~~with any documents or records they request; or~~

6.35 ~~(18) failed promptly to renew a license or registration when remaining in practice,~~
6.36 ~~pay the required fee, or issue a worthless check;~~

7.1 ~~(19) failed to supervise an apprentice, or permitted the practice of a profession~~
 7.2 ~~regulated by the board by a person not registered or licensed with the board or not holding~~
 7.3 ~~a temporary permit;~~

7.4 ~~(20)~~ (15) refused to serve a customer because of race, color, creed, religion,
 7.5 disability, national origin, or sex;

7.6 ~~(21) failed to comply with a provision of chapter 141 or a provision of another~~
 7.7 ~~chapter that relates to schools; or~~

7.8 ~~(22)~~ (16) with respect to temporary suspension orders, has committed an act,
 7.9 engaged in conduct, or committed practices that the board, or complaint committee if
 7.10 authorized by the board, has determined may result or may have resulted in an immediate
 7.11 threat to the public.

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

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

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

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

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

7.25 Sec. 14. **EXPEDITED RULEMAKING.**

7.26 The Board of Cosmetology Examiners shall adopt rules to implement the statutory
 7.27 changes made in this act. The board must use the expedited process in Minnesota Statutes,
 7.28 section 14.389, to adopt these rules.

7.29 Sec. 15. **REPEALER.**

7.30 Minnesota Statutes 2012, sections 155A.24, subdivisions 3 and 4; and 155A.27,
 7.31 subdivision 3, are repealed.

APPENDIX
Repealed Minnesota Statutes: H2762-3

155A.24 ADMINISTRATION.

Subd. 3. **Feedback.** The board must provide access on its Web site for customers to provide feedback on interaction with the board and board staff. The information posted to the Web site by customers must be readily accessible to the public. The board must also record each complaint it receives, the board's response, and the time elapsed in responding to and resolving each complaint.

Subd. 4. **Report.** The board must report by January 15 each year to the standing committees of the house of representatives and the senate having jurisdiction over the board on its customer service training and its complaint resolution activities.

155A.27 PRACTITIONER.

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.