

CHAPTER 155A

COSMETOLOGY

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155A.01 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 director of the office of consumer services.

History: 1981 c 357 s 31

155A.02 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 hereinafter provided.

History: 1981 c 357 s 32

155A.03 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of sections 155A.01 to 155A.18, and unless the context clearly requires otherwise, the words defined in this section have the meanings given them.

Subd. 2. **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 licensed barber under chapter 154.

Subd. 3. **Cosmetologist.** A "cosmetologist" is any person who, for compensation, performs the personal services, as defined in subdivision 2.

Subd. 4. **Esthetician.** An "esthetician" is any person who, for compensation, performs personal services for the cosmetic care of the skin only.

Subd. 5. **Manicurist.** A "manicurist" is any person who, for compensation, performs personal services for the cosmetic care of the hands, feet, and nails only.

Subd. 6. **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 2.

Subd. 7. **Salon.** A "salon" is an area, room, or rooms employed to offer personal services, as defined in subdivision 2. "Salon" does not include the home of a customer but the director may adopt health and sanitation rules governing practice in the homes of customers.

Subd. 8. **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. 9. **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. 10. **Director.** "Director" means the director of the office of consumer services.

Subd. 11. **Council.** The "council" is the Minnesota cosmetology advisory council, as defined in section 155A.06.

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

155A.04 ADMINISTRATION.

Subdivision 1. **Director's powers and duties; generally.** The director of the office of consumer services shall have the power and duties necessary for the administration of the provisions of this chapter.

Subd. 2. **Hiring and assignment of employees.** The director shall have the authority to hire in the classified service, or to assign to employees of the department of commerce, qualified personnel 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

155A.05 RULES.

The director shall develop and adopt rules to carry out the provisions of sections 155A.01 to 155A.18 by December 31, 1982, pursuant to chapter 14. For purposes of sections 155A.01 to 155A.18, the director may adopt temporary rules, pursuant to sections 14.29 to 14.36. These rules may be reissued as temporary rules until permanent rules are adopted or until December 31, 1982, whichever is earlier. These temporary rules may provide that for any renewal license issued by the director within one year after July 1, 1981, the term of renewal shall be either one, two, or three years. The fee for a one-year renewal license shall be one-third of the fee for a three-year renewal license, and the fee for a two-year renewal shall be two-thirds of the three-year fee.

History: 1981 c 357 s 35; 1982 c 424 s 130

155A.06 ADVISORY COUNCIL.

Subdivision 1. **Creation.** The Minnesota cosmetology advisory council is created, consisting of nine members, as follows: Three members representative of consumers; three cosmetologists or shop managers; two cosmetology school representatives, one representing public cosmetology schools and one representing private cosmetology schools; and one representative of manufacturers of cosmetology products. The chair shall be selected at the first meeting of each year by the council from among its members by majority vote and shall serve until a successor is elected.

Subd. 2. **Appointments.** Appointments to the council shall be made by the governor in accordance with section 15.0597.

Subd. 3. **Membership terms.** Each member of the council shall be appointed for a four-year term, except that in making the appointments for the first term

the governor shall appoint members for one, two, three, or four year duration by September 1, 1981 so that appointments do not expire concurrently.

Subd. 4. **Duties.** The council shall meet at least annually, at the call of the director. The council shall advise the director of the availability of cosmetology services and their ethical and safe operation. The director shall consult with the council prior to the promulgation of any rules, adoption of testing instruments, criteria for inspections, and other matters as the director deems appropriate.

Subd. 5. **Compensation.** Members of the council shall be compensated for expenses as provided in section 15.059.

History: 1981 c 357 s 36

155A.07 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 director in consultation with the council, 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. **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. 4. **Licensing without test.** Licensing of persons without testing may be allowed as determined by rules.

Subd. 5. **Duration of license.** Licensing in each classification shall be for a period of three years.

Subd. 6. **Renewals.** Renewal of license shall be for a period of three years under conditions and process established by rule.

Subd. 7. **Fees.** Examination and licensing fees shall be established and adjusted, by rule, so that the total amount of fee income at least meets the anticipated costs, as provided in section 214.06.

Subd. 8. **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.01 to 155A.18 provided that services to consumers are in the physical presence of a licensed cosmetologist.

History: 1981 c 357 s 37

155A.08 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.

Subd. 2. **Requirements.** The conditions and process by which a salon is licensed shall be established by the director by rule after consultation with the council. The rule shall include the following requirements:

(a) Compliance with all local and state laws, particularly relating to matters of sanitation, health, and safety;

(b) The employment of a manager, as defined in section 155A.03, subdivision 6;

(c) Inspection and licensing prior to the commencing of business; and

(d) Evidence of professional liability insurance coverage in an amount by claim and total coverage as established by rule. The rule shall authorize a licensed manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the director to operate a salon solely for the performance of those personal services defined in section 155A.03, subdivision 5.

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. There shall be an inspection at least annually to affirm compliance.

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

Subd. 5. Fees. Licensing and inspection fees shall be established and adjusted, by rule, so that the total amount of fee income at least meets the anticipated costs, as provided in section 214.06.

History: 1981 c 357 s 38

155A.09 SCHOOLS.

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

Subd. 2. Standards. The director, after consultation with the council, 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 director and shall contain the following and such other information as may be required:

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

(b) 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;

(c) The place or places where instruction will be given;

(d) A listing of the equipment available for instruction in each course offered;

(e) The maximum enrollment to be accommodated;

(f) A listing of instructors, all of whom shall be licensed as provided in section 155A.07, 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;

(g) 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;

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

(i) 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 director, file with the director 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.** No license shall be issued unless the director first determines:

(a) That the applicant has 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 for the proper use and support of the school to be maintained;

(b) That the applicant has 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;

(c) That the applicant employs a sufficient number of qualified instructors trained by experience and education to give the training contemplated;

(d) That the premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards;

(e) That each occupational course or program of instruction or study shall 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; and

(f) Evidence of professional liability insurance coverage in an amount by claim and total coverage as established by rule.

Subd. 6. **Fees; renewals.** (a) Applications for initial license under this chapter shall be accompanied by a nonrefundable application fee established by rule.

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee established by rule.

(c) Application for renewal of license shall be made as stipulated in rules promulgated by the director and on forms supplied by the director.

Subd. 7. **Inspections.** All schools shall be inspected at least once a year. The director shall have the authority to assess the cost of the inspection to the school.

Subd. 8. **List of licensed schools; availability.** The director 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.01 to 155A.18 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 this chapter, 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

155A.10 DISPLAY OF LICENSE.

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

(b) Notwithstanding the provisions of paragraph (a), nothing contained in sections 155A.01 to 155A.18 shall be construed to prohibit a person licensed to provide cosmetology services from engaging in any practices defined in sections 155A.01 to 155A.18 in the homes of customers or patrons, under the sanitary and health rules promulgated by the director.

History: 1981 c 357 s 40

155A.11 REVOCATION OF LICENSE.

Subdivision 1. **Grounds.** The director may, after notice and opportunity for a hearing pursuant to chapter 14, refuse to renew, or revoke or suspend any license for any one, or combination of, the following grounds:

(a) Violation of any provision of sections 155A.01 to 155A.18 or any other statute or rule promulgated or enforced by the director;

(b) Intentionally furnishing false, misleading, or incomplete information;

(c) Refusal to allow reasonable inspection or supply reasonable information after a written request by the director or his designee;

(d) The existence of any circumstance which would be grounds for the refusal of an initial or renewal license.

Subd. 2. **Appeal from order.** Any order refusing, revoking, or suspending a license is appealable to the district court where the licensee conducts business as provided in chapter 14. If a person has been operating and the person's license has been revoked, suspended, or refused by the director, the order is not effective until final determination of the appeal unless the court orders it to take effect immediately.

History: 1981 c 357 s 41; 1982 c 424 s 130

155A.12 COMPLAINTS; INVESTIGATIONS AND HEARINGS.

Subdivision 1. **Notice to attorney general.** The director or person employed by him who receives a complaint or other communication, whether oral or written, alleging or implying a violation of a statute or rule which the director is empowered to enforce, which cannot be conciliated or resolved by the director or his designee shall promptly forward the substance of the communication on a form prepared by the attorney general to the designee of the attorney general responsible for providing legal services to the director. Before proceeding further with the communication, the director or designee of the attorney general may require the complaining party to state his complaint in writing on a form prepared by the attorney general. Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the director. An officer of that agency shall advise the director of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which the director is empowered to enforce shall be forwarded to the director to be processed in accordance with this section.

Subd. 2. **Investigations by attorney general.** The designee of the attorney general providing legal services to the director shall evaluate the communications forwarded to him by the director. If the communication alleges a violation of statute or rule which the director is to enforce, the designee is empowered to investigate the facts alleged in the communication. In the process of evaluation and investigation, he shall consult with or seek the assistance of the director. He may also consult with or seek the assistance of any other qualified person who the

designee believes will materially aid in the process of evaluation or investigation. The director may attempt to correct improper activities and redress grievances through education, conference, conciliation and persuasion, and in these attempts he may be assisted by the designee of the attorney general. If the attempts at correction or redress do not produce satisfactory results in the opinion of the director, or if after investigation the designee providing legal services to the director believes that the communication and the investigation suggest illegal or unauthorized activities warranting action, he shall inform the director who shall schedule a disciplinary hearing in accordance with chapter 14. Before scheduling a disciplinary hearing, the basis for the hearing must be stated in writing. The director shall promptly inform the complaining party, if any, of the final disposition of the complaint. Nothing in this section shall preclude the director from scheduling a disciplinary hearing based upon the findings or report of the director's staff or the attorney general.

Subd. 3. Issuance of compulsory process. In all matters pending before him relating to his lawful regulation activities, the director may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to either appear to testify regarding any matter about which he may be lawfully questioned, or produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by the order of the director or by subpoena of the director to do so may, upon application to the district court where the licensee conducts business, be ordered to comply therewith. The director may issue subpoenas and may administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state. Fees and mileage and other expenses shall be paid as the director directs.

History: 1981 c 357 s 42; 1982 c 424 s 130

155A.13 ADDITIONAL REMEDY.

In addition to any other remedy provided by law, the director may in his own name bring an action in the district court where the licensee conducts business for injunctive relief to restrain any unauthorized practice or violation or threatened violation of any statute or rule which the director is empowered to regulate or enforce. A temporary restraining order may be granted in the proceeding if continued activity by a person would create an imminent risk of harm to others. Injunctive relief granted pursuant to this section shall not relieve the person from disciplinary action by the director in respect to the person's license or application for license or renewal.

History: 1981 c 357 s 43

155A.14 SERVICES EXCEPTED; EMERGENCY.

Nothing in sections 155A.01 to 155A.18 shall prohibit 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

155A.15 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.01 to 155A.18 shall file with the director 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

155A.16 VIOLATIONS; PENALTIES.

Any person who violates any of the provisions of sections 155A.01 to 155A.18 shall be guilty of a misdemeanor and upon conviction may be sentenced to imprisonment for not more than 90 days or fined not more than \$500, or both, per violation.

History: 1981 c 357 s 46

155A.17 TRANSFER OF POWERS.

Subdivision 1. **Authorization.** The director, as successor to the board of cosmetology examiners, shall be deemed to be a continuation of the former authority and not a new authority for the purpose of succession to all the rights, powers, duties and obligations of the board of cosmetology examiners as they were constituted immediately prior to July 1, 1981.

Subd. 2. **Effect of rules transferred.** All rules heretofore promulgated under the authority of a power, duty, or responsibility transferred by sections 155A.01 to 155A.18 to the director shall remain in full force until modified or repealed in accordance with law by the director.

Subd. 3. **Effect of pending proceedings.** Any proceeding, court action, prosecution, or other business or matter which is pending on July 1, 1981 and which was undertaken or commenced by the board of cosmetology examiners under the authority of any power, duty, or responsibility which is transferred by sections 155A.01 to 155A.18 to the director may be conducted and completed by the director in the same manner, under the same terms and conditions, and with the same effect as though no transfer was made.

Subd. 4. **Transfer of custody of documents.** Every individual responsible under law for administration of any function transferred by sections 155A.01 to 155A.18 to the director shall, upon request by the director or by any of his designated employees, transfer custody of all books, maps, plans, papers, records, contracts, and other documents relating to the transferred function and necessary or convenient for the proper discharge of the director's new duties. The transfer shall be made in accordance with the directions of the director or his designated employee.

Subd. 5. **Appropriations.** All unexpended and unencumbered funds appropriated to the board of cosmetology examiners for the purpose of performing any of the functions, powers, or duties which are transferred by sections 155A.01 to 155A.18 to the director are hereby transferred to the director. If any unexpended appropriation must be allocated between the director and any other individual, office, division, agency, or department to accurately reflect the division of responsibilities between those individuals, divisions, agencies, or departments and the director after July 1, 1981, the commissioner of administration shall allocate the unexpended appropriation as he deems appropriate.

Subd. 6. **Transfer of positions.** Prior to July 1, 1981, the director has the authority to identify which board of cosmetology positions are required to carry out the provisions of sections 155A.01 to 155A.18. The incumbents of those positions in the classified service which the director determines are needed to carry

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out sections 155A.01 to 155A.18 are transferred to the employment of the director. The positions of all persons who are employed in the unclassified service by the board of cosmetology examiners to perform any of the functions, powers, or duties which are transferred by sections 155A.01 to 155A.18 to the director are abolished. Nothing in this subdivision shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the terms of an agreement between an exclusive representative of public employees and the state or one of its appointing authorities.

History: 1981 c 357 s 47

155A.18 PRIOR LICENSES.

All licenses which were issued by the board of cosmetology under chapter 155, shall continue in effect under the office of consumer services until the licenses expire.

History: 1981 c 357 s 48