

## 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 commissioner of commerce.

*History: 1981 c 357 s 31; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92 subd 1*

#### 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 this chapter, 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 commissioner 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. [Repealed, 1983 c 289 s 119]

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.

Subd. 13. **Commissioner.** "Commissioner" means the commissioner of commerce.

**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

#### 155A.04 ADMINISTRATION.

Subdivision 1. **Commissioner's powers and duties; generally.** The commissioner of commerce shall have the power and duties necessary for the administration of the provisions of this chapter.

Subd. 2. **Hiring and assignment of employees.** The commissioner 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; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92 subd 1

#### 155A.045 FEES.

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

(a) Three-year license fees:

(1) cosmetologist, manicurist, esthetician, \$30;

(2) instructor, manager, \$45;

(3) salon, \$50; and

(4) school, \$750.

(b) Penalties:

(1) reinspection fee, variable; and

(2) manager with lapsed practitioner, \$25.

(c) Administrative fees:

(1) duplicate license (includes individual name or address change), \$5;

(2) certificate of identification, \$20;

(3) processing fee (covers licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals, applications for new licenses), \$15; and

(4) school original application, \$150.

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

#### 155A.05 RULES.

The commissioner may develop and adopt rules according to chapter 14 that the commissioner considers necessary to carry out this chapter.

**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

#### 155A.06 ADVISORY COUNCIL.

Subdivision 1. **Creation.** The Minnesota cosmetology advisory council consists of 11 members, as follows: Three members representative of consumers; four cosmetologists or

shop managers; three cosmetology school representatives, at least one of whom shall represent public cosmetology schools and one represent private cosmetology schools; and one representative of manufacturers of cosmetology products. The chair shall be selected at the first meeting 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 commissioner in accordance with section 15.059.

**Subd. 3. Membership terms.** Each member of the council shall be appointed for a four-year term, except that in making the appointments, the governor shall appoint members so that appointments do not expire concurrently.

**Subd. 4. Duties.** The council shall meet at least annually, at the call of the commissioner. The council shall advise the commissioner of the availability of cosmetology services and their ethical and safe operation and on other matters as the commissioner considers appropriate. The commissioner may consult with the council before adopting any rules, testing instruments, criteria for inspections, and other matters as the commissioner considers appropriate.

**Subd. 5. Compensation.** Members of the council shall be compensated for expenses as provided in section 15.059 and the council shall expire on June 30, 1997.

**History:** 1981 c 357 s 36; 1983 c 260 s 41,42; 1983 c 289 s 114 subd 1; 1984 c 654 art 3 s 51; 1984 c 655 art 1 s 92; 1993 c 204 s 11

#### 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 commissioner 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. 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 rule.

**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 in the amounts specified in section 155A.045.

**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 this chapter if services to consumers are in the physical presence of a licensed cosmetologist.

**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

#### 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 commissioner by rule. In addition to those requirements, no license shall be issued unless the commissioner first determines that paragraphs (a) to (e) have been satisfied:

- (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;
- (d) if applicable, evidence of compliance with section 176.182; and
- (e) 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.

A licensed esthetician or manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the commissioner to operate a salon solely for the performance of those personal services defined in section 155A.03, subdivision 4, in the case of an esthetician, or subdivision 5, 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 commissioner 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.045.

**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

## 155A.09 SCHOOLS.

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

**Subd. 2. Standards.** The commissioner 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 commissioner 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 commissioner;
- (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 commissioner, 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 commissioner 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;

(f) Evidence of the school's coverage by professional liability insurance of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

(g) The applicant shall provide evidence of the school's compliance with section 176.182; and

(h) The applicant, except the state and its political subdivisions as described in section 471.617, subdivision 1, shall file with the commissioner 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 commissioner 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 this chapter shall be accompanied by a nonrefundable application fee set forth in section 155A.045.

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee set forth in section 155A.045.

(c) Application for renewal of license shall be made as provided in rules adopted by the commissioner and on forms supplied by the commissioner.

**Subd. 7. Inspections.** All schools may be inspected as often as the commissioner considers necessary to affirm compliance. The commissioner shall have the authority to assess the cost of the inspection to the school.

**Subd. 8. List of licensed schools; availability.** The commissioner 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 this chapter 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; 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

#### **155A.095 INSPECTIONS.**

The commissioner is responsible for inspecting salons and schools licensed pursuant to this chapter to assure compliance with the requirements of this chapter. The commissioner shall direct department 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 commissioner, demonstrated that they require a greater degree of regulatory attention.

**History:** 1993 c 204 s 22; 1996 c 439 art 1 s 15

#### **155A.10 DISPLAY OF LICENSE.**

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

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

**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

**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 ENFORCEMENT.**

The provisions of section 45.027 apply to the administration of this chapter.

**History:** 1993 c 204 s 24

#### **155A.14 SERVICES EXCEPTED; EMERGENCY.**

Nothing in this chapter 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

#### **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 this chapter shall file with the commissioner 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

#### **155A.16 VIOLATIONS; PENALTIES.**

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon conviction may be sentenced to imprisonment for not more than 90 days or fined not more than \$700, or both, per violation.

**History:** 1981 c 357 s 46; 1984 c 628 art 3 s 11; 1993 c 204 s 27

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

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