

Summary

Board of Cosmetology Licensing

Key Facts and Findings:

- The Board of Cosmetologist Examiners (“BCE” or “Board of Cosmetology”) regulates cosmetology in Minnesota, which includes services in three broad areas—hair, skin, and nails. (p. 1)
- To protect public health and safety, state law requires cosmetology practitioners to be licensed. In 2020, BCE oversaw around 32,900 licensed practitioners and 5,350 licensed establishments. (p. 4)
- Certain aspects of Minnesota’s complex licensing structure do not contribute to the protection of public health or safety. They do, however, make licensing more expensive and burdensome for licensees. (pp. 17-36)
- State law authorizes BCE to offer specialty licenses for practitioners who perform only cosmetic skin or nail services, but not for those who perform only cosmetic hair services. (pp. 25-27)
- BCE began issuing just one type of salon license in 2018, even though statutes require it to issue licenses that are differentiated according to the services offered in the salon. (pp. 29-30)
- BCE offers two types of permits that allow practitioners to perform services outside of a licensed salon. Although the scope of services that practitioners may offer under one of those permits is much broader than the other, the requirements are less stringent. (pp. 31, 35-36)
- In 2020, the Legislature authorized practitioners to perform makeup and hairstyling services without a license or permit if they take a one-time, four-hour course; BCE has no mechanism to enforce this requirement. (pp. 32-33)
- Most licensees reported satisfaction with BCE’s license application processes, but some had difficulty getting clear answers to their questions. (pp. 42-46)
- Even though cosmetology practitioners may perform all, or nearly all, of the same services as barbers, the state uses two different boards to regulate these occupations. This has resulted in regulatory inconsistencies and may not be the most efficient use of state resources. (pp. 53-63)

Key Recommendations:

- The Legislature should simplify Minnesota’s licensing structure for practitioners and modify certain licensing requirements. (pp. 19-20, 24-25, 36)
- The Legislature should authorize a specialty license for practitioners who wish to perform only hair services. (pp. 27-28)
- The Legislature should allow BCE to issue just one type of salon license, since the health and safety requirements for all salons are now the same. (p. 30)
- The Legislature should require unlicensed practitioners who perform makeup and hairstyling to register with BCE, and BCE should post the registrations on its website. (pp. 34-35)
- The Legislature should clarify the scope of practice for cosmetology practitioners and barbers, and consider whether it makes sense to continue regulating them separately. (pp. 56-57, 59, 64-66)

Minnesota regulates cosmetology to protect public health and safety, but some of the state’s requirements may be unnecessary.

Report Summary

The Board of Cosmetologist Examiners (“BCE” or “Board of Cosmetology”) regulates cosmetology in Minnesota to protect public health. The practice of cosmetology includes services related to the cosmetic care of hair, skin, and nails. Cosmetology services are regulated only when provided in exchange for compensation.

State law requires cosmetology practitioners to be licensed. In most cases, practitioners may provide services only in licensed establishments. In 2020, BCE oversaw around 32,900 licensed practitioners and 5,350 licensed establishments (including 5,312 salons and 38 schools).

The board is composed of six licensed cosmetology practitioners and one public member. In Fiscal Year 2020, BCE had 31 employees who were responsible for issuing licenses, inspecting cosmetology establishments, and taking enforcement actions. This evaluation focused on BCE’s licensing structure, requirements, and processes.

Certain aspects of Minnesota’s complex licensing structure do not contribute to the protection of public health, but do create unnecessary burdens for licensees.

Minnesota’s licensing structure for cosmetology practitioners is organized along two dimensions—level and area of practice. Practitioners may hold licenses at one or more of the following levels: operator, salon manager, instructor, and school manager. Practitioners may also hold licenses in various areas of practice. For example, “estheticians” provide cosmetic skin services; “nail technicians” provide cosmetic nail services; and “cosmetologists” provide cosmetic skin, nail, and hair services.

Changes in law over time have reduced the value of the salon manager level within the licensing structure. For example, a practitioner no longer needs 2,700 hours of recent work experience to obtain the license. As a result, the Legislature should consider eliminating the salon manager license.

Even though the requirements for an instructor and a school manager license exceed most of the requirements for an operator or salon manager license, state law requires practitioners to maintain one of these latter licenses along with their instructor or school manager license(s). The Legislature should allow instructor and school manager licenses to supersede underlying operator or salon manager licenses so practitioners do not need to maintain multiple levels of licensure.

The licensing structure offers specialty licenses for practitioners who perform only skin or nail services, but not those who perform only hair services. The Legislature should create another specialty license so practitioners who wish to provide only hair-related services may be trained more quickly and at less cost. It could also consider creating other narrow-scope specialty licenses, such as for waxing.

The board currently issues just one type of salon license, even though statutes require it to issue licenses that are differentiated according to the type of services offered in the salon.

In 2016, BCE updated its rules, making the physical and infection-control requirements for all types of salons the same. In 2018, BCE began issuing just one type of salon license instead of separate licenses for esthetics salons, nail salons, and cosmetology salons.

However, despite the rule change, statutes still require BCE to issue salon licenses that are differentiated by area of practice. Given the alignment of salon requirements in rules, the Legislature should modify statutes to allow BCE to issue just one type of salon license.

State law allows practitioners to provide regulated cosmetology services outside of licensed salons under certain conditions. Some of these conditions are incongruous or unenforceable.

BCE issues a special event services permit that allows licensed practitioners to provide a very narrow set of regulated services outside

Under Minnesota’s complex cosmetology licensing structure, some practitioners and establishments must hold numerous licenses.

of a licensed salon (hairstyling and makeup and nail polish application only). It also issues a homebound services permit that allows licensed practitioners to provide every type of regulated cosmetology service in the homes of persons who are homebound.

Even though the scope of the special event services permit is far narrower, the requirements for it are more stringent than those for the homebound services permit. The Legislature and BCE should consider whether allowing practitioners to perform every type of regulated service under a permit—as is the case with the homebound services permit—adequately protects public health and safety. The Legislature should also consider merging the two permits into a single off-premises permit and establishing requirements that align with the services authorized under the new permit.

In 2020, the Legislature began allowing practitioners to provide regulated makeup and hairstyling services outside of a licensed salon *without a license or permit* if they take a four-hour course on health, safety, infection control, and state cosmetology laws. BCE has no effective means to enforce this requirement. The Legislature should require practitioners who have taken the course to register with BCE, and BCE should audit a sample of those registrations. BCE should also post those registrations on its website so members of the public know who is qualified to perform such services.

Most licensees reported general satisfaction with the board's license application processes, but some had difficulty getting answers to questions.

We surveyed and spoke with licensees about their experiences with BCE's licensing processes. The majority of respondents reported satisfaction with BCE's application processes, website, and communication. Representatives from schools, which are subject to more extensive application processes, were less satisfied with BCE's application processes.

In addition, some licensees reported difficulty getting answers to their questions, such as whether certain services fall within

the scope of practice of their licenses. BCE leadership said staff have been advised not to answer such questions, as their responses could be perceived as offering legal advice or conducting unauthorized rulemaking.

The U.S. has no national standards for cosmetology licensure; as a result, requirements vary across states, which can pose challenges for practitioners who wish to transfer their licenses.

In the absence of national standards, we compared Minnesota's licensing requirements to those of other states. Although Minnesota's licensing standards were comparable to national averages and those of neighboring states in 2017, they were not identical. For example, both Iowa and South Dakota required 2,100 hours of training for a cosmetologist license, compared to Minnesota's 1,550 hours.

Such differences can make it challenging for practitioners to transfer their licenses across states. For example, to transfer their license to Minnesota, a practitioner with fewer than three years of experience and fewer hours of training than required by Minnesota law would need to enroll in a Minnesota cosmetology school to make up those hours and pass a practical skills test.

The Legislature could authorize BCE to enter into an interstate compact in which Minnesota accepts licenses from states with similar, but not identical, requirements. Such a compact could make it easier for practitioners to transfer their licenses and for BCE to process transfer applications, while still protecting public health and safety.

State law provides a special process for veterans and military family members to transfer their cosmetology licenses to Minnesota. But, these practitioners are subject to some more stringent requirements than are other practitioners who wish to transfer their licenses to Minnesota. The Legislature and BCE should modify the requirements for these practitioners to make the process more equitable for them.

The scope and requirements for the board's permits need further review.

Confusion exists about the differences between the services that cosmetologists and barbers may perform.

Cosmetology practitioners may perform all, or nearly all, of the services that barbers may perform, but Minnesota uses two different agencies to regulate these occupations.

Barbering and cosmetology regulation have long histories in the state, with historical restrictions on which genders the two occupations could serve. Lawsuits and changes to law have effectively eliminated those differences.

Today, both cosmetologists and barbers may color, bleach, wave, straighten, and cut hair. Some regulators and practitioners believe that only barbers may shave beards, and that only cosmetology practitioners may perform waxing. But these distinctions are not supported by current law. If the Legislature intended for these services to be solely within the scope of one occupation or the other, then it should clarify its intentions in law.

Despite significant overlap in their training, state law does not offer any reciprocity between cosmetology credentials (which are issued by BCE) and barbering credentials (which are issued by the Board of Barber Examiners). This means that, for example, a cosmetology practitioner would need to complete all of the requirements for a barber

to become a barber, and vice versa, even though both receive training in subjects such as anatomy, dermatology, chemistry, and infection control.

Because cosmetology and barbering have been regulated by two different agencies for most of their histories, inconsistent requirements and regulatory practices have emerged across these two highly related occupations. For example, under certain circumstances, cosmetology practitioners may provide services for a fee outside of a licensed establishment; barbers may not. Cosmetology practitioners must regularly complete continuing education; barbers are not subject to similar requirements.

Given the significant overlap between cosmetology and barbering, we question the rationale for using two separate agencies to regulate these occupations. In 2003, the Legislature merged the cosmetology and barber boards; but, it separated them only five years later amid tensions. The Legislature could consider merging the boards again to increase regulatory consistency across two such similar occupations, and to facilitate an efficient use of state resources. It could also clarify the scopes of practice for the two occupations and/or offer license reciprocity between them.

Summary of Agencies' Responses

In a letter dated May 19, 2021, the Board of Cosmetology's Board Chair and Executive Director stated that the board is open to changes that OLA recommends to the licensing structure. In the letter, they said the board recommends that the Legislature establish an advisory committee to facilitate the development of such changes. They also said the board supports OLA's recommendation that the Legislature allow it to issue just one type of salon license. Additionally, in a letter dated May 20, 2021, the Board of Barber Examiners' Executive Director stated that he and the Board Chair support OLA's recommendation that the Legislature allow reciprocity between cosmetology and barbering credentials and clarify the scopes of practice for cosmetologists and barbers. In addition, in their letters, representatives from both the cosmetology and barbering boards said they do not support merging the boards.

The full evaluation report, *Board of Cosmetology Licensing*, is available at 651-296-4708 or:
www.auditor.leg.state.mn.us/ped/2021/cosmetology.htm