



Dora

Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

2008 Sunrise Review: Hair Braiders/Natural Hairstylists

February 27, 2008



STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
Office of the Executive Director

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Bill Ritter Jr.
Governor

February 27, 2008

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunrise reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluation of the sunrise application for regulation of hair braiders/natural hairstylists and is pleased to submit this written report. The report is submitted pursuant to section 24-34-104.1, Colorado Revised Statutes, which provides that DORA shall conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The report discusses the question of whether there is a need for regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

D. Rico Munn
Executive Director

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The Sunrise Process

Background

Regulation, when appropriate, can serve as a bulwark of consumer protection. Regulatory programs can be designed to impact individual professionals, businesses or both.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation. Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

As regulatory programs relate to businesses, they can enhance public protection, promote stability and preserve profitability. But they can also reduce competition and place administrative burdens on the regulated businesses.

Regulatory programs that address businesses can involve certain capital, bookkeeping and other recordkeeping requirements that are meant to ensure financial solvency and responsibility, as well as accountability. Initially, these requirements may serve as barriers to entry, thereby limiting competition. On an ongoing basis, the cost of complying with these requirements may lead to greater administrative costs for the regulated entity, which costs are ultimately passed on to consumers.

Many programs that regulate businesses involve examinations and audits of finances and other records, which are intended to ensure that the relevant businesses continue to comply with these initial requirements. Although intended to enhance public protection, these measures, too, involve costs of compliance.

Similarly, many regulated businesses may be subject to physical inspections to ensure compliance with health and safety standards.

Regulation, then, has many positive and potentially negative consequences. Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:¹

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and

(III) Whether the public can be adequately protected by other means in a more cost-effective manner.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation.

¹ § 24-34-104.1(4)(b), C.R.S.

Methodology

DORA has completed its evaluation of the proposal for regulation of hair braiders/natural hair stylists. During the sunrise review process, DORA performed a literature search; contacted and interviewed the applicant; interviewed the staff of the Colorado Office of Barber Cosmetologist Licensing (Office); contacted the Barber/Cosmetology Advisory Committee; contacted and interviewed barber/cosmetologist educators, as well as representatives of the Denver Hairdressers Guild, the National-Interstate Council of State Boards of Cosmetology, Inc., and the National Cosmetology Association; and reviewed licensure laws in other states. In order to determine the number and types of complaints filed against braiders/natural hairstylists in Colorado, DORA contacted representatives of the Office, the Denver District Attorney's Office, the Denver/Boulder Better Business Bureau, and the Office of the Attorney General Consumer Protection Section. To better understand the practice of hair braiding/natural hairstyling, a representative of DORA visited a place of business where such practices are conducted.

Profile of the Profession

The practice of hair braiding/natural hairstyling can be traced back over 4,000 years² to the Caribbean and diverse regions of Africa, from Egypt to Senegal. In 21st century America, hair braiding/natural hairstyling focuses on hairstyles suited to the hair's natural texture, thereby providing consumers an alternative to chemical services—such as relaxers—that alter the structure of the hair. Based on the information gathered over the course of this review, the overwhelming majority of consumers of hair braiding/natural hairstyling services are of African-American descent.

Generally speaking, hair braiders/natural hairstylists provide beauty services that result in tension on hair strands or roots. Specific types of such services may include:³

- Braiding, in which three or more pieces of hair are interwoven to create a three-dimensional section that extends from the head.
- Cornrows, in which the hair is braided in a pattern that lies flat against the scalp (also called a “scalp braid”).
- Twisting, in which two pieces of the hair are crisscrossed to create a ropelike pattern.
- Locking, in which strands of hair are permanently matted and intermingled to create clusters of hair.
- Weaving, in which loose hair extensions are intertwined, braided, or otherwise attached to the natural hair.

Wrapping, in which thread or yarn is wrapped around braids or loose hair, may also fall within the category of hair braiding/natural hairstyling.⁴

Typically hair braiders/natural hairstylists do not perform services that involve the application of reactive chemicals, dyes, relaxers, or other preparations to alter the color of the hair or to straighten, curl or alter the structure of the hair.

² Kinard, Tulani, *No Lye! The African-American Woman's Guide to Natural Hair Care*, St. Martin's Griffin, 1997, p. 57.

³ Ferrell, Pamela, *Let's Talk Hair*, Cornrows & Co., 1996, p. 235.

⁴ Kinard, Tulani, *No Lye! The African-American Woman's Guide to Natural Hair Care*, St. Martin's Griffin, 1997, p. 155.

A hair braider/natural hairstylist may also assess a customer's scalp and hair health and recommend and perform treatments to maintain healthy hair and scalp. Like other beauty professionals, hair braiders/natural hairstylists may recommend and sell hair products, such as shampoos, conditioners, and pomades.

Hair braiders/natural hairstylists work independently, without direct supervision, and the work settings of these practitioners vary greatly. Hair braiders/natural hairstylists may work out of their own homes; they may have mobile businesses, where they perform services in customers' homes; they may work in establishments devoted entirely to braiding; or they may work in salons that offer a full range of beauty services, including chemical services.

Proposal for Regulation

A Colorado hair braider/natural hairstylist (Applicant) has submitted a sunrise application to the Department of Regulatory Agencies (DORA) for review in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes (C.R.S.). The application identifies state licensure of hair braiders/natural hairstylists as the appropriate level of regulation to protect the public.

The Applicant seeks to create a new licensing program for hair braiders/natural hairstylists similar to that of cosmetologists. The new licensing program would be housed within the Office of Barber and Cosmetology Licensing (Office) within the Division of Registrations at DORA. This Office operates under the director model, meaning that all regulatory authority is vested in the Director of the Division of Registrations rather than a board.

According to the application, this licensure program would assure that individuals engaged in the practice of hair braiding/natural hairstyling possess a certain level of professional competence in:

- Braiding/styling technique;
- Hair/scalp analysis and maintenance; and
- Sanitation, health and safety.

Further, the Applicant believes licensure would:

- Provide the public a means of holding hair braiders/natural hairstylists accountable for their practice by allowing customers to submit complaints to the Office;
- Legitimize the occupation of hair braiding/natural hairstyling; and
- Encourage hair braiders/natural hairstylists to join the above-ground, taxpaying economy.

The Applicant seeks to require hair braider/natural hairstylist candidates to complete a pre-licensure education program of approximately 800 clock hours⁵ in the following content areas:

- Tiersta (a specific braiding technique) for up to 50 different styles, including individual braids, scalp braids, weaves, and extensions;
- Sanitation, health and safety;
- Analysis and treatment of hair and scalp diseases and disorders;
- Hair analysis and scalp care;
- Usage of correct tools for multiple styles;
- Products and applications;
- Professional ethics and conduct;
- Human relations; and
- Salon management.

The technique portion of the program would require 5 to 15 clock hours of training for each style, for a total of 350 to 400 clock hours. The remaining content areas would total 350 to 450 clock hours of instruction.

Further, the Applicant would require the passage of both a written and a practical examination as a condition of hair braider/natural hairstylist licensure.

The National-Interstate Council of State Boards of Cosmetology, Inc. (NIC) has developed both a written and a practical examination for natural hairstyling.

The natural hairstyling written examination consists of 75 questions in the following categories:⁶

- Scientific concepts (22 questions);
- Physical concepts (22 questions); and
- Physical services (31 questions).

⁵ The Office of Barber and Cosmetology Licensing (Office) now uses credit hours, not clock hours, when referring to education requirements. Using the clock-to-credit-hours conversion ratio in Office Rule 7F, 800 clock hours is roughly equivalent to 26 credit hours.

⁶ *National Natural Hair Styling Written Examination Candidate Information Bulletin*, downloaded from <http://www.nictesting.org/> on December 7, 2007.

Candidates have 90 minutes to complete the written examination and the cost is \$15. During calendar year 2007, three jurisdictions—the District of Columbia, Ohio, and Virginia—used this examination. In calendar year 2007, a total of 90 candidates took the examination. Twenty percent of the candidates passed. A representative of the testing agency was not able to provide an explanation for this low pass rate.

The natural hairstyling practical examination covers the following skills:⁷

- Set-up and client consultation (10 minutes);
- Invisible/overhand braid (15 minutes);
- Visible/underhand braid (15 minutes);
- Sew-on method, wherein a weft, or extension, of artificial hair is sewn along cornrowed natural hair (15 minutes);
- Bonded method for hair extensions, wherein a weft of artificial hair is attached to the natural hair using adhesive (15 minutes);
- Extension to visible braid (15 minutes); and
- Extension to invisible braid (15 minutes).

Candidates have approximately 100 minutes to complete the practical examination and the cost is \$15. During calendar year 2007, no jurisdictions used this examination.

It is difficult to determine how many people in Colorado are currently engaged in the practice of hair braiding/natural hairstyling because Colorado does not offer a distinct license for these individuals, and because hair braiders/natural hairstylists work in a wide variety of settings, including private homes.

As of January 2007, there were 1,395 hairstylists and 28,373 cosmetologists licensed in the state of Colorado. Since hair braiding/natural hairstyling is within the scope of practice for both hairstylists and cosmetologists, any of these 29,768 individuals *could* be providing these services. It is unknown how many of these individuals are actually doing so.

Further, based on information gathered over the course of this review, DORA recognizes that there is a considerable underground market for hair braiding/natural hairstyling services. The number of unlicensed individuals engaged in these practices is impossible to determine.

⁷ *National Natural Hair Styling Practical Examination Candidate Information Bulletin*, revised 01/06, downloaded from <http://www.nictesting.org/> on December 7, 2007.

Summary of Current Regulation

The Colorado Regulatory Environment

At the time of the 1999 Sunset Review of the State Board of Barbers and Cosmetologists (Board), the hairstylist license did not exist and the statutes were silent on the issue of braiding.

Included within the sunset review was a recommendation to exempt braiding and similar beautification of the hair from the barber/cosmetology law.⁸ Also included in this sunset review was a proposal from Board members and staff for the creation of a new hair care license. The definition of hairdressing, as presented in the sunset review, included:

(C)utting, arranging, or dressing the hair by any means using the hands or with manual, mechanical or electrical implements or appliances...⁹

The following year, the General Assembly passed House Bill 00-1179, which created a new hairstylist license. Although the wording in the bill closely mirrored the proposed language in the sunset review, there was one critical change to the definition of hairstyling:

Cutting, arranging, **braiding, applying hair extensions to**, or styling the hair by any means using the hands or with manual, mechanical, or electrical implements or appliances [...] ¹⁰ {*emphasis added*}

As a result of this legislation, hair braiding/natural hair styling now falls within the scope of practice of hairstylists.

Further, since the definition of cosmetology encompasses all practices performed by hairstylists,¹¹ hair braiding/natural hairstyling also falls within the scope of practice of cosmetologists. Therefore, to legally practice hair braiding/natural hairstyling in Colorado, an individual must hold an active hairstylist or cosmetologist license.

To be licensed as a hairstylist or as a cosmetologist in Colorado, individuals must complete a pre-licensure education program covering specific content areas.

⁸ State Board of Barbers and Cosmetologists, 1999 Sunset Review, p. 33.

⁹ State Board of Barbers and Cosmetologists, 1999 Sunset Review, p. 37.

¹⁰ §12-8-103(9.7)(c), C.R.S.

¹¹ §12-8-103(9), C.R.S.

Table 1 indicates the number of credit hours required in each content area for hairstylists and cosmetologists.

Table 1
Training Requirements for Cosmetologists and Hairstylists¹²

Subject Area	# Credit Hours Required	
	Cosmetologist	Hairstylist
Shampooing, rinsing & conditioning	2	2
Haircoloring	8	8
Haircutting	8	8
Hairstyling	7	7
Chemical texture services	4	4
Manicuring & pedicuring	7	--
Application of artificial nails	5	--
Facials & skin care	7	--
Facial makeup	1	--
Hair removal	3	--
Law, rules & regulations	1	1
Management, ethics, interpersonal skills & salesmanship	1	1
Disinfection, cleaning & safe work practices	6	9
TOTAL HOURS REQUIRED:	60	40

Because cosmetologists have a relatively broad scope of practice, they must complete training in numerous content areas unrelated to hairstyling.

For the content areas both professions share in common, the number of hours required in each area is almost identical. The sole exception is that cosmetologists must complete a total of six credit hours in disinfection, cleaning and safe work practices, while hairstylists must complete nine hours.

Although both cosmetologists and hairstylists must complete a total of seven credit hours in hairstyling, there is no specific requirement that those seven hours include any instruction in braiding—African-style or otherwise—or natural hairstyling.

To qualify for licensure, hairstylists and cosmetologists must also pass both a written and a practical examination.

The written examination for cosmetologists has 110 items, and the hairstylist examination has 90 items.¹³ The cost of either written examination is \$35.¹⁴

¹² Office of Barber and Cosmetologist Licensing Rule 7B.

¹³ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 5.

¹⁴ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 1.

Table 2 indicates the content areas for the written examination for hairstylists and cosmetologists and the percentage of questions in each content area.

Table 2
Written Exam Content Areas for Cosmetologists and Hairstylists¹⁵

Subject Area	Percentage of Examination	
	Cosmetologist	Hairstylist
Infection control	13	14
Safety	16	14
Haircutting/ hairstyling	16	20
Haircoloring, bleaching, and tinting	13	19
Permanent waving	14	20
Chemical hair straightening and relaxing	10	13
Esthetics	7	--
Manicure/pedicure	11	--

Because cosmetologists have a relatively broad scope of practice, fewer of the questions relate to hairstyling.

The practical examination for both cosmetologists and hairstylists costs \$40.¹⁶

Table 3 indicates the content areas for the practical examination for hairstylists and cosmetologists and the percentage of skills tested in each content area.

Table 3
Practical Exam Content Areas for Cosmetologists and Hairstylists¹⁷

Subject Area	Percentage of Examination	
	Cosmetologist	Hairstylist
Infection control	16	30
Safety	21	26
Haircutting/hairstyling	19	29
Haircoloring, bleaching, and tinting	3	4
Permanent waving	14	8
Chemical hair straightening and relaxing	6	3
Esthetics	7	--
Manicure/pedicure	14	--

Cosmetologist or hairstylist candidates may be tested on any one of 17 different skills during the haircutting/hairstyling portion of the practical examination. Braiding is one of these skills.

¹⁵ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 6.

¹⁶ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 1.

¹⁷ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 6.

During the braiding skill portion of the test, candidates must wet the hair on the mannequin; dry the hair; part the hair into four sections, and braid one of the sections in the style of the candidate's choice. The candidate has 10 minutes to successfully complete this skill.¹⁸

Although braiding is a skill that candidates are expected to master, the type of braiding tested has little in common with African-style hair braiding as defined by the Applicant.

Regulation in Other States

Although all 50 states regulate barbers and cosmetologists, regulation of hair braiders/natural hairstylists in other states is widely divergent. Following are the different ways states address this issue.

Hair braiding/natural hairstyling not addressed in statute. In the most common scenario, evident in 23 states, the law is silent on the issue of hair braiding/natural hairstyling. These practices are neither included in the definitions of cosmetology or hairstyling, nor are they specifically excluded. In practical terms, this means that state cosmetology boards deal with this issue on a case-by-case basis. These states include Alabama, Alaska, Arkansas, Delaware, Hawaii, Idaho, Indiana, Kentucky, Maine, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Rhode Island, Utah, Vermont, Washington, West Virginia and Wisconsin.

Cosmetologist/hairstylist license specifically required. In Colorado and six other states, current law requires individuals to obtain a cosmetology or hairstyling license to practice hair braiding/natural hairstyling. These states include Illinois, Iowa, Missouri, Oregon, South Dakota and Wyoming.

Qualified exemption. Three states—Kansas, Minnesota, and Mississippi—essentially exempt hair braiders/natural hairstylists from the barber/cosmetology law on the condition that applicants complete a health and sanitation course or complete a self-test demonstrating an understanding of correct sanitation practices.

Specialized hair braiding/natural hairstyling license required. Eleven jurisdictions have a specialized hair braiding/natural hairstyling license, including the District of Columbia, Florida, Louisiana, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas and Virginia.

¹⁸ *Colorado Barbering and Cosmetology Candidate Handbook*, Pearson VUE, January 2008, p. 12.

The requirements of these licensing programs vary widely. For example, Louisiana requires applicants to complete a total of 1,000 hours in training to qualify for an alternative hair design permit, while Texas requires just 35 hours of training to qualify for a hair braiding specialty certificate of registration. Ohio requires 450 hours of training.

The scope of practice permitted by the various specialty licenses also varies. In both Florida¹⁹ and South Carolina,²⁰ the use of extensions and wefts are excluded from the practice of hair braiders. Because use of extensions and wefts is widespread among hair braiders/natural hairstylists, this limitation effectively compels individuals wishing to provide these services to seek a traditional barber or cosmetologist license.

Exemption. Arizona, California, Connecticut, Georgia, Maryland, Michigan, and North Carolina exempt hair braiders/natural hairstylists from the barber/cosmetology law. Interestingly, Michigan does issue a natural hair culturist license, but such license is optional, not required.

¹⁹ §477.013(9), Florida Statutes.

²⁰ §40-7-20(2), South Carolina Code.

Analysis and Recommendations

Public Harm

The first sunrise criterion asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

This provision stipulates that an occupation or profession should not be regulated unless the unlicensed practice of such clearly endangers the public. In order to recommend developing a distinct regulatory program for hair braiders/natural hairstylists, there must be compelling evidence that the public health, safety, or welfare is in peril.

Recall that under current law, hair braiders/natural hairstylists must hold a cosmetologist or hairstylist license to practice legally in Colorado.

In the 2004 Sunset Review of the Barber and Cosmetologist Act and the Barber and Cosmetology Advisory Committee, the Department of Regulatory Agencies (DORA) emphasized that the underlying purpose of barber/cosmetology regulation is to ensure beauty services are safe, not necessarily aesthetically pleasing.

In line with this premise, DORA recommended continuing the regulation of cosmetologists and hairstylists because such regulation protected the public from harm. Three primary areas of potential harm were identified in the report:²¹

1. The use of sharp implements, such as scissors and files;
2. The use of potentially hazardous chemicals, such as those used to color or texture the hair; and
3. The spread of infection due to inadequate cleaning and disinfection practices.

²¹ *Sunset Review of the Barber and Cosmetologist Act and the Barber and Cosmetology Advisory Committee*, Department of Regulatory Agencies, October 15, 2004, pp. 24-26.

It is enlightening to evaluate these areas of harm as they relate to the practice of hair braiding/natural hairstyling. A hair braider/natural hairstylist would only use scissors to cut artificial hair before attaching it to a client's head, thereby removing the risk of any harm to the public. The practice of hair braiding/natural hairstyling, as defined by the Colorado hair braider/natural hairstylist submitting this sunrise application (Applicant), specifically excludes the use of any chemicals. Of these areas of harm, only the third, relating to sanitation and disinfection, clearly applies to hair braiders/natural hairstylists.

According to Office of Barber and Cosmetologist Licensing (Office) staff, there have been three complaints relating to hair braiding/natural hairstyling that have resulted in disciplinary action since 2000.

In all three cases, individuals were found to be providing hair braiding/natural hairstyling services to the public without holding a cosmetologist or hairstylist license.

More importantly, two of the cases also identified a series of sanitation violations, such as failure to keep a first aid kit on the premises, failure to use clean, disinfected implements and materials, and failure to keep facilities free of the excessive accumulation of hair, dust, and other debris. These violations—particularly the failure to disinfect implements before use—pose a greater risk of harm. Failure to observe proper health and safety practices can result in the spread of bacteria and parasitic infestations such as lice.

A review of disciplinary actions in selected jurisdictions offering specialized hair braiding/natural hairstyling licensure revealed few disciplinary actions. These actions are described below.

- In Texas, there are currently 210 licensed hair braiders/hair weavers and 86 licensed hair weaving/hair braiding salons. There have been a total of five disciplinary actions taken, all relating to providing hair weaving/hair braiding services or operating a hair weaving/hair braiding salon without holding the proper license.
- Only one of the 178 disciplinary actions taken by the South Carolina Board of Cosmetology in 2007 is related to braiding. This action was related to providing hair braiding services and operating a hair braiding salon without holding the proper license.
- In Ohio, there are a total of 29 licensed natural hairstylists, and there have been no disciplinary actions taken.

According to 2006 statistics, the Better Business Bureau fielded a total of 36 complaints nationwide relating to the category of "Braids." Of these, 16 were settled and 19 were not settled.²² The nature of these complaints and their resolution could not be determined. Further, the Denver/Boulder chapter of the BBB does not track braiding complaints separately from beauty salons, so it is impossible to determine whether any of these complaints occurred in Colorado.

According to the Office of the Attorney General Consumer Protection Section, three complaints that may involve hair braiding have been filed with that office, based solely on the name of the business involved in the complaint. Information on the nature of these complaints and their resolution was unavailable.

As part of the sunrise application, the Applicant submitted several instances that may involve public harm. These narratives, in which four different consumers describe negative experiences they have had with unlicensed hair braiders/natural hairstylists, are excerpted below.

- "[The braider] braided my hair very very tight. It was very painful...She was really rough, and my scalp was under so much tension that it started to weep."
- "The lady braided my hair very tight and my scalp in one area was bleeding. In that area I lost hair within about 1-2 weeks. The area where it came out was about the size of a nickel, in the top of my head... Now, after 8 years my hair is slowly coming back...Otherwise, that spot may still be bald."
- "Every time I had an experience with getting my hair braided...something always went wrong. Either the edges got pulled out, or the braids were too tight...[There was] one incident...the lady who was braiding my hair was to braid all the way down to the end, but she only braided halfway down and then put glue in my hair. I had to cut off...half of my hair. This was a terrible experience."
- "[T]he braider changed baby diaper in the shampoo bowl...it was very unsanitary. When the lady braided [my son's] hair, she braided it very tight. I had taken my daughter there as well, and the lady braided her hair so tight that it created [pus] pockets in the top of her head and caused an infection and she had to go to the emergency room."

The harm alleged in these instances primarily falls into two general categories: 1) cleanliness and sanitation issues, and 2), overly tight braids that cause pain and may lead to scalp problems, including hair loss.

²² *US Statistics Sorted by Industry 2006*, Better Business Bureau, downloaded from <http://denver.bbb.org/WWWRoot/SitePage.aspx?site=33&id=3ea76450-63ff-448c-8064-0d28ffaa22e5> on January 29, 2008.

The failure to observe proper health and safety practices is an example of public harm. Failure to keep tools clean and disinfected can result in the spread of bacteria and parasitic infestations such as lice.

All braided hairstyles place the hair and scalp under tension. The excessive tension caused by overly tight braids can cause scalp pain and swelling. Several websites provided by the Applicant relating to hair braiding/natural hairstyling emphasize that braids should never be painful. If a customer experiences pain during the braiding process, he or she should tell the braider to stop, or if the pain persists after the braids have been completed, the braids should be loosened or removed.²³ This suggests that consumer education might be helpful in reducing the frequency of too-tight, painful braids.

The most serious consequence linked to braided hairstyles is traction alopecia, a hair loss condition caused by damage to the dermal papilla and hair follicle by constant pulling or tension over a long period.²⁴ Most stakeholders interviewed for this report agree that traction alopecia is the single greatest potential for public harm within the practice of hair braiders/natural hairstylists. This topic is a major point of concern in books and websites relating to African-American hair care.

A recent study published in the *British Journal of Dermatology* systematically evaluated the prevalence of traction alopecia among South African adults with various hairstyling practices. The study found that incidence of traction alopecia is elevated in individuals with either chemically relaxed hair or braided natural hair. Traction alopecia is *most* likely to appear in individuals who have chemically relaxed hair with braids or weaves attached. This evidence suggests that overly tight braids may increase the likelihood of hair loss, especially for individuals whose hair might be weakened or less resilient due to the use of chemical relaxers.²⁵

Based on anecdotal information gathered over the course of this review, the likelihood of experiencing hair loss or damage after one single braiding experience is slim. Hair loss or damage is considerably more likely if a consumer has worn braided hairstyles over a period of years.

If detected early, traction alopecia may be reversible, but if not, it can lead to permanent hair loss.

²³ *Transitioning and Extensions*, Nappturality, downloaded from <http://www.nappturality.com/modules/wfsection/article.php?articleid=27> on February 6, 2008.

²⁴ *Traction Alopecia: Causes & Treatment Options*, downloaded from <http://www.traction-alopecia.com/> on February 5, 2008.

²⁵ *BJD study reveals link between scalp disease and hairstyles*, British Association of Dermatologists, downloaded from http://www.bad.org.uk/public/public_media_section/press_releases_july-aug_07.asp, on January 30, 2008.

DORA was unable to confirm that any complaints regarding traction alopecia have been filed in Colorado or any other state. Although the Applicant, as well as numerous other people interviewed for this report, stated that consumers have been known to file lawsuits against hair braiders/natural hairstylists due to hair damage or loss, DORA was unable to confirm any such lawsuits. The dearth of concrete evidence makes it difficult to determine the prevalence of traction alopecia due to hair braiding/natural hairstyling, and the degree of harm it poses to the public.

Although hair braiders/natural hairstylists use neither sharp instruments nor harsh chemicals, DORA believes that their practice poses a risk to the public if proper sanitation and disinfection practices are not followed. Failure to sterilize combs and brushes properly could spread lice from one client to another. Braiding the hair of a client with an inflamed or swollen scalp could worsen the client's condition: hair braiders/natural hairstylists need to be able to recognize the symptoms of these conditions and know when to refrain from providing services.

Assuring that hair braiders/natural hairstylists know and adhere to the proper cleaning and disinfection methods as described in Rule 2 of the Office of Barber and Cosmetologist Licensure, *Cleaning and Disinfection*, would protect the public from the greatest risk posed by the practice of hair braiding/natural hairstyling.

Need for Regulation

The second sunrise criterion asks:

Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

This provision addresses whether the public would benefit from the establishment of minimal standards of competence for hair braiders/natural hairstylists.

Although incorrect braiding technique—i.e., braiding too tightly—likely contributes to the risk of temporary or permanent hair loss due to traction alopecia, it is difficult to pinpoint exactly what role poor technique actually plays in the development of the condition. Although traction alopecia is a very real problem, it cannot be traced back to a single cause. A customer's hair texture, history of chemical services such as dyes and relaxers, age, and overall health can all be contributing factors in the development of hair loss or damage.

There is insufficient evidence to conclude that creating a separate regulatory program for hair braider/natural hairstylists would lead to a reduction in the incidence of hair loss due to traction alopecia.

Alternatives to Regulation

The third sunrise criterion asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

Under current law, hair braiders/natural hairstylists must hold a cosmetologist or hairstylist license to practice legally in Colorado. Simply leaving the current regulatory framework in place would provide an alternative to developing a separate regulatory program for hair braiders/natural hairstylists.

Because the most tangible risk posed by the practice of hair braiding/natural hairstyling has to do with sanitation and disinfection issues, another option would be to implement a qualified exemption scheme such as that used in the state of Kansas. This would compel individuals wishing to practice hair braiding/natural hairstyling to attend a sanitation and disinfection seminar, after which they would qualify for exemption from the barber/cosmetology law.

Conclusion

Unlike other beauty professions, hair braiders/natural hairstylists do not use sharp implements and harsh chemicals. In fact, the practice of hair braiding/natural hairstyling rejects the use of chemicals, focusing instead on hairstyling practices that complement and enhance the hair's natural texture.

Despite this, those wishing to practice as hair braiders/natural hairstylists must currently complete lengthy, expensive training programs that focus on chemical services and hair cutting. Ironically, many of these programs offer little or no training in African-style hair braiding/natural hairstyling, so even after obtaining a Colorado cosmetologist or hairstylist license, someone wishing to provide those services must get additional training elsewhere. Interviews conducted over the course of this review revealed that many hair braiders/natural hairstylists learned their profession from relatives and friends in informal settings.

The current regulatory framework creates a scenario in which an unlicensed person who has been providing hair braiding/natural hairstyling services for years is in violation of the law, while a licensed hairstylist can legitimately provide these services to the public without having had a single hour of training. The current requirements are cumbersome and do little to prepare individuals for the practice of hair braiding/natural hairstyling. Further, the requirements may be indirectly contributing to the sizable underground hair braiding/natural hairstyling community in Colorado.

One area where the practice of hair braiding/natural hairstyling resembles other beauty professions is in the risk posed by poor sanitation and disinfection practices. Although there is no clear public benefit to establishing minimal standards of competence for hair braiders/natural hairstylists, the public would certainly benefit from hair braiders/natural hairstylists who follow proper sanitation and disinfection practices.

Recognizing that poor sanitation and disinfection practices in the beauty industry pose a threat to public safety, the Office developed a 90-minute sanitation and disinfection seminar for its licensees. The seminar provides a comprehensive overview of the practices and principles outlined in Office Rule 2: Cleaning and Disinfection. The seminar is conducted at least once a month at the Office's Denver location.

Requiring prospective hair braiders/natural hairstylists to take this seminar assures they would be acquainted with proper sanitation and disinfection methods before embarking upon their practice. Upon completion of the seminar, the hair braider/natural hairstylist would be exempted from the Barber and Cosmetologist Act, located at Article 8 of Title 12, Colorado Revised Statutes, and would be free to provide services to the public. Ideally, the Division of Registrations should develop an online seminar to make it easier for individuals outside the Denver metropolitan area to qualify for the exemption.

Recommendation – Exempt from the Barber/Cosmetology law those hair braiders/natural hairstylists who take the sanitation and disinfection seminar.