

COLORADO DEPARTMENT OF REGULATORY AGENCIES  
OFFICE OF POLICY AND RESEARCH

# REGULATION OF THE BARBER AND COSMETOLOGY OCCUPATIONS IN COLORADO

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STATE BOARD OF BARBERS AND  
COSMETOLOGISTS  
1999 SUNSET REVIEW



October 15, 1999

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 Colorado Department of Regulatory Agencies has completed the evaluation of the regulation of barbers and cosmetologists by the State Board of Barbers and Cosmetologists. I am pleased to submit this written report which will be the basis for my office's oral testimony before the 2000 Legislative Committees of Reference. The report is submitted pursuant to §24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

*The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...*

*The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....*

The report discusses the question of whether there is a need for the regulation provided under Article 8 of Title 12, C.R.S.. The report also discusses the effectiveness of the Board and staff in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

M. Michael Cooke  
Executive Director

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# Executive Summary

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This 1999 Sunset Review of the State Board of Barbers and Cosmetologists recommends that the General Assembly reform regulation of these occupations in a number of areas.

This review concludes that the State Board of Barbers and Cosmetologists should be allowed to sunset. Although the Board has performed its statutory mandate with diligence, the sophistication of consumers coupled with competitive market dynamics preclude the need for a practitioner dominated regulatory board. Instead, the Director of the Division of Registrations should be authorized to administer the licensing of barbers and cosmetologists. Complaint and disciplinary data show that the majority of the Board's activity in the areas of complaints and disciplinary actions concerns investigating allegations of unlicensed practice, employing unlicensed persons, and the operation of unregistered shops and salons. The State Board of Barbers and Cosmetologists is not the most efficient model for conducting this type of regulatory oversight.

This review further recommends that the registration requirement for shops and salons be repealed. Registration of shops and salons historically has been used in conjunction with carrying out the Board's inspection function. However, the Board does not currently have authority to conduct mandatory or routine inspections. Instead, the Board only conducts inspections when responding to complaints. In this scenario, the Division of Registrations should have enough information from the complainant to locate the business.

The regulation of manicurists and cosmeticians should be repealed. The threat to the public health, safety and welfare posed by the practice of these occupations does not require the educational and examination standards currently administered by the State Board of Barbers and Cosmetologists.

Regulation of the remaining two occupations, barbering and cosmetology, should be reformed by the elimination of the state's practical examination of barber and cosmetology applicants. This proposal leaves the state's written examination in place. However, this review recommends that statutory language be amended to require that the written examination be limited exclusively to questions addressing health and safety issues.

# List of Recommendations

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Recommendation 1 - The General Assembly should deregulate the manicuring and cosmetician occupations, eliminate the registration of shops and salons, eliminate the practical examinations of barbers and cosmetologists and sunset the State Board of Barbers and Cosmetologists. This new regulatory approach should be evaluated by the General Assembly by setting a new sunset review date of 2005. . . . . 27

Recommendation 2 - Modify the scope of practice to exclude the braiding and similar beautification of the hair. .... 33

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# Background

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## ***About this Report***

A literature review and practitioner consultations were used to identify the prevalent barbering and cosmetology issues in Colorado and to establish the policy context for the ensuing recommendations. In addition, a focus group was convened on June 7, 1999 with members of the State Board of Barbers and Cosmetologists to solicit their input and to identify their concerns. A key issue identified by the board at this meeting was the absence of a program of inspections to aid it in its enforcement activities. Other stakeholders have expressed additional concerns as represented in Appendix D.

The discussion in the following segments is in large part drawn from the Occupational Outlook Handbook published by the U.S. Department of Labor. It describes what barbers and cosmetologists do, and where and how they practice their occupations.

## ***Overview of the Occupations***

Barbers cut, trim, shampoo, and style hair. Many people still go to a barber for just a haircut, but an increasing number seek more personalized hairstyling services, such as perms or coloring. In addition to these services, barbers may fit hairpieces, provide hair and scalp treatments, shave male customers, or give facial massages. Barbers in most states are licensed to perform all the duties of cosmetologists except skin care and nail treatment, but a growing number of barbers are trained to perform these services as well.

Cosmetologists primarily shampoo, cut, and style hair, but they also perform a number of other services. These practitioners, who are often called hairstylists, may advise patrons on how to care for their hair, straighten or permanent wave a customer's hair, or change their hair color. In addition, most cosmetologists are trained to give manicures, pedicures, and scalp and facial treatments, provide makeup analysis for women, and clean and style wigs and hairpieces. Cosmetologists generally are licensed to provide all of the services that barbers do except shaving the face.

Manicuring is the fastest growing of the occupations under review. Manicurists work exclusively on nails and provide manicures, pedicures, and nail extensions to clients.

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## Background

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Cosmeticians cleanse and beautify the skin by giving facials, full-body treatments, head and neck massages, and offer hair-removal through waxing and other means.

Barbers, cosmetologists, manicurists and cosmeticians are expected to keep their work area clean and their implements sanitized. They may make appointments and keep records of hair color and permanent wave formulas used by their regular patrons. A growing number also actively sell hair products and other cosmetic supplies. Barbers and cosmetologists who operate their own salons have managerial duties that include hiring, supervising, and firing employees, as well as keeping records and ordering supplies.

In the United States, barbers and cosmetologists held 701,000 jobs in 1996. Employment in these occupations is depicted in Table 1 below.

**TABLE 1: Employment in Cosmetology, Barbering and Manicuring in the United States, 1996**

Hairdressers, hairstylists, & cosmetologists	586,000
Barbers	59,000
Manicurists	43,000

Approximately 3 of every 4 barbers and 2 in 5 cosmetologists are self-employed. Many self-employed barbers and cosmetologists own the salon in which they work, but a growing share of practitioners lease a booth or chair from the salon's owner.

### ***Training and Other Qualifications***

Although all states require barbers and cosmetologists to be licensed, the qualifications necessary to obtain a license vary. Generally, a person must have graduated from a state-licensed barber or cosmetology school, pass a physical examination, and be at least 16 years old. Some states require graduation from high school while others require as little as an eighth grade education. In a few states, completion of an apprenticeship can substitute for graduation from a school, but relatively few barbers or cosmetologists learn their skills in this way. Applicants for a license usually are required to pass a written test and demonstrate an ability to perform basic barbering or cosmetology services.

## Background

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Some states have endorsement agreements that allow licensed barbers and cosmetologists to practice in a different state without additional formal training. Other states do not recognize training or licenses obtained in another state; consequently, persons who wish to become a barber or a cosmetologist should review the laws of the state in which they want to work before entering a training program.

Public and private vocational schools offer daytime or evening classes in barbering and cosmetology. Full-time programs in barbering and cosmetology usually last 6 to 12 months, but training for manicurists, and cosmeticians requires significantly less time. An apprenticeship program can last from 1 to 2 years. Formal training programs include classroom study, demonstrations, and practical work. Students study the basic services—haircutting, shaving, facial massaging, and hair and scalp treatments—and, under supervision, practice on customers in school "clinics." Some schools also teach unisex hairstyling and chemical styling. Students attend lectures on barber services, the use and care of instruments, sanitation and hygiene, basic anatomy, and recognition of certain skin ailments. Instruction also is provided in sales and general business practices. There are also advanced courses for experienced barbers in hairstyling, coloring, and the sale and service of hairpieces. Most schools teach hairstyling of men's as well as women's hair.

After completing a training program, students can take the state licensing examination. The examination consists of a written test and, in most cases, a practical test of cosmetology skills. A few states include an oral examination in which the applicant is asked to explain the procedures he or she is following while taking the practical test. In many states, cosmetology training may be credited towards a barbering license, and vice versa. A few states have even combined the two licenses into one hair styling license. In most states, a separate examination is given for people who only want a manicurist or cosmetician license.

For many barbers and cosmetologists, formal training and a license are only the first steps in a career that requires years of continuing education. Because hairstyles are constantly changing, barbers and cosmetologists must keep abreast of the latest fashions and beauty techniques. They do this by attending training in salons, at cosmetology schools, or at product shows. These shows offer workshops and demonstrations of the latest techniques and expose cosmetologists to a wide range of products that they can recommend

## Background

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to clients, an important skill as retail sales become a more important part of the beauty salon industry.

### ***Job Outlook***

Overall employment of barbers and cosmetologists is expected to grow about as fast as the average for all occupations through the year 2006. Increasing population, incomes, and demand for cosmetology services will stimulate job growth. In addition, numerous job openings will stem from rapid turnover in salons and the large size of the occupation. The extent of competition for jobs and customers may be greater at the higher paying, prestigious salons. However, as applicants vie with the large pool of licensed and experienced cosmetologists, the number of part-time and self-employed, booth-renting cosmetologists should continue to grow, creating a dynamic labor market with many opportunities for people to enter the field, particularly for those who have made themselves more competitive by being able to provide a broad range of cosmetology services.

Different employment trends are expected among barbers and cosmetologists. Cosmetologists will account for virtually all of the employment growth, reflecting the continuing shift in consumer preferences to more personalized services in unisex establishments. Demand for manicurists and for cosmetologists who are trained in nail care will be particularly strong. In addition, cosmetologists who are trained to provide specialized services such as skin care, and manicurists who learn new skills like air brushing, should be able to attract more clients. Employment of barbers is expected to decline slightly, but in spite of this decline, a minimum of two thousand job openings will arise annually for new barber licensees as older barbers retire.

## Summary of Statute and Regulation

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### *COLORADO LAW*

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A combined board of barbers and cosmetologists was created July 1, 1977, pursuant to Section 12-8-101, C.R.S. 1973, as amended. Under the Administrative Organization Act of 1968, the Board of Barbers and Cosmetologists was transferred as a type 1 transfer to the Department of Regulatory Agencies and placed in the Division of Registrations.

***Board Composition.*** The State Board of Barbers and Cosmetologists ("board"), established under section 12-8-104, C.R.S. is a five-member board appointed by the Governor. Statutory requirements are that two members be licensed in Colorado to engage in the practice of cosmetology, two members be licensed in Colorado to engage in the practice of barbering and one member be from the general public who has no financial or other interest in the industry. The statute requires that the four professional members be actively employed in their professions at least two years immediately prior to their appointment and that they be active in their professions while serving on the Board. Each member is appointed for a period of three years. No more than three members may be appointed from the metropolitan area composed of the City and County of Denver, Adams County, Arapahoe County, Jefferson County or Boulder County. The Governor may remove any board member for cause.

***Powers and Duties of the Board.*** The board's statutory authority is outlined in Section 12-8-108, C.R.S. and includes authority to promulgate rules and regulations. In addition to rulemaking, the board has been granted a variety of powers by statute. In general, these statutory powers may be classified into two broad areas: sanitation related functions, and licensing and disciplinary functions. The board also has the statutory power to investigate, upon written complaint, suspected or alleged violations of the barber and cosmetology statute. The board may revoke, suspend, place on probation, or deny licensure to individuals, and through the Attorney General of Colorado, seek injunctions and temporary restraining orders against any person violating the provisions of the Barber and Cosmetologist Act. The board also has investigatory subpoena power, and may issue cease and desist orders, write letters of admonition, and levy fines.

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## Summary of Statute and Regulation

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**Scope of Practice.** A person must have a license issued by the Board of Barbers and Cosmetologists in order to work as a barber, cosmetologist, cosmetician, or manicurist. The scope of practice of each category of licensure is summarized below.

"Cosmetology" involves any combination of the following acts when done upon the hair for direct or indirect payment using mechanical or electrical appliances, or hands:

- Arranging, curling, waving, cleansing, cutting, singeing, bleaching, coloring or similar work performed upon the hair;
- Performing services by use of cosmetic or chemical preparations;
- Massaging, cleansing, stimulating, manipulating, exercising the scalp, face, neck, arms, hands or shoulders;
- Performing the acts of manicuring or pedicuring the nails of any person.

"Barbering" involves:

- Shaving or trimming the beard;
- Cutting hair;
- Performing facial or scalp massage or other treatment by use of chemical preparations either by hand or mechanical devices;
- Dyeing the hair;
- Applying hair tonic;
- Applying any cosmetic preparation to the scalp, face, neck or shoulders.

"Cosmetician" is any person engaged in:

- Performing facials, or giving skin care, applying makeup or eyelashes to any person;
- Using cosmetic preparations, lotions, creams, tonics or antiseptics to beautify the face, neck, arms, bust, or upper part of the human body;
- Massaging, cleaning, or stimulating the upper part of the human body by means of the hands, or mechanical devices involving the use of any cosmetic preparations, lotions, tonics, creams, or antiseptics;
- Removing hair by use of depilatories, waxing, or tweezers.

## Summary of Statute and Regulation

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"Manicuring" includes, but is not limited to:

- Filing, polishing, cleansing, and extending the nails of any person by any means.

The scope of practice is clarified further by the exemptions specified in §12-8-121, C.R.S. The practice of barbering and cosmetology is exempt from licensure when performed by the following persons, or under the following conditions:

- Anyone licensed in Colorado to practice chiropractic medicine, surgery, dentistry, podiatry, osteopathy, or medicine;
- Services by employees, agents, or volunteers of a health care facility while performing patient care duties;
- Volunteers providing the service of washing and setting the hair of patients confined to health care institutions, boarding home patients, or persons confined to their home if that confinement is because of age, physical or mental infirmity, or physical handicap;
- A student of a barbering or cosmetology school who has received more than three hundred hours of instruction and who is rendering services at such school;
- Lectures and demonstrations of beauty preparations and techniques performed in retail stores without compensation.

**Licensing Requirements.** Qualifications for licensure are mandated for four occupations: barbers, cosmetologists, manicurists, and cosmeticians. Section 12-8-114, C.R.S. regarding qualifications of applicants and requirements for licensing, specifies that "an applicant for examination shall furnish proof of training of not less than the number of hours of course completion in the subject area in which the applicant seeks licensure as follows: one thousand hours for a cosmetologist; one thousand hours for a barber; five hundred fifty hours for a cosmetician; and three hundred fifty hours for a manicurist." It is important to note, however, that these are only minimum standards. By rule<sup>1</sup> the State Board of Barbers and Cosmetologists has set the educational requirements at the following levels: one thousand four hundred and fifty hours for a cosmetologist; one thousand two hundred and fifty hours for a barber; five hundred fifty hours for a cosmetician (same as the statute); and three hundred fifty hours for a manicurist (same as the statute). Appendix B lists in more detail the prerequisite courses that are necessary to be admitted into the state

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<sup>1</sup> Section 7 of *Rules and Regulations of the State Board of Barbers and Cosmetologists*

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## Summary of Statute and Regulation

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examination that leads to licensure. All four occupational licenses are valid for two years.

**Examinations.** Section 12-8-110, C.R.S. specifies that the board shall hold examinations as often as necessary, subject to funding constraints. This section of the statute also specifies that the exam is to include relevant written tests and practical demonstrations that are not limited to any specific system or method. Further, the practical demonstrations are to be conducted under conditions, which are as similar to actual operating conditions as possible. The examination should be designed to emphasize health and safety issues, and no oral examination is to be given in connection with practical demonstrations. Examinations are to be graded promptly within Colorado, and the results made available quickly. The statute also stipulates that such examinations must be reviewed, revised, and updated periodically on a reasonable basis by the board. The board is also authorized to rent adequate facilities in which to hold such examinations.

Section 12-8-122, C.R.S. authorizes the board to employ and compensate individuals for aid in the administration of examinations. Such persons must be licensed under the Barber and Cosmetologist Act, and may not be affiliated with any barber or cosmetology school. The Executive Director of the Department of Regulatory Agencies approves payment of expenses and compensation to such persons.

**Complaints and Discipline.** The board may deny, revoke, suspend, or make probationary any license issued under its authority. Upon written complaint or on its own motion the board may discipline licensees for the following reasons:

- Violations of any provisions of the Act;
- conviction of a felony or the entering of a plea of *nolo contendere* to a felony;
- the submission of a misstatement on the application for licensure;
- incompetence;
- dependency upon or addiction to drugs or alcohol if the addiction or dependency is a danger to the public;
- unprofessional or dishonest conduct;
- false or deceptive advertising;
- failure to properly display the license;
- failure to comply with the board's rules and orders;
- willful misrepresentation.

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## Summary of Statute and Regulation

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The Board may employ administrative law judges, and final board action may be judicially reviewed in accordance with the State Administrative Procedure Act.

**Salons and Shops.** The Board also registers salons and shops. Section §12-8-114.5, C.R.S. provides in part that "all places of business shall be registered with the board which shall maintain a registry for this purpose. When a barbershop, beauty salon, or other place of business opens, relocates, or has a transfer of ownership, the owner must register with the board. The board is hereby authorized to establish and collect a fee which shall be based on the board's actual costs associated with the maintenance of a registry of places of business."

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### *COLORADO REGULATIONS*

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The board has promulgated rules in the following general areas: definitions, general requirements, complaints and investigations, board review, shop registrations and requirements, course completion requirements, examinations, and endorsement.

**Licensee Requirements.** One purpose of this set of rules is to direct licensees to conspicuously display at each working station their individual licenses. The rules also address administrative requirements concerning lost and expired licenses, name changes, and reinstatements. In addition, the board directs that "no applicant shall provide any barbering, cosmetology, manicuring, or skin care services until in possession of the actual license" [2.02 (c)]. Licensees must also ensure that they submit the correct information in the prescribed manner, and in a timely fashion, to renew their licenses.

**Personal Cleanliness and Service Requirements.** The board directs licensees to use sanitary equipment, tools, and supplies, and to be personally hygienic while providing services. The second rule in this category also allows licensees to refuse service to clients if licensees have reason to believe that a client has a communicable disease or condition. Licensees are to be guided by the Colorado Department of Public Health and Environment in these circumstances.

## Summary of Statute and Regulation

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**Complaints and Investigations.** The board requires that complaints be in writing regarding public welfare, health and safety, sanitation, unlicensed activity, or other matters, which may be investigated by the board if they are deemed to be within the board's jurisdiction.

**Declaratory Orders.** Any person may petition the Board for declaratory orders regarding the applicability of rules or statutory provisions. The rule both establishes the methodology the board uses when determining whether or not to issue an order, and indicates in what form the petitioner is to file the request. In determining whether to rule on a particular petition, the board considers among other factors: whether a ruling will terminate controversy or uncertainty, whether the petition involves a moot or hypothetical question, whether it involves a pending matter before the board or a court, and whether alternative remedies are available.

The board reaches its decisions based solely on the facts before it, with or without the benefit of a hearing. Any declaratory order disposing of a petition constitutes agency action and is subject to judicial review.

**Shop Requirements.** This set of rules establishes general sanitation and safe practices; building and equipment requirements; cleanliness, sanitation, and safety; and sets out additional requirements for mobile units. Among the most important provisions is the prohibition against rendering services in any location that does not comply with health, safety, and sanitation requirements. Licensees are also directed not to engage in services outside the scope of practice of the license type he or she holds. Possession or storage of equipment is considered *prima facie* evidence of use.

Floors and work areas are to be kept clean, and electrical appliances kept in safe working order. Hot and cold water running water must be available through a mixing faucet. In addition, adequate ventilation and lighting is mandated. Tools and multi-use articles are to be cleaned, sanitized, or sterilized prior to reuse. One-time use articles are to be disposed of in a covered receptacle immediately after application, and articles with blood or other body fluids placed in a sealed plastic bag. Chemicals are to be stored according to manufacturers' directions and in a manner that maintains public safety and health. Written material safety data and first aid treatments for those products are to be provided upon request.

## Summary of Statute and Regulation

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Mobile units are to securely anchor all equipment, including storage cabinets. In addition, no services are to be performed while the mobile unit is in motion.

**Course Requirements and Examinations.** Course requirements are dependent on the specialty chosen by applicants, that is, whether they want to become a barber, cosmetologist, cosmetician, or manicurist. Appendix B sets out in detail the course requirements necessary to be admitted into the examination for licensure for each of these occupations. The rules afford some flexibility in stipulating that the required training hours in any course may vary up to 25% in each subject area, but must equal the total hourly requirement. Further, the board may credit hours earned in like course work which was previously attained in one training program toward the required hours in another training program.

Examination venues and times are available to candidates on the Internet. The rules hold that barber and cosmetology schools are to be notified of the examination schedules. Applicants must submit a record indicating completion of course hours, proof of graduation, and a completed, signed application form and fee. Examinations consist of a written examination, and a skills demonstration. Applicants need not repeat portions of the examination that they have passed. However, if the entire examination is not passed within three years, the entire examination must be retaken. The board sets passing scores.

**Endorsement.** Applicants licensed or certified in another jurisdiction may apply for a Colorado license provided that they submit a written record verifying the number of training hours attained, examination scores, and licensing information to include whether disciplinary action has ever been taken or is pending against the applicant. A copy of the applicant's current license or certificate must also be submitted. The board has set four standards, all of which must be met, to obtain Colorado licensure by endorsement. The standards used to establish substantial equivalency in Colorado based on another state's requirements include: (1) an active license in good standing; (2) applicants must not have failed a Colorado administered examination in the past year; (3) successful performance on both a written and practical exam substantially equivalent to those in Colorado; and (4) a sufficient number of credits as set by Rule 10.04 for the respective occupations.

## Summary of Statute and Regulation

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### *FEDERAL REGULATION*

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There are no federal regulations that pertain directly to the practice of the occupations under review. There are some product regulations, however, which impact these occupational practices and provide a degree of protection to the consumer. OSHA requires that employers maintain Material Safety Data Sheets (MSDS) on the work site and that those sheets be readily accessible to employees. MSDS contain the specific information of the hazardous chemicals contained in the product. Each MSDS also contains information on the known health effects, exposure limits, precautionary measures, emergency and first-aid procedures, identification of the organization responsible for preparing the MSDS and information on the carcinogenic properties of the chemical.

The Food and Drug Administration promulgates regulations concerning the manufacture and labeling of cosmetics. For example, the FDA requires patch test information be included in certain hair coloring products. Furthermore, the Federal Food, Drug, and Cosmetic Act prohibits the use of certain hazardous chemicals in cosmetic manufacturing.

### *OTHER STATES' REGULATION*

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According to the 1996 *Professional and Occupational Licensing Directory*, all fifty states regulate either the practice of barbering or cosmetology. The occupation of barbering was deregulated in Alabama in 1982 because the board was determined to have misused funds. However, barbers are now regulated by local government. Colorado and four other states regulate cosmeticians, although this group's functions may also fall under the ambit of other titles, such as "esthetician". The majority of states also regulate manicurists as a separate occupational group. Several states have less regulation than Colorado. For example, Hawaii regulates only barbers, beauty operators, and electrologists. By way of contrast, Maryland regulates the following occupations: apprentice cosmetologist, apprentice esthetician, apprentice manicurist, barber, barber apprentice, barber instructor, beauty shop manager, cosmetologist, cosmetology instructor, demonstrator hairdresser, electrologists, electrology instructor, esthetician, make-up artist, and manicurist.

## Summary of Statute and Regulation

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States differ significantly in the amount of training that is required before an applicant is allowed to take the relevant state examination. Examinations are required in most jurisdictions. The range of coursework for barbers ranges from 1,000 hours (Washington) to 2,100 hours (Iowa). For cosmetologists the range is from 1,000 hours (Massachusetts) to 2,100 hours (Iowa). Course requirements for cosmeticians range from 300 hours (Pennsylvania) to 1500 hours (Connecticut). For manicurists the range is from 100 hours (Massachusetts) to 600 hours (Oklahoma). By comparison, Colorado's requirements are at the lower end of the regulatory spectrum, but are not the lowest for any given occupation. It is also important to note that the comparisons are general in nature because of scope of practice confusion, issues of definition, and possible differences between statutory versus regulatory provisions within and across states.

## Program Description and Administration

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The State Board of Barbers and Cosmetologists is cash-funded. The board has 8.5 full time equivalent (FTE) employees. Appendix A lists the funding sources for the 1998-99 fiscal year. Of the four occupations under review, cosmetologists are by far the largest occupational group as depicted in Table 2 below.<sup>2</sup>

**TABLE 2: Size of Barber & Cosmetology Related Occupations in Colorado**

Category	1995	1996	1997	1998	1999
Cosmetologists	22,839	24,574	24,983	25,505	25,644
Manicurists	4,043	4,360	5,391	5,874	5,698
Barbers	2,659	3,495	2,936	2,650	2,493
Cosmeticians	605	667	833	983	1,106
TOTALS	32,141	35,092	36,140	37,010	36,940
<b>Shops</b>	5,203	6,218	7,495	7,657	8,206

The cost of a new license is ten dollars over two years. Under the current "fast-track" application process, a fifteen dollar exam fee is added to the cost of a new license. Similarly, renewals cost thirty-two dollars over two years regardless of license type. In the four most recent fiscal years, combined figures for the occupations under review show that the ratio of renewals is approximately four times greater than the number of new licenses issued. Licensure activity together with program expenditures is depicted in Table 3 below.

**TABLE 3: Licensure Activity and Expenditures by Fiscal Year**

	FY'96	FY'97	FY'98	FY'99
<b>No. of New Licenses</b>	3,965	3,406	3,567	3,536
<b>No. of Renewed Licenses</b>	18,148	12,453	17,972	12,821
<b>Expenditures</b>	\$ 658,098	\$632,097	\$689,691	\$ 671,702

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<sup>2</sup>The program information in the tables of this section has been furnished by the Program Administrator.

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## Program Description and Administration

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One of the main functions of the State Board of Barbers and Cosmetologists is to discipline the licensees under its jurisdiction. Table 4 below depicts the number of complaints and disciplinary actions for all four occupational groups by fiscal year.

**TABLE 4: Complaints and Disciplinary Action by Fiscal Year**

	FY'95	FY'96	FY'97	FY'98	FY'99
<b>No. of Complaints</b>	75	119	140	167	123
<b>No. of Disciplinary Actions</b>	39	58	57	83	53

On average, about fifty percent of complaints result in some sort of disciplinary action. The type of disciplinary action undertaken is depicted in Table 5 below. It is important to note, however, that the figures in Table 4 represent individual respondents, but there may be multiple charges per respondent as is the case with the figures shown in Table 5.

**TABLE 5: Types of Disciplinary Action by Fiscal Year**

	FY'95	FY'96	FY'97	FY'98	FY'99
Revocation	3	0	0	13	4
Suspension	1	0	1	4	1
Probation	18	26	42	70	43
Fines	23	35	43	81	47
Letters of Admonition	11	5	29	6	5
<b>TOTALS</b>	<b>56</b>	<b>66</b>	<b>115</b>	<b>174</b>	<b>100</b>

A cursory review indicates a clustering in the middle of the table, with fines being the largest single category across fiscal years.

Another important program element of the State Board of Barbers and Cosmetologists is exam administration. Exam pass rates are shown in Tables 6 and 7 below. Prior to April, 1996, percentages were compiled using the results of both first time test takers and repeating test takers. After that date to the present, percentages reflect results of first time test takers only. Applicants can access the exam schedule on: [http://www.dora.state.co.us/Barbers\\_Cosmetologists/EXAM.htm](http://www.dora.state.co.us/Barbers_Cosmetologists/EXAM.htm)

Program Description and Administration

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**TABLE 6: Combined Examination Pass Rates, 1994-1998**

	1994	1995	1996	1997	1998
<b>Practical Exam</b>	87%	90%	91%	94%	95%
<b>Written Exam</b>	77%	72%	77%	75%	72%

**TABLE 7: Pass Rates for Occupational Examinations, 1994-1998**

CALENDAR YEAR	OCCUPATION	PRACTICAL EXAM *	WRITTEN EXAM
<b>1998</b>	BARBER	55%	66%
	COSMETOLOGY	92%	73%
	COSMETICIAN	100%	93%
	MANICURIST	100%	67%
<b>1997</b>	BARBER	85%	77%
	COSMETOLOGY	84%	74%
	COSMETICIAN	100%	91%
	MANICURIST	100%	72%
<b>1996</b>	BARBER	91%	68%
	COSMETOLOGY	78%	71%
	COSMETICIAN	100%	92%
	MANICURIST	99%	71%
<b>1995</b>	BARBER	80%	57%
	COSMETOLOGY	79%	61%
	COSMETICIAN	95%	88%
	MANICURIST	98%	63%
<b>1994</b>	BARBER	79%	56%
	COSMETOLOGY	77%	66%
	COSMETICIAN	96%	93%
	MANICURIST	97%	74%

\* **NOTE:** The practical exam for cosmetology is a 7 part exam, with each part having its own distinct passing criteria (includes hair care, skin care, and nail care). Applicants must pass all 7 parts independently to pass the cosmetology practical exam. The barber practical exam is a 6 part exam, with each part having its own distinct passing criteria (includes hair care, and skin care). Applicants must pass all 6 parts independently to pass the barber practical exam. The cosmetician practical exam is a single part exam (skin care only). Similarly, the manicurist practical exam is a single part exam (nail care only).

## Sunset Analysis

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Sunset evaluation criteria direct DORA to assess "whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation."<sup>3</sup> (Sunset statutory criteria are reproduced in Appendix F).

Previous Colorado studies by the Department of Regulatory Agencies and the Colorado Office of the State Auditor have recommended decreased regulation. The 1989 sunset review of the State Board of Barbers and Cosmetologists noted that:

Barbers and cosmetologists, reflecting their own sense of professionalism, their personal affinity for sanitary, healthful work environments, and demonstrating their commitment to respond to market requirements, have created an industry where consumers demand, and receive, the highest quality services...Therefore, the Department finds that the present regulation of barbers and cosmetologists can be eliminated without posing a serious threat to the public. The practice of the regulated occupations does not pose such a risk that regulation is justified. Health and sanitation risks are minimal and the market provides for adequate consumer evaluation of the services (p. 13).

This sunset review also concludes that the regulation of beauty related occupations in Colorado is unnecessary. Two main reasons to deregulate are:

1. The market is capable of meeting consumer demands without serious deterioration in the quality of services, in contradistinction to the current licensing scheme which raises costs to consumers without providing commensurate benefits of protection.
2. Current regulatory trends, if allowed to continue, are likely to result in license fragmentation with concomitant administrative burdens, and increased scope of practice confusion.

Each of these points is discussed in more detail below.

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<sup>3</sup> 24-34-104(9)(b)(I), C.R.S.

***The market is capable of meeting consumer demands without serious deterioration in the quality of services***

Cox and Foster of the Federal Trade Commission recommend that the attributes of a particular professional market should be analyzed to determine the extent to which the degradation of quality due to potential market failure is likely to be a problem. If market and nonmarket responses to market failure, such as reputation, appear to be relatively prevalent, licensing may not be warranted. Moreover, if the costs associated with an inaccurate assessment of quality are low, then any quality-enhancing benefits of licensing are more likely to be outweighed by the costs that these restrictions will impose on consumers. In the case of interior decorators, for instance, the costs of an inaccurate assessment of quality may be low, while reputation effects are likely to be high. In consequence, licensing of this profession would be unnecessary.

What is more, quality problems are unlikely with Colorado's barbers, cosmetologists, cosmeticians, and manicurists since they tend to be highly trained individuals. Current regulations require cosmetologists to have 1,450 hours of coursework, barbers 1,250 hours, cosmeticians 550 hours, and manicurists 350 hours of training to take the state's licensing examination. Proponents of regulation maintain that the public expects a high level of expertise from these practitioners. That expectation, however, is based on the assumption that licensing requirements establish a higher quality standard than would be available through the market. But in both regulated and unregulated markets, employers wish to select the best candidate for their businesses. Employers are likely to rely on the state's measures of competency as a rough guide for their hiring decisions. They are more likely to base their decisions on previous work experience, personal factors, and a demonstration of the applicant's skill. In short, barbershop and beauty salon owners are capable and motivated to maintain high quality standards both for their personal benefit as well as the public.

It is also worth noting that it is unlikely that a deregulated environment would result in an abundance of shops operated by individuals with no training since the economic risk is high.

### ***Public Protection Discussion***

The standard arguments in support of regulation of the barber and cosmetology occupations maintain that the public is at risk due to the use of dangerous chemicals, the use of dangerous tools such as razors and scissors, and the spread of infections and communicable diseases. In addition, proponents for regulation maintain that the public expects a certain level of professionalism in barbers and cosmetologists, which can only be assured by continuation of the licensing requirements currently in place.

***Chemical Usage.*** Chemical preparations are used in the practice of all of the occupations being reviewed. Ammonium thioglycolate, sodium hydroxide, strong hydrogen peroxide solutions, and aniline derivative tints are the chemicals that pose the greatest potential for harm. Although such products may require normal care in application, they are not restricted from use by the general public beyond precautions and directions from the manufacturer. The chemicals used in these cosmetic products are commonly sold over the counter. In addition, these chemicals are used in fairly low concentrations. Minor skin irritation is typically the most severe injury that may result from the improper use of these chemicals.

Occupational Safety and Health Administration (OSHA) publication 3084 (revised) titled "Chemical Hazard Communication" addresses relevant issues resulting from the application of OSHA regulation 1910.1200. That regulation establishes uniform requirements to make sure that information regarding use of chemicals is compiled by manufacturers, distributed to employers, and shared with employees. OSHA requires that certain employers maintain Material Safety Data Sheets (MSDS) on the work site and that those sheets be readily accessible to employees. MSDS contain specific information regarding the hazardous chemical(s), if any, contained in the product. Each MSDS also contains information on the known health effects, exposure limits, precautionary measures, emergency and first-aid procedures, identification of the organization responsible for preparing the MSDS, and information on the carcinogenic properties of the chemical.

Additional consumer protection is available through the Federal Food, Drug, and Cosmetic Act. For instance, the Act prohibits the use of certain hazardous chemicals in cosmetic manufacturing. Further, the Food and Drug Administration requires that a patch test be given to determine any allergic reaction to hair coloring products containing

## Sunset Analysis

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coal tar. Also, the Act requires that the label on each package of a cosmetic product indicate the name of each ingredient in descending order of predominance and indicate if the product is not to be used near the eyes or on cuts or abrasions. The requirements further state that the chemical declaration shall appear in such a way to render it likely to be read and understood by ordinary individuals under normal conditions of purchase.

***Use of Implements.*** Barbers and cosmetologists use implements such as razors, scissors, and cuticle nippers around a patron's head, face, and hands. Proponents for regulation maintain that serious injuries may be incurred by consumers, especially about the eyes and face, if untrained individuals are allowed to practice with these potentially dangerous implements. Many people, however, who are not trained barbers or cosmetologists use these same tools with reasonable care. Proponents also point out that barbers and cosmetologists use certain appliances such as hairdryers and curling tools that generate levels of heat that may cause injury. Again, most households probably have at least one of these appliances, and consumers are aware of safety precautions that should be employed in their use. The possibility of serious harm to the public resulting from a professional barber or cosmetologist's misuse of sharp or hot instruments is remote despite arguments to the contrary. In other words, the risk entailed in the use of sharp instruments and common electrical appliances is no greater in a barbershop or beauty salon than it is in a consumer's home.

***Spread of Parasites.*** The concern regarding spread of parasitic infection relates to lice, scabies, tinea, staphylococci, and similar parasites. According to the Colorado Department of Public Health and Environment, these are not reportable conditions therefore no statistics are kept to track outbreaks. The Department of Public Health and Environment will respond to occurrences of these parasites (in schools or nursing homes, for instance) by consultation. Such conditions are easily preventable and, if they occur, are within the jurisdiction of the Colorado Department of Public Health and Environment.

***Transmission of Communicable Diseases.*** The position that holds that AIDS and Hepatitis may be transmitted during the act of shaving has been addressed by the State Epidemiologist, Dr. Richard E. Hoffman, in a letter dated October 13, 1987 to the State Board of Barbers and Cosmetologists. In his letter, Dr. Hoffman responded to the concern that razor blades may be a potential source of transmission of the AIDS virus (HIV) from person to person. Because of the extreme seriousness of the AIDS virus, Dr. Hoffman's comments regarding the potential transmission of AIDS in a barbershop or beauty salon bear repeating:

Medical evidence indicates HIV infection is spread in three ways: (1) through intimate sexual activity; (2) through contaminated blood and blood products; and (3) from mother to child in utero, during childbirth, or through breastfeeding. The hypothetical situation raised by the Denver physician was as follows: when a barber shaves an HIV infected person, small quantities of blood from the infected person might get on the razor blade; if the barber does not clean and disinfect the blade or dispose of the blade, then while shaving the next customer with the same blade, microscopic quantities of the infectious blood might penetrate the customer's skin through small nicks and cuts--leading to infection in the unsuspecting, innocent customer.

This scenario is highly unlikely based on the usual practice of barbers and cosmetologists and the lack of evidence in Colorado or the nation that any case of AIDS has resulted from such a situation. On the other hand, the U.S. Centers for Disease Control certainly recommends that to prevent HIV transmission, surgical instruments be cleaned of debris, disinfected, and sterilized before reuse. Furthermore, the same agency also recommends that a person with chronic Hepatitis infection (an infection that spreads in similar ways to HIV) not share razor blades or toothbrushes with anyone else in the household. No mention is made of combs or brushes, but we do not consider these instruments to [pose] any significant risk as a vehicle of transmission of the AIDS virus.

Dr. Hoffman goes on to recommend:

- (1) use disposable razor blades and use them one time only,
- or (2) if using a non-disposable blade, clean all visible debris

## Sunset Analysis

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no matter how small from the blade and then disinfect, i.e. wash thoroughly, the blade with a solution of tap water and common chlorine bleach in a concentration of 10 parts water to 1 part bleach.

In short, the possibility of transmitting or contracting AIDS or Hepatitis in a barbershop or hair salon is negligible and does not justify regulation on those grounds alone. Neither of the blood-borne diseases under consideration has been shown to be transmitted through the practice of barbering or cosmetology. As part of this 1999 Sunset Review, the Colorado Department of Public Health and Environment was contacted regarding this subject. Epidemiology and Disease Control officials confirmed that the information contained in the 1987 letter remains accurate.

### ***What Will the Future Hold if Current Regulatory Trends Continue?***

The following e-mail communication quoted below from the Barber and Cosmetology Program Administrator to the Office of Policy and Research encapsulates what the future portends:

In August, 199[8], an individual wishing only to provide hair care services made an appeal for consideration, not wishing to attend school to learn skin care and nail care. Based upon the law defining practices of cosmetology (hair care, skin care and nail care), staff advised the individual that there was no alternative to training in all three areas, passing a state examination covering all three areas, and becoming licensed as a cosmetologist since there is no license to provide only hair care.

The individual appeared before the Board at its September 14, 1998, meeting requesting they take action to address the need for a hair care only license. She had also contacted several legislators with her issue. When discussing the issue with the legislators involved, the staff and Board suggested that since the Board would be going through the sunset process during 1999/2000, they may wish to wait until then to consider any required legislative changes. They seemed satisfied to wait, as no bill to create a hair care only license was introduced into the 1999 session.

## Sunset Analysis

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At its September, 1998 meeting, the Board reviewed staff suggestions for rule revisions which could apply if statutory authority to issue a hair care only license was granted by legislation. It was the Board's decision at that time to give serious consideration to the "fragmenting" of the cosmetology license at a later date. The majority of the members were not opposed to a complete hair care only license, but did not want to see fragmenting to the level of specific services within hair care (i.e., a shampooing license, a coloring license, a haircutting license). They reviewed the following complete hair care course requirement drafted by staff [attached as Appendix C] which could be considered at a future hearing for inclusion into the rules if statutory changes occurred to permit the issuance of a hair care license (June 29, 1999).

Clearly, the present regulatory scheme invites scope of practice confusion, barriers to entry, and administrative complexity. These issues would not arise in a deregulated environment.

Sunset evaluation criteria also direct DORA to determine "whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession."<sup>4</sup>

Table 8 below depicts four complaint categories that tend to work in the favor of each regulated occupation when compared to an unrestricted market. These are displayed as a proportion of total complaints (in brackets) for each of the fiscal years listed.

**TABLE 8: Select Charge Types as a Percent of Total Charges, FY '95-'99**

	<b>FY'95</b>	<b>FY'96</b>	<b>FY'97</b>	<b>FY'98</b>	<b>FY'99</b>
Unlicensed respondent	23 (30%)	32 (23%)	61 (37%)	81 (37%)	58 (29%)
Unregistered shop	1 (1%)	10 (7%)	10 (6%)	18 (8%)	21 (11%)
Employed unlicensed person	27 (35%)	43 (31%)	41 (25%)	39 (18%)	52 (26%)
Beyond scope of practice	3 (4%)	2 (1%)	4 (2%)	4 (2%)	0 (0%)
<b>Subtotal</b>	<b>54 (70%)</b>	<b>87 (64%)</b>	<b>116 (70%)</b>	<b>142 (64%)</b>	<b>131 (66%)</b>
Total Charges	77	137	166	221	199

Source: Colorado ARM System

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<sup>4</sup> § 24-34-104 (9)(b)(VII), C.R.S.

## Sunset Analysis

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The above figures are indicative of what takes up the board's time and attention in relation to its overall mandate of public protection. Across fiscal years, a significant amount of effort is expended toward issues incidental to public health and safety. The full range of enforcement activity for Fiscal Years 1995 to 1999 is reproduced in Appendix E.

While it remains an open question whether or not these professions should be deregulated, implementation of regulatory reforms are needed and supported by the data presented in this review.

## Recommendations

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***Recommendation 1 - The General Assembly should deregulate the manicuring and cosmetician occupations, eliminate the registration of shops and salons, eliminate the practical examinations of barbers and cosmetologists and sunset the State Board of Barbers and Cosmetologists. This new regulatory approach should be evaluated by the General Assembly by setting a new sunset review date of 2005.***

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Sunset evaluation criteria direct DORA to determine "if regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent."<sup>5</sup>

Barbers, cosmetologists, cosmeticians, and manicurists are licensed in Colorado. Licensing is the most restrictive form of regulation. An intermediate level of regulation is state certification, which affords title protection, but does not preclude others from practicing in the field. Registration is the least restrictive form of regulation and involves the recording of an applicant's background information. For the sake of comparison, consider the following occupational groupings by level of regulation in Colorado: Dentists, pharmacists, and osteopathic physicians are licensed. Emergency medical technicians, and drug and alcohol abuse counselors are certified. Debt collectors and outfitters are registered. This partial listing is suggestive of a more appropriate level of regulation for the occupations under review.

Registration is the most suitable form of regulation when there is a low probability that practitioners will cause serious harm to the public. In the classic form of registration, an applicant does not have to demonstrate any special qualifications. All that is required is that the individual registers his or her name, address, and other background information. The most basic form of registration carries no assurance of competence as a result of state imposed standards.<sup>6</sup> This

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<sup>5</sup> § 24-34-104 (9)(b)(II), C.R.S.

<sup>6</sup> Council on Licensure, Enforcement and Regulation (CLEAR). *Demystifying Occupational and Professional Regulation*. Lexington: CLEAR, 1996, p. 21.

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## Recommendations

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recommendation, however, in conjunction with quality assurance through occupational schools establishes a lower level of regulation situated between basic registration and the current licensing scheme.

The General Assembly should reform the present regulatory scheme as follows:

- eliminate the regulation of cosmeticians;
- eliminate the regulation of manicurists;
- eliminate practical examinations and require that written examinations be limited to health and safety issues exclusively;
- eliminate the registration of shops and salons, and
- allow the State Board of Barbers and Cosmetologists to sunset and authorize the Director of the Division of Registrations to administer the regulatory program.

### ***Reform the entry requirements of barbers and cosmetologists***

This review has presented the pros and cons of licensing the occupations of barbering and cosmetology. While this 1999 Sunset Review does conclude that market forces are capable of protecting consumers from incompetent barbers and incompetent cosmetologists, this review recognizes the traditional reliance that the public appears to place on state licensing. Further, the General Assembly has demonstrated reluctance to deregulate these occupations totally. This review, therefore recommends that the General Assembly reduce entry requirements for barbers and cosmetologists by eliminating practical examinations of these occupations. The remaining written examination should be limited by statutory direction to customer health and safety issues exclusively.

### ***Eliminate the regulation of cosmeticians***

The state of Colorado can discontinue licensing of cosmeticians without exposing the citizens of Colorado to undue risk.

Cosmeticians perform a variety of beauty services including massage or beautification of the face, arms or bust, and application of facials or make up. Colorado requires cosmeticians to acquire 550 hours of training in such areas. There are six areas of concentration in the training ranging from 235 hours of electricity, chemistry and light

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## Recommendations

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therapy to 25 hours of management, ethics, interpersonal skills and salesmanship. In the middle of this range, cosmeticians are required to receive 70 hours training in sanitation, sterilization and safety. Appendix B of this report supplies more detail as well as a comparison of all regulated occupations' training requirements. Successful completion of this training requirement is followed by a state administered practical exam and a state administered written exam in order to be a licensed cosmetician.

Data supplied for this sunset review by the agency under review shows that cosmetician candidates for licensure passed the state examinations with great frequency. As an example, in 1996, the last year in which supplied data includes all test takers including repeat test takers, 100% of cosmetician examinees passed the practical examination and 92% passed the written examination. Similar percentages are reported for 1997 and 1998 although the data supplied for those two years reports only first time test takers. Even so, cosmetician examinees continue to pass the practical exam at a rate of 100% in 1997 and 1998 and examinees passed the written examination at a rate of 91% in 1997 and 93% in 1998.

### ***Eliminate the regulation of manicurists***

Manicurists perform a variety of personal services including filing, buffing, polishing, cleansing, or building or trimming of nails. Manicuring may also include massaging, cleansing, or exercising the arms, hands, feet, or ankles of any person. This occupation can be deregulated without exposing the citizens of Colorado to undue risk.

Colorado requires manicurists to secure 350 hours of training. The subject area of application of artificial nails requires 135 hours of training while occupational safety and health accounts for 20 hours of training. Sanitation, sterilization and safety training makes up 70 hours of the required 350 hours. Manicurists, like cosmeticians, must pass a practical examination and a written examination before receiving a license to practice in Colorado. Like cosmeticians, manicurists also pass the practical exam with great frequency. As an example, in 1998 and 1997, 100% of examinees passed the practical examination on the first try. However, manicurists do not pass the written examination with the same success. In 1998, 67% of examinees passed the written exam on the first attempt and 72% in 1997 passed the written exam on the first attempt. Again, one cannot determine if first time failing

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## Recommendations

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candidates pass the examination on the second try, or indeed, if they ever pass the examination.

The State Board, officials of the Division of Registrations, and other proponents of state regulation, contend that individuals who fail the written exam are unsafe to practice and that the licensing scheme presently in place should be continued to eliminate these applicants from the marketplace until they can demonstrate competence as measured by the written examination. It is undoubtedly true that some marginal protection of consumers of manicuring services is provided by the present regulatory scheme.

However, many individuals perform manicuring services on themselves, and for family members and friends. Generally speaking, the health threat posed by performance of manicuring services is minimal and is less serious than any number of other activities that Colorado citizens engage in or are exposed to on any given day. It is the conclusion of this review that the market is capable of screening out incompetent practitioners with efficiency that is at least equal to the licensing scheme now in place. If that conclusion is accepted, forces of market competition should be given preference over distortions of the market by application of the regulatory police power of the state.

### ***Eliminate the registration of shops***

During the 1989 sunset review of this regulatory program, the Colorado General Assembly eliminated the mandatory and routine inspections of salons and shops in the state. The present requirement that every such business must apply for and receive a registration from the State Board of Barbers and Cosmetologists is an archaic requirement only needed during the era of mandatory inspections. Since inspections were routine, unannounced, and mandatory, the State Board needed an accurate list of all businesses in order to identify them for inspection. This requirement no longer serves any useful purpose and should be eliminated.

If the General Assembly enacts the regulatory reforms recommended in this review, the Division of Registrations will be required only to respond to complaints against barbers and cosmetologists. A consumer who files a complaint certainly will be able to provide a business name or location. In fact, this is the case in most regulatory programs, few of which have business registration requirements.

## Recommendations

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***Allow the State Board of Barbers and Cosmetologists to sunset and authorize the Director of the Division of Registrations to administer the regulatory program***

Sunset evaluation criteria direct DORA to determine "whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively."<sup>7</sup> The State Board of Barbers and Cosmetologists is composed of five members. Two members are barbering licensees, two are cosmetologists, and one is a public member. As a general practice, the board meets once every two months.

The State Board of Barbers and Cosmetologists has served the citizens of Colorado well by carrying out the duties proscribed to the board by the Colorado General Assembly. Given the large size of the industry, the strenuous educational and examination requirements that the board has been called upon to administer, and the relatively small size of the board, its members should be applauded.

However, as this regulatory program enters the new millennium, the administration of the reforms proposed in this 1999 review will not require a state board. The Director of the Division of Registrations and Division staff can adequately administer the provisions of this program.

Further, the disciplinary record is clear that the majority of work accomplished under the existing regulatory program has been focused on unlicensed practice, employing unlicensed persons, or operating an unregistered business. Enforcement of such administrative requirements do not call for professional expertise. Termination of the State Board of Barbers and Cosmetologists and implementation of the reduced level of regulation should result in less bureaucracy, less red tape, and more efficient administration.

In summary, statutory evaluation criteria direct DORA to assess "whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource and personnel matters."<sup>8</sup>

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<sup>7</sup> § 24-34-104 (9)(b)(IV), C.R.S.

<sup>8</sup> § 24-34-104, (9)(b)(III), C.R.S.

## Recommendations

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Through common employment practices, the market can adequately protect the public without the state's involvement in setting entry standards. Even in the current regulated market, employers are likely to rely on the state's measures of competency only as a secondary factor for their hiring decisions. They are more likely to base their decisions on an applicant's previous work experience, personal factors, and a demonstration of the applicant's skill.

This recommendation is in keeping with improving procedures and practices consistent with the public interest, and allows market forces to play a greater role in the labor supply of barbers, cosmetologists, cosmeticians, and manicurists in Colorado.

Finally, housekeeping amendments will need to be implemented so that cosmeticians and manicurists can practice in an unregulated environment. Statutory definitions of cosmetology and barbering include language that describe practices that make up the occupations of cosmeticians and manicurists. Similarly, educational requirements for cosmetology and barbering contain components of manicuring and cosmetician practice. If these provisions are not removed from statute, manicurists and cosmeticians will be required to obtain a cosmetology license. Further, this report contains a statutory recommendation to exempt the practice of hair braiding from the cosmetology scope of practice. This exemption should be applied to the regulatory reform measures presented in this recommendation if adopted.

## Recommendations

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### ***Other Recommendation***

**Should the General Assembly decide to continue the status quo regulatory scheme, the following recommendations are offered to improve regulation.**

### ***Recommendation 2 - Modify the scope of practice to exclude the braiding and similar beautification of the hair.***

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Statutory evaluation criteria direct DORA to assess "the economic impact of regulation, and if national economic information is not available, whether the agency stimulates or restricts competition."<sup>9</sup>

Licensing laws are often called "practice acts" because they grant authority to licensees to engage in certain practices within a profession. Once the scope of practice is established by statute or rule, it is illegal for anyone without a license to perform any of the activities covered by the law. Professionals guard their existing scope of practice and may attempt to broaden what is restricted. This has been the trend in Colorado. For example, the scope of practice of barbering was expanded in the past to include chemical hair services. Recently (July, 1999), the State Board of Barbers and Cosmetologists proposed that the scope of practice of barbering be expanded once more to include the application of artificial eyelashes. Along the same lines, both the existing definition of cosmetology and the proposed hair care license in Appendix C may be interpreted as including the braiding of hair under the practice of "arranging" the hair.

In the interest of free competition, the existing scope of practice for each of the occupations under review should not be subject to broad interpretation. Consequently, Section 12-8-103 (2) and (9) of the Colorado Revised Statutes should be amended to include a provision that stipulates:

**Nothing in this article shall be construed as preventing the braiding and similar beautification of the hair.**

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<sup>9</sup> § 24-34-104, (9)(b)(VI), C.R.S.

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## Appendices

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## Appendix A - Funding Sources

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The State Board of Barbers and Cosmetologists is cash-funded from fees pursuant to Colorado statute. Fees are paid for licensure and registration in the barber and cosmetology professions.

Fee amounts are established annually for the purpose of covering direct and indirect costs incurred by the Board for licensing and enforcement.

<b>Estimated Revenue Fiscal Year 1998-99</b>		
	<b>Amount</b>	<b>Percent</b>
<b>Licenses</b>	\$641,934	97%
<b>Miscellaneous</b>	\$19,854	3%
<b>Total</b>	\$661,788	100%

Expenditures and revenues are not always equal. Revenue needs and fee amounts are based on estimated expenses and numbers of revenue payers. These estimates may vary from actual expenses and numbers of payers. Revenue collected that exceeds expenditures remains with the agency and is considered when calculating total revenue needed for the following year.

## Appendix B - Course Completion Requirements for Admission Into Examination

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<b>COSMETOLOGY COURSE</b>	<b>HOURS REQUIRED</b>
Sanitation, sterilization and safety	45
Permanent waving and chemical relaxing	250
Hairstyling – wet styling, hair pressing and iron curling	250
Massage, skin care and makeup	100
Shampoo and scalp treatments	75
Hair tinting and bleaching	225
Hair cutting	225
Basic manicuring and pedicuring	75
Application of artificial nails	135
Laws, rules and regulations	25
Management, ethics, interpersonal skills and salesmanship	25
Occupational safety and health	20
<b>TOTAL</b>	<b>1450</b>

<b>MANICURING COURSE</b>	<b>HOURS REQUIRED</b>
Sanitation, sterilization and safety	70
Basic manicuring and pedicuring	75
Application of artificial nails	135
Laws, rules and regulations	25
Management, ethics, interpersonal skills and salesmanship	25
Occupational safety and health	20
<b>TOTAL</b>	<b>350</b>

<b>COSMETICIAN COURSE</b>	<b>HOURS REQUIRED</b>
Sanitation, sterilization and safety	70
Electricity, chemistry and light therapy	235
Massage, skin care and makeup	175
Laws, rules and regulations	25
Management, ethics, interpersonal skills and salesmanship	25
Occupational safety and health	20
<b>TOTAL</b>	<b>550</b>

<b>BARBER COURSE</b>	<b>HOURS REQUIRED</b>
Sanitation, sterilization and safety	45
Permanent waving and chemical relaxing	250
Massage and skin care	150
Shampoo and scalp treatments	150
Hair tinting	135
Hair cutting – styling	300
Shaving, honing and stropping	150
Laws, rules and regulations	25
Management, ethics, interpersonal skills and salesmanship	25
Occupational safety and health	20
<b>TOTAL</b>	<b>1250</b>

## **Appendix C - Proposed Statutory and Course Requirements for New Hair Care License**

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### **Proposed Changes to §12-8-103, C.R.S., add:**

(14) “hairdresser” means a person who engages in any of the practices of hairdressing.

(15) “hairdressing” means providing one or more of the following hair care services upon the upper part of the human body for cosmetic purposes for payment either directly or indirectly, or when done without payment for the public generally:

(a) cleansing, massaging, or stimulating the scalp with oils, creams, lotions, or other cosmetic or chemical preparations, using the hands or with manual, mechanical or electrical appliances;

(b) applying cosmetic or chemical preparations, antiseptics, powders, oils, clays, or lotions to the scalp;

(c) cutting, arranging, or dressing the hair by any means using the hands or with manual, mechanical or electrical implements or appliances;

(d) cleansing, coloring, lightening, waving, or straightening the hair with cosmetic or chemical preparations, using manual, mechanical or electrical implements or appliances.

### **Proposed Course Requirements for Admission into Examination**

COMPLETE HAIR CARE COURSE	HOURS
• Sanitation, sterilization & safety	45
• Permanent waving & chemical relaxing	250
• Hairstyling--wet styling, hair pressing, iron curling, & braiding/weaving	250
• Shampoo & scalp treatments	75
• Hair tinting & bleaching	225
• Hair cutting	225
• Law and rules and regulations	25
• Management, ethics, interpersonal skills & salesmanship	25
• Occupational safety and health	20
<b>TOTAL</b>	<b>1,140</b>

(This course would take approximately 28 weeks or 7 months)

## Appendix D - Letter from Colorado Association of Cosmetology/Barber Schools

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*COLORADO ASSOCIATION of COSMETOLOGY/BARBER SCHOOLS*  
P.O. BOX 2013 WHEATRIDGE, COLORADO 80034

Nondas Bellos, Ph.D.  
Policy Analyst  
1560 Broadway, Suite 1550  
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August 23, 1999

Re: Sunset review; State Board of Barbers and Cosmetologists

Dear Dr. Bellos,

As you near the end of your review, I would like to again thank you for your time and willingness to listen to the Beauty Industry membership. In particular, thank you for including the school sector during your research efforts. Though we (private schools) are not regulated by the board, our businesses certainly depend upon and are impacted by anything that goes on with the board as well as changes made to licensure, regulation and oversight in the industry as a whole. Due to this type of impact, we have been heavily involved in Sunset this spring and summer and will continue to be involved as this matter comes before the legislature.

Earlier this month the School Association (CACBS) hosted several **All Beauty Industry Summit Meetings** (on the front range and the western slope). We (the school association) wanted to know how the industry, as a whole, felt about the issues (or concerns), you were being asked to consider in your review. We were pleased with the fact that many sectors of our industry and the public were present to give their views. Representation included: **Private schools (staff, owners, and students), Public schools, Manufacturers, Distributors, TSA (Independent salons), ICSA (Chain salons), and Department store salons**. There was also representation from the **Public at large and Elected office**. In the interest of your time, I have enclosed a combined (both meetings) summary of the issues only.

Dr. Bellos, as you can see we attempted to stay with this same issues that where being discussed, at your prior focus meetings, so not to complicate your review. Hopefully, the information will assist you as you finalize your report and recommendations. Clearly, the representatives present were interested in the preservation of licensure, Board oversight and having some improvement to our current practices as an industry. They were also good about giving some suggestions as to how to go about making those improvements.

Again, I thank you for the time and consideration given us, during the Sunset Review process. If I can be of any other assistance please feel free to call upon me.



Nancy J. Lease  
President, Colorado Association of Cosmetology/Barber Schools  
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Appendix D - Letter from Colorado Association of  
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**ALL BEAUTY INDUSTRY SUMMITS AUG. 9 & 16, 1999  
COMBINED ISSUE SUMMARY**

**ISSUE - I. RETENTION OF LICENSURE -**

**POINTS: A. All current license types should be required to maintain licensure..**

**B. The CHEMICALS and/or PROCEDURES used in the Beauty Industry have the extreme POTENTIAL TO INJURE AND/OR DAMAGE.**

**C. Increasing scientific knowledge and advancements made to chemicals and their increased availability, MAKE IT IMPERATIVE THAT, not only should, ALL PERSONS BE ADEQUATELY TRAINED to enter the work force but that they BE MONITORED once they get there FOR COMPLIANCE TO REGULATORY REQUIREMENTS that are designed to PROTECT THE PUBLIC'S HEALTH SAFETY AND WELFARE .**

**CONCLUSION: MAINTAIN ALL CURRENT LICENSURE TYPES: (COSMETOLOGY, BARBER, MANICURING AND COSMETIC IAN)**

**FISCAL IMPACT: NO CHANGE**

**ISSUE - II. BOARD OR DEPARTMENTAL (TYPE 1 VS TYPE 2) OVERSIGHT-**

**POINTS: A. The Beauty and Barber industry has been provided REGULATORY OVERSIGHT BY A BOARD THROUGHOUT ITS HISTORY.**

**B. Although the Board (since Sunset 1990) lost some of its powers (loss of routine inspection seen as the most significant) the group felt strongly that, MONITORING AND OVERSIGHT BY A BOARD IS STILL THE MOST EFFECTIVE WAY TO ENFORCE REGULATIONS.**

**C. BOARD OVERSIGHT IS OPEN.** Board membership is made up of persons knowledgeable in the areas being regulated. The public interest is also represented on the board.

**D. There is CONCERN that IF DEPARTMENTAL OVERSIGHT IS PROVIDED that the DEPARTMENT HEAD may be UNFAMILIAR WITH THE INDUSTRY and may BE ASSIGNED TO MULTIPLE DEPARTMENTS OR ADVISORY FUNCTIONS. This would potentially DECREASE OVERSIGHT in the industry and EFFECT PUBLIC SAFETY.**

**E. INITIAL TESTING COULD BE EFFECTED** if there were a shift to TYPE 2. **INSTATE TESTING is PREFERRED** as it provides faster results and therefore FASTER ENTRY INTO THE WORK FORCE. There was concern that current **STAFF SHORTAGES in the industry WOULD INCREASE due to the shift and the slowdown in testing/results.**

**CONCLUSION: BOARD REGULATORY OVERSIGHT IS PREFERRED.**

**FISCAL IMPACT: NO CHANGE**

**ISSUE III. CONTINUING EDUCATION FOR CONTINUED LICENSURE.**

**POINTS: A. Although a need for continuous update to skills and knowledge are considered important, this issue was NOT CONSIDERED AN ISSUE that needs immediate attention IN THE SUNSET PROCESS. To be addressed in REGULATION (NOT THE LAW).**

**CONCLUSION: DO NOT PURSUE IN SUNSET**

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### ISSUE IV. HAIR CARE LICENSURE - 1100 hours

- POINTS:
- A.** The addition of a hair care (only) license would **INCREASE ACCESS TO THE INDUSTRY**. The current salon environment has fragmented in several areas due to **PUBLIC DESIRE FOR SPECIALIZED SERVICE AVAILABILITY**. At the same time the **FULL SERVICE AND SPA ENVIRONMENTS HAVE CONTINUED TO THRIVE**. This is truly **A GROWTH INDUSTRY** that meets the **NEEDS OF A DIVERSE PUBLIC**.
  - B. SCHOOLS ARE GENERALLY SUPPORTIVE**. They report that they currently **LOSE PROSPECTIVE STUDENTS (FUTURE INDUSTRY WORKERS)** due to the fact that **SOME PEOPLE** simply **DO NOT WANT TO WORK ON MANICURING OR SKIN CARE RELATED SERVICES**. Current course curriculum could be adjusted to add new course title(s) without a great impact on instructional staffing needs. **COSTS WOULD BE MINIMAL** for program approvals and revisions. Those costs would not impact the state they would **BE ABSORBED BY SCHOOLS** that choose to offer the new program(s).
  - C. CHAIN SALONS WERE IN FAVOR** of the addition of **THIS LICENSE TYPE** as they currently focus their services on Hair care only. They report that **MANY JOBS ARE CURRENTLY AVAILABLE IN HAIR CARE ONLY ENVIRONMENTS**.
  - D. INDEPENDENT SALONS acknowledge that the INDUSTRY WOULD ATTRACT MORE INDIVIDUALS** due to the **AVAILABILITY OF A HAIR CARE ONLY LICENSE TYPE**. Although they would not initially benefit from that growth. They did state that stimulating the industry's work force would ultimately help everyone.
  - E.** All agreed that the **PUBLIC** has already shown **SUPPORT** for fragmentation by their use of **"SPECIALIZED" ENVIRONMENTS**.
  - F.** All agreed that **RECIPROCITY** from other states ( **COMING INTO COLO.**) **WOULD BE EASIER**, although out of state transfers may be more difficult until other states allow for this type of licensure. The group felt that **HAIR CARE ONLY WILL** in all likelihood **BE AVAILABLE IN ALL STATES SOON**.
  - G. CURRENTLY HAWAII AND OREGON HAVE HAIR CARE ONLY**. They have set a **PRECEDENCE FOR THIS LICENSE TYPE**.
  - H.** State processes could be fragmented from current processes I.E. **TESTING & LICENSING** would be **SIMPLE ADJUSTMENTS** to the **EXISTING PRACTICES AND PROCEDURES**. **COSTS** would be **MINIMAL**.

**CONCLUSION: A MAJORITY SUPPORTS HAIR CARE LICENSE TYPE ALONG WITH THE CURRENT LICENSE TYPES AVAILABLE IN COLORADO.**  
**FISCAL IMPACT: MINIMAL;** To reformat test forms and application materials.

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### ISSUE V. ROUTINE SHOP INSPECTIONS-

**POINTS: A: REGULAR SHOP INSPECTION WAS FAVORED.** Although the group felt to inspect too often would constitute harassment and may be a burden on the state as well as on the salon owners. The recommended time frame was **ONCE EVERY THREE YEARS** (or **MORE OFTEN** if **PUBLIC COMPLAINT WARRANTS** such).

**B.** There is a **NEED TO MONITOR SALONS** for **UNLICENSED PRACTITIONERS, SAFETY & SANITATION VIOLATIONS** and **UNSAFE PRACTICES** and/or the use of **ILLEGAL OR UNSAFE PRODUCTS** is seen as highly important.

**C.** Several ideas were shared as to **HOW TO REIMPLIMENT ROUTINE INSPECTIONS** without being a great burden on the tax payers, taking from the general fund or effecting the Tabor limits. **KEY IDEAS WERE:**

**1. USING PEER EVALUATORS (from different sectors of the industry) TO DO ROUTINE INSPECTIONS.** and **USING STATE STAFF TO DO FOLLOW UP INSPECTIONS OR INSPECTIONS BASED UPON COMPLAINTS.** Similar to practices in the school accreditation process.

**2. PRIVATIZE THE INSPECTION PROCESS.**

**D. FINES, LIMITATIONS, CEASE AND DESIST ORDERS, AND SUSPENSION** are all deemed **EFFECTIVE** if they are **USED TOGETHER WITH INSPECTIONS.** The group felt that many **VIOLATIONS ARE GOING UNDETECTED AT THIS TIME,** due to the **COMPLAINT ONLY PROCESS.** The public fear of retaliation and a buyer beware attitude are prevalent. **NUMBER OF COMPLAINTS IS NOT A TRUE INDICATOR OF EXISTING VIOLATIONS OR UNSAFE PRACTICES.** Laws and regulations are in place to protect the public especially when **the public may be unaware that they are in jeopardy.**

**CONCLUSION:** All parties **FAVOR ROUTINE INSPECTIONS** but realize that the fiscal impact needs to be addressed **BY USING A CREATIVE APPROACH OR BY PRIVATIZING THE PROCESS.**

### ISSUE: VI. SHOP REGISTRATION VS SHOP LICENSING-

**POINTS: A.** No one was concerned about the terminology itself. Although "license" seems to have a greater implication.

**B.** The **PROCESS OF APPLICATION AND APPROVAL** was at issue. All felt strongly that a **SIMPLE REGISTRATION IS NOT EFFECTIVE** enough. During the **REGULATION PROCESS ADD REQUIREMENTS** to insure that **BASIC NEEDS OF A SHOP** are met. Suggestions include: **SHOP FLOOR PLAN SUBMITTED** With applications, **INITIAL INSPECTIONS** (Check for **IMPROPER FACILITIES, SAFETY & SANITATION REQUIREMENTS** (i.e. **SINKS, VENTILATION**), and if **LICENSING REQUIREMENTS** are complete). This process could also help confront the **UNLICENSED WORK FORCE ISSUE** and the use of **UNSAFE PRODUCTS AND PRACTICES** currently going undetected in salons.

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C. Recommend a **PROVISIONAL REGISTRATION** that can be used until the initial inspection is complete. This would allow the business owner to get started so long as a **MATERIALLY COMPLETE APPLICATION IS IN AND FEES ARE PAID**. The Provisional registration could be granted for a **PERIOD NOT TO EXCEED 120 DAYS** of the date the shop opens to the public. Again a suggestion for some type of **PEER OR PRIVATIZED INSPECTION** could be used for this initial inspection check.

**CONCLUSION:** No change to name is deemed necessary. Make **IMPROVEMENTS TO REGISTRATION PROCESS VIA REGULATION**. **LAW** may need to be addressed **TO ALLOW INITIAL SHOP INSPECTION** During the registration process.

**FISCAL IMPACT:** MINIMAL - Dependent upon the means for the initial inspection.

**PRIORITY FOR SUNSET:**

**1. RETAIN LICENSURE - ALL EXISTING TYPES**

**PREFERENCE:**

**1. MAINTAIN BOARD OVERSIGHT (TYPE 1) AUTHORITY**

**IMPROVEMENTS TO LAW OR REGULATION:**

**1. HAIR CARE LICENSE - ADDITIONAL TYPE**

**2. SHOP REGISTRATION IMPROVEMENT, INITIAL INSPECTION & PROVISIONAL REGISTRATION.**

**3. ROUTINE SHOP INSPECTIONS EVERY THREE YEARS**

**NO PRIORITY LISTING:**

**1. CONTINUING EDUCATION**

## **Appendix E - Enforcement Activity by Fiscal Year**

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## Appendix F - Sunset Statutory Evaluation Criteria

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- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.