*#455*

**Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature

# A Review of the Board of Cosmetology

The Legislature established the Board of Cosmetology in 1948 to regulate schools, salons, and individuals engaged in the teaching, demonstration, and practices of cosmetology and related professions. State law authorizes the board to regulate these professions through making rules and regulations; establishing curricula for schools; issuing licenses; and enforcing laws, rules, and regulations.

Risk factors associated with the practice of cosmetology create a need for state government to protect the public. The Mississippi State Board of Cosmetology, if it fulfills its regulatory functions (i.e., licensure and enforcement) properly, should diminish the profession's risk to the public.

Concerning the board's licensure of practitioners, although the Board of Cosmetology uses a national examination that has been validated, its state law and practical examinations have not. Thus even though the board has relied on its considerable collective experience in designing the state and practical examinations, without professional validation the board cannot assure that these tests measure the knowledge, skills, and abilities necessary to the competent practice of cosmetology. Also, concerning the board's licensing of practitioners licensed in other states who seek to practice in Mississippi, the board's process is unnecessarily burdensome, could result in arbitrary decisions, and could dissuade competent individuals from seeking licensure.

Concerning the board's enforcement, the Board of Cosmetology has the inspection and complaint handling systems in place to enforce the state's laws, rules, and regulations related to cosmetology, but it does not use all of these tools to the greatest extent possible, thus weakening its enforcement effectiveness.

PEER also addressed the issue of regulation of cosmetologists and barbers in Mississippi by two separate boards. The overlap in the scope of practice regulated by the Board of Cosmetology and the Board of Barber Examiners is significant and makes differentiating between the jurisdictions of the two boards difficult. The consuming public could easily be confused as to which board to contact with complaints.

**November 6, 2003**

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

PEER Committee
Post Office Box 1204
Jackson, MS 39215-1204

(Tel.) 601-359-1226
(Fax) 601-359-1420
(Website) http://www.peer.state.ms.us

The Mississippi Legislature

# Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee


**SENATORS**

BOB DEARING
*Vice Chair*
HOB BRYAN
*Secretary*
TERRY BURTON
BILLY HEWES
JOHNNIE WALLS, JR.

**TELEPHONE:**
(601) 359-1226

**FAX:**
(601) 359-1457

Post Office Box 1204
Jackson, Mississippi 39215-1204

www.peer.state.ms.us

Max K. Arinder, Ph.D.
Executive Director

**REPRESENTATIVES**

MARY ANN STEVENS
*Chair*
BILLY BOWLES
ALYCE CLARKE
HERB FRIERSON
TOMMY HORNE

**OFFICES:**
Woolfolk Building
501 North West Street, Suite 301-A
Jackson, Mississippi 39201


November 6, 2003

Honorable Ronnie Musgrove, Governor
Honorable Amy Tuck, Lieutenant Governor
Honorable Tim Ford, Speaker of the House
Members of the Mississippi State Legislature

On November 6, 2003, the PEER Committee authorized release of the report entitled **A Review of the Board of Cosmetology.**

Representative Mary Ann Stevens, Chair

**This report does not recommend increased funding or additional staff.**

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# A Review of the Board of Cosmetology

## Executive Summary

### Introduction

The PEER Committee conducted a "cycle review" of the Mississippi State Board of Cosmetology, which is a review that is not driven by specific complaints or allegations of misconduct.

In conducting this review, PEER first determined whether regulation of the cosmetology profession is necessary in order to protect the public from risks to safety, health, and welfare.

Once PEER established that there is a public need for regulation of the cosmetology profession, PEER then evaluated how well the board is carrying out its primary regulatory functions of licensure and enforcement.

PEER also addressed the issue of regulation of cosmetologists and barbers in Mississippi by two separate boards despite the overlap in practice between the two professions.

### Background

The Legislature established the Board of Cosmetology in 1948 to regulate schools, salons, and individuals engaged in the teaching, demonstration, and practices of cosmetology, manicuring, wigology, and esthetics. State law authorizes the board to regulate these professions through making rules and regulations; establishing curricula for schools; issuing licenses; and enforcing laws, rules, and regulations.

The Mississippi Board of Cosmetology currently oversees 42 licensed cosmetology schools, 4,109 licensed salons, and 20,431 licensed practitioners.

## Need for State Board of Cosmetology

**Risk factors associated with the practice of cosmetology create a need for state government to protect the public. The Mississippi State Board of Cosmetology, if it fulfills its regulatory functions properly, should diminish the profession's risk to the public.**

The nature of the practice of cosmetology presents a risk to the public if practitioners are not properly trained and regulated. Risks associated with the cosmetology profession fall into two major categories: transmission of communicable diseases and infection; and physical harm resulting from improper use of equipment and products. Because of the seriousness of these health and safety risks, all states regulate the practice of cosmetology.

## Licensure

**Although the Board of Cosmetology uses a national examination that has been validated, its state law and practical examinations have not. Thus even though the board has relied on its considerable collective experience in designing the state and practical examinations, without professional validation the board cannot assure that these tests measure the knowledge, skills, and abilities necessary to the competent practice of cosmetology. Also, concerning the board's licensing of practitioners licensed in other states who seek to practice in Mississippi, the board's process is unnecessarily burdensome, could result in arbitrary decisions, and could dissuade competent individuals from seeking licensure.**

The Board of Cosmetology contracts with the National-Interstate Council of State Boards of Cosmetology to provide a written, validated examination that tests the applicant's knowledge of his or her specialty area. The council conducts ongoing test analysis and item review activities in accordance with testing industry standards to ensure the validity of the national examination.

However, the Board of Cosmetology developed the state examination (which tests knowledge of state cosmetology laws, rules, and regulations) and the practical examination (which tests basic skills learned through classroom instruction). Neither of these tests has been validated, which means that incompetent applicants could be licensed or that competent applicants could be excluded from licensure.

Regarding reciprocal licensure, although the Board of Cosmetology has reciprocity agreements with other states, the Mississippi board requires that all applicants for reciprocal licensure appear for a personal interview. The problem with a personal interview is that it could introduce subjectivity into a process that should be strictly objective. The board also requires the applicant to complete two application forms, a procedure which could be construed as harassment or as an effort to dissuade competent individuals from seeking licensure.

## Enforcement

**The Board of Cosmetology has the inspection and complaint handling systems in place to enforce the state's laws, rules, and regulations related to cosmetology, but it does not use all of these tools to the greatest extent possible, thus weakening its enforcement effectiveness.**

The Board of Cosmetology has an inspection program in place for detecting violations of laws, rules, and regulations. However, the board diminishes the effectiveness of its enforcement function because inspectors do not address all items on inspection forms and they do not also always issue violation reports when appropriate.

The board also has a formal process in place to investigate complaints, but it does not have a process for categorizing and analyzing the types of complaints received in order to develop ways to reduce the recurrence of problems in the future. Also, the board has not established a formal fine structure that would guide it in imposing similar fines for similar violations of state law and board rules and regulations. The board also does not consistently impose the fines authorized by law.

## Overlap in Practice of Cosmetologists and Barbers

**The overlap in the scope of practice regulated by the Board of Cosmetology and the Board of Barber Examiners in Mississippi is significant and makes differentiating between the jurisdictions of the two boards difficult.**

The overlap between the legal definitions of barbering and cosmetology is so significant, that it makes attempts at differentiating between the two difficult. State laws regulating the practice of barbering and cosmetology each contain a provision for licensing the other profession, although neither the Board of Cosmetology nor the Board of Barber Examiners keeps a list of dually licensed individuals. The consuming public could easily be confused as to which board to contact with complaints.

Arguments for merging the boards include possible savings in administrative costs, consistency in regulation, and improved consumer access. Arguments expressed against combining regulation include the ideas that the cosmetology profession is broader than the barbering profession and that barbers feel that their profession will be lost.

## Recommendations

1. The Board of Cosmetology should have its state law and practical examinations validated in order to

ensure that they measure the knowledge, skills, and abilities necessary to entry-level competent practice.

2. The Board of Cosmetology should review its process for granting reciprocal licenses to eliminate subjectivity and possible exclusion of qualified candidates. To ensure that applicants meet the statutory requirement that they can read, speak, and write English, the board should consider developing a valid reading comprehension test for applicants. Applicants could be required to answer some questions in writing and some orally to measure their ability to read, write, and speak English. The board should also rely on information obtained through a background check to the extent possible to verify applicants' education, experience, and identity.

3. The Board of Cosmetology should reconsider its practice of issuing temporary work permits to students who have completed the prescribed hours in an accredited school until the next examination is held.

4. The Board of Cosmetology's inspectors should complete all items on inspection forms in order to ensure that the licensee is carrying out all activities designed to protect the public.

5. The Board of Cosmetology's inspectors should write violation reports for all violations in order to maintain a record that serves as the basis for determining appropriate penalties.

6. The Board of Cosmetology should categorize and analyze the complaints that it receives in order to reduce their recurrence through the adoption of necessary measures such as possible changes to rules and regulations.

7. The Board of Cosmetology should enforce laws and regulations related to the unlicensed practice of cosmetology.

8. The Board of Cosmetology should adopt a formal fine structure based on severity of the violation and consistently impose fines according to this structure in order to deter individuals from violating laws, rules, and regulations governing the practice of cosmetology.

9. The Legislature should amend MISS. CODE ANN. Section 73-7-27 (1972) to increase the fines provided for as follows:

    a. for the first violation—not less than $100 nor more than $200;

b. for the second and each subsequent violation—not less than $200 or more than $500.

The Legislature should also amend MISS. CODE ANN. Section 73-7-29 (1972) to increase delinquent renewal penalties for cosmetologists, manicurists, estheticians, wig specialists, and instructors as follows:

c. 60 days to one year--$50 plus license fee;

d. over 1 year to three years, per year--$100 plus license fee.

In the same CODE section, the Legislature should also increase the salon delinquent renewal penalty as follows:

60 days to one year--$50 plus license fee

and remove the delinquent renewal penalty for over one year because the board requires a salon that has let its license expire for over a year to apply for a new license.

10. In order to improve the efficiency and effectiveness of regulation of the professions and in order to reduce confusion on the part of the consuming public, the Legislature should consider merging the Board of Barber Examiners and the Board of Cosmetology by creating a new board with five cosmetologist members and five barber members. This board would carry out the regulatory functions of both agencies and regulate all of the professions currently regulated by the two boards. The new board should repeal in three years. While it is in operation, the new board should propose to the Legislature a single regulatory program embracing all functions currently licensed as barbering and cosmetology.

**For More Information or Clarification, Contact:**
PEER Committee
P.O. Box 1204
Jackson, MS 39215-1204
(601) 359-1226
http://www.peer.state.ms.us

Representative Mary Ann Stevens, Chair
West, MS 662-976-2473

Senator Bob Dearing, Vice Chair
Natchez, MS 601-442-0486

Senator Hob Bryan, Secretary
Amory, MS 662-256-9989

# A Review of the Board of Cosmetology

## Introduction

### Authority

The PEER Committee authorized a "cycle review" of the Mississippi State Board of Cosmetology, which is a review that is not driven by specific complaints or allegations of misconduct. PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972).

### Scope and Purpose

In conducting this review, PEER first determined whether regulation of the cosmetology profession is necessary in order to protect the public from risks to safety, health, and welfare.

Once PEER established that there is a public need for regulation of the cosmetology profession, PEER then evaluated how well the board is carrying out its two primary regulatory functions: licensure (of schools, salons, and individuals) and enforcement of state laws, rules, and regulations governing practice of cosmetology and related professions regulated by the board.

PEER also addressed the issue of regulation of cosmetologists and barbers in Mississippi by two separate boards despite the overlap in practice between the two professions.

## Method

In conducting this review, PEER:

- reviewed relevant sections of federal and state laws and the board's rules, regulations, policies, and procedures;
- interviewed staff of the Board of Cosmetology and reviewed board minutes, financial information, program records, and policies and procedures;
- interviewed board members and staff and personnel of the National-Interstate Council of State Boards of Cosmetology;
- interviewed staff of the Board of Barber Examiners; and,
- surveyed boards regulating the practices of cosmetology and barbering in other selected states.

# Background

## Definition of Cosmetology

MISS. CODE ANN. Section 73-7-2 (b) (1972) defines cosmetology as:

> *. . .any one (1) or a combination of the following practices if they are performed on a person's head, face, neck, shoulder, arms, hands, legs or feet for cosmetic purposes:*
>
> *(i) Cutting, clipping or trimming hair.*
> *(ii) Styling, arranging, dressing, curling, waving, permanent waving, straightening, cleansing, bleaching, tinting, coloring or similarly treating hair.*
> *(iii) Cleansing, stimulating, manipulating, beautifying or applying oils, antiseptics, clays, lotions or other preparations, either by hand or by mechanical or electrical apparatus.*
> *(iv) Arching eyebrows or tinting eyebrows and eyelashes.*
> *(v) Removing superfluous hair by the use of depilatories.*
> *(vi) Manicuring and pedicuring.*

As discussed in the following section, the Board of Cosmetology is also responsible for regulating estheticians, manicurists, and wig specialists. The legal definitions of these professions are shown in Exhibit 1 on page 4.

As discussed on page 36 of this report, while there is overlap between the professions of cosmetology and barbering, in Mississippi the barbering profession is regulated by its own separate board, the State Board of Barber Examiners.

### Exhibit 1: Practices Included in the Other Professions Regulated by the Board of Cosmetology

| Profession | Practices |
|---|---|
| *Esthetics* | Massaging the face or neck of a person |
| | Trimming eyebrows |
| | Tinting eyelashes or eyebrows |
| | Waxing, stimulating, cleansing or beautifying the face, neck, arms or legs of a person by any method with the aid of the hands or any mechanical or electrical apparatus, or by the use of a cosmetic preparation |
| *Manicuring/ Pedicuring* | Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating a person's nails |
| | Applying artificial nails |
| | Massaging or cleaning a person's hands, arms, legs or feet |
| *Wigology* | Arranging, dressing, waving, curling, cleaning, bleaching, coloring, cutting, or shaping a wig or hairpiece |

SOURCE: MISS. CODE ANN. Section 73-7-2 (1972)

## Composition and Duties of the Board of Cosmetology

The Legislature established the Board of Cosmetology in 1948 (Chapter 367, *Laws of 1948*). As presently constituted under MISS. CODE ANN. Section 73-7-1 (1972), the Board of Cosmetology is composed of five members appointed by the Governor with the advice and consent of the Senate. The members serve four-year terms that begin on their date of appointment. No more than two members can be appointed from each Supreme Court district. To be eligible for appointment as a board member, the applicant must possess a high school education or its equivalent and must be:

- a citizen of the state of Mississippi for a minimum of five years immediately prior to appointment;

- at least thirty years of age; and,
- a licensed cosmetologist with not less than ten years' active practice in cosmetology.

MISS. CODE ANN. Section 73-7-1 (1972) further provides that no board member can be connected in any way with any school wherein cosmetology is taught and no two board members can be graduates of the same school of cosmetology.

Exhibit 2, below, lists members of the Board of Cosmetology as of October 2003.

## Exhibit 2: Members of the Board of Cosmetology (As of October 2003)

| Name | City | Supreme Court District |
|---|---|---|
| Dorothy Ennis | McComb | 2nd |
| Mary Long | Hernando | 3rd |
| Hilda Bills | Jackson | 1st |
| Gayle Lunsford | Taylorsville | 2nd |
| Margaret Hankins | Fulton | 3rd |

SOURCE: Mississippi Secretary of State's Register of Commissions and Board of Cosmetology's website.

The Board of Cosmetology has the legal authority to regulate schools, salons, and individuals engaged in the teaching, demonstration, and practices of cosmetology, manicuring, wigology, and esthetics. State law authorizes the board to regulate these professions through making rules and regulations; establishing curricula for schools; issuing licenses; and enforcing laws, rules, and regulations. MISS. CODE ANN. Section 73-7-7 (1972) requires that any rules that the board issues relative to sanitation must first have the written approval of the Board of Health to ensure that the Board of Cosmetology's sanitation rules and regulations are consistent with the Board of Health's guidelines.

The Board of Cosmetology carries out its enforcement responsibilities through investigating violations and administering disciplinary actions, including revoking and suspending licenses and imposing fines.

MISS. CODE ANN. Section 73-7-7 (1972) establishes the Mississippi Cosmetology Council for the purpose of making recommendations to the board concerning rules and regulations, curriculum, and related matters. The council meets annually and is composed of the board's members and five elected delegates from each of the following associations: Mississippi Hairdressers and Cosmetologists Association, Mississippi Cosmetology School Association, Mississippi Independent Beauticians Association, and School Owners and Teachers Association. The board's policy requires the council to meet once per year.

Exhibit 3, below, shows a breakdown of the number of licensed schools, salons, and practitioners, by type, as of September 24, 2003.

## Exhibit 3: Licensed Schools, Salons, and Practitioners Operating in Mississippi (As of September 24, 2003)

| Category of License | | # Licensed |
|---|---|---|
| Schools | | 42 |
| Salons | | 4,109 |
| Practitioners | | |
| | *Cosmetologists* | 17,834 |
| | *Master Cosmetologists** | 69 |
| | *Manicurists* | 2,035 |
| | *Estheticians* | 163 |
| | *Wig Specialists* | 12 |
| | *Instructors (cosmetology)* | 315 |
| | *Instructors (manicurist)* | 3 |
| Total Practitioners | | 20,431 |

SOURCE: Board of Cosmetology

*Cosmetologists who complete specified additional educational requirements.

## Organization and Staffing

MISS. CODE ANN. Section 73-7-3 (1972) authorizes the board to "employ such clerical and stenographic assistance, bookkeepers, investigators and other agents as they may deem necessary. . .and inspectors as needed, not to exceed seven (7) [inspectors]."

As of October 2003, the board had twelve employees: the Executive Director, a school coordinator (responsible for ensuring compliance with board policies and procedures governing the operation of licensed schools--e.g., monitors student/teacher ratios, student training hours), five inspectors, and five support staff (refer to Exhibit 4, page 8). The board operates four programs: (licensure) examination administration, school coordination, establishment inspection, and licensing and information support.

An attorney from the Mississippi Office of the Attorney General provides the board with assistance on legal matters. For example, the attorney attends all board meetings and represents the board during administrative hearings held to determine whether disciplinary action will be taken concerning a practitioner, salon, or school.

## Revenues and Expenditures

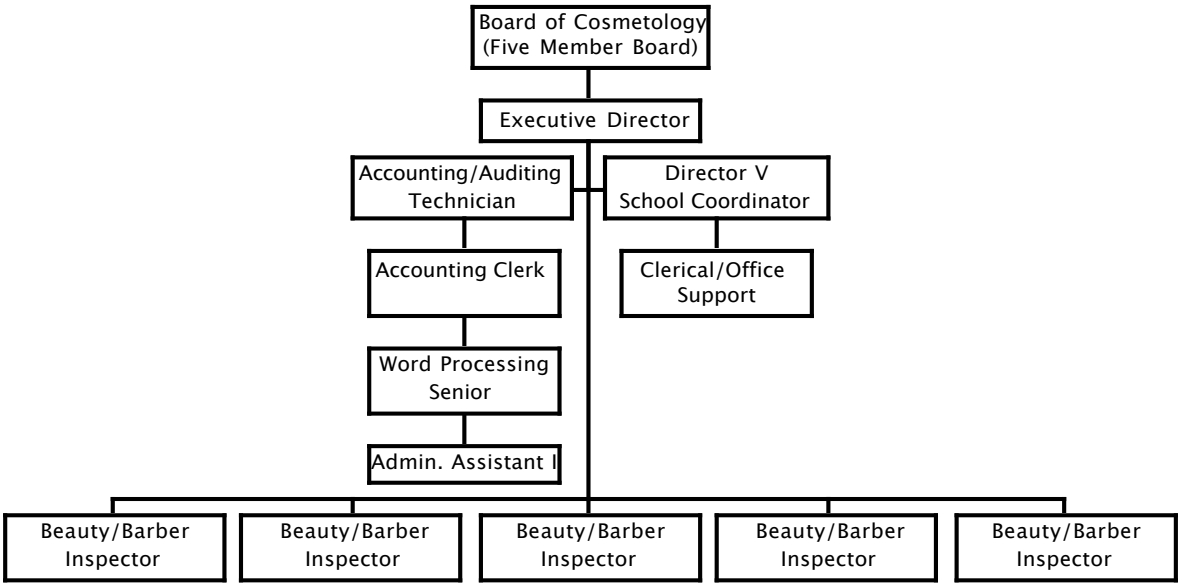
The Board of Cosmetology is a special fund agency supported by funds collected from licensing, inspection, and examination fees and fines collected for disciplinary actions as set forth in MISS. CODE ANN. Section 73-7-29 (1972). Exhibit 5 on page 9 lists fees established in state law. Page 27 contains a discussion of fines and delinquent license penalties established in state law.

As shown in Exhibit 6 on page 10, in FY 2003, the board collected $523,000 in revenues. During FY 2003, the board's major source of revenue was license fees paid by practitioners ($242,545; 47% of total), followed by salon/school licensure inspection fees ($96,540; 18%), and delinquent penalties paid on late license renewals ($83,205; 16%). In FY 2003, the board collected $2,100 in disciplinary fines (less than 1% of total revenues).

Exhibit 7, page 11, shows the board's revenues, expenditures, and end-of-year cash balances for fiscal years 2000 through 2003. Over this period, expenditures remained fairly constant at approximately $700,000. The significant fluctuation in revenues from FY 2002 through FY 2003 is due to the fact that effective in FY 2002, the

board changed from an annual renewal to a biennial renewal (at twice the annual cost) for each type of license issued by the board. Also, during FY 2002 the Legislature transferred approximately $500,000 of the board's cash balance to a Budget Contingency Fund as part of H. B. 1317 (2002 Regular Session), which transferred enumerated special funds to the contingency fund to provide monies necessary to help balance the general fund budget.

## Exhibit 4: Board of Cosmetology Organization Chart



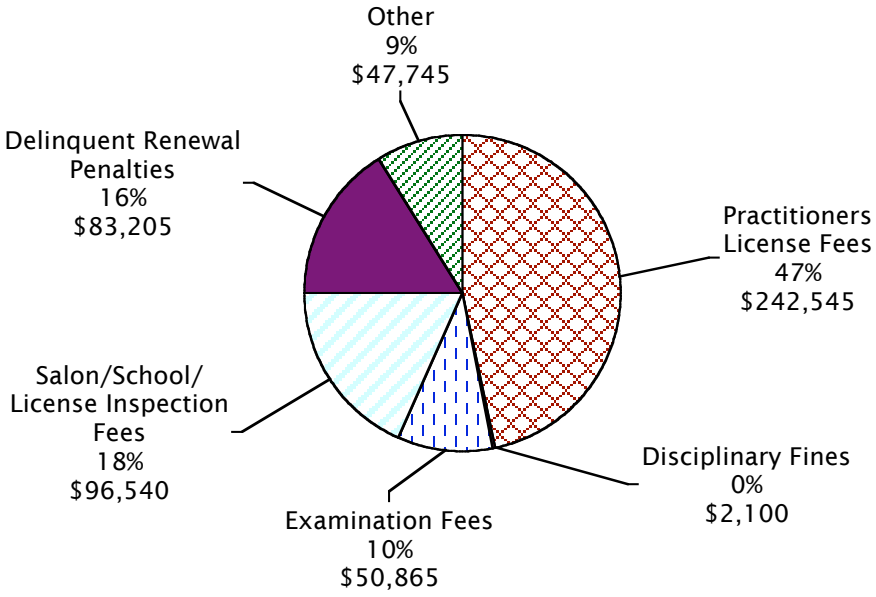

SOURCE: Board of Cosmetology

## Exhibit 5: Fees Charged by the Board of Cosmetology

| Type of Fee | | Amount |
|---|---|---|
| *Examination* | | |
| | Practitioner | $35 |
| | Instructor | 50 |
| *License (initial)* | | |
| | Practitioner | 50 |
| | Master cosmetologist | 70 |
| | Instructor | 80 |
| | Salon | 50 |
| | School | 300 |
| *License (renewal)* | | |
| | Practitioner | 50 |
| | Master cosmetologist | 70 |
| | Instructor | 80 |
| | Salon | 60 |
| | School | 150 |
| *Inspection/reinspection* | | |
| | Salon | 35 |
| | School | 100 |
| *Other* | | |
| | Duplicate license | 10 |
| | Inactive license fee | 15 |

SOURCE: MISS. CODE ANN. Section 73-7-29 (1972)

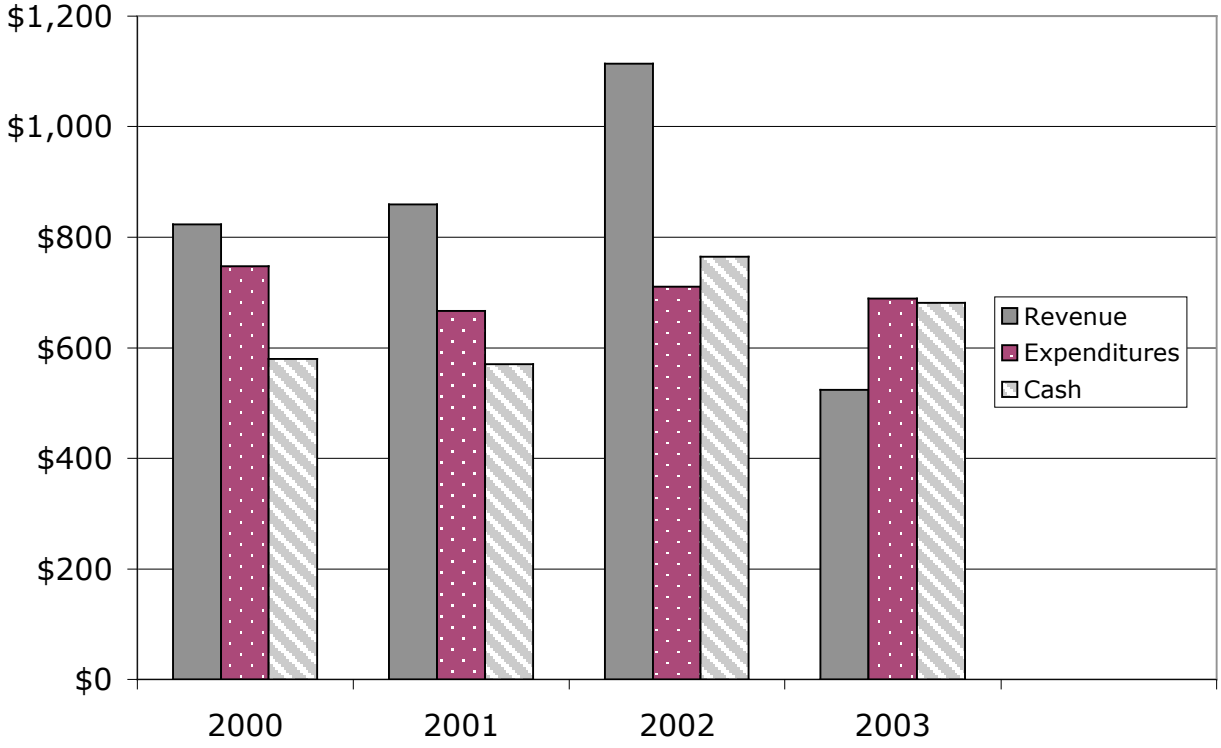
## Exhibit 6: Board of Cosmetology FY 2003 Revenues, by Type




**Total Revenues: $523,000**

SOURCE: Board of Cosmetology

**Exhibit 7: Board of Cosmetology FY 2000-2003 Revenues, Expenditures, and Cash Balances (in Thousands)**




SOURCE: FY 2002 through 2005 Board of Cosmetology budget requests

NOTE: The large increase in revenues in FY 2002 is due to the board's change from annual licenses to biennial licenses in FY 2002. The higher cost of the biennial license resulted in increased revenues from license fees in FY 2002, but the two-year duration of the license resulted in decreased revenues from license fees in FY 2003.

# Need for the Board of Cosmetology

**Risk factors associated with the practice of cosmetology create a need for state government to protect the public. The Mississippi State Board of Cosmetology, if it fulfills its regulatory functions properly, should diminish the profession's risk to the public.**

State government is responsible for protecting the public's health, welfare, and safety. When public health and safety risks exist, measures such as establishing a board to regulate a profession are available to diminish or eliminate the associated risks.

## Risks to the Public

***The nature of the practice of cosmetology presents a risk to the public if practitioners are not properly trained and regulated.***

**All states regulate the practice of cosmetology.**

Risks associated with the cosmetology profession fall into two major categories: transmission of communicable diseases and infections; and physical harm resulting from improper use of equipment and products. Because of the seriousness of these health and safety risks, all states regulate the practice of cosmetology.

The regulatory functions of licensure, inspection, and enforcement provide a safeguard against risk for the consuming public. Without these safeguards in place, the likelihood of untrained practitioners injuring persons or otherwise causing harm is increased.

### Transmission of Communicable Diseases and Infections

**Cosmetology involves physical contact between practitioner and client and use of the same equipment on multiple clients, thus presenting risk for transmitting communicable diseases and infections.**

Because cosmetology involves physical contact between practitioner and client and the use of the same equipment on multiple clients (e.g., combs, scissors, foot baths), there is a risk of transmitting the following types of communicable diseases and infections:

- viral infections such as HIV, hepatitis B and C, and warts;
- bacterial infections such as staphylococcus, streptococcus, and pseudomonas; and,
- fungal infections such as athlete's foot, nail fungus, ringworm, and yeast.

State regulatory boards attempt to address these risks by developing sanitation rules and regulations such as procedures for handling blood spills and disinfecting work surfaces, instruments, materials, and supplies. MISS. CODE ANN. Section 73-7-33 (1972) prohibits anyone having an infectious or contagious disease from practicing cosmetology and also prohibits practitioners from performing work on a patron with a visible disease. The Board of Cosmetology attempts to ensure adherence to sanitation rules and regulations by requiring their inclusion in cosmetology school curricula, testing applicants' knowledge of these rules during the licensing process, and conducting inspections of salons to ensure that practitioners are adhering to the rules in practice. According to Dr. Shelley A. Sekula, M.D., Chairman of the Legislation Committee of the Texas Dermatological Society, adhering to the U. S. Department of Health and Human Services Centers for Disease Control and Prevention's "universal precautions" in the practice of cosmetology would eliminate the risk of contracting viral, bacterial, and fungal infections.

## Physical Harm

**Cosmetology uses a variety of chemicals and tools that could result in physical harm to both the practitioner and client.**

The cosmetology industry uses a wide variety of chemicals and tools (e.g., curling irons, razors, scissors) that could result in physical harm to both the practitioner and client. Potentially harmful chemicals are used in products for hair coloring, lightening, waving, and relaxing; in nail application products; and in chemical peels for the skin. If used improperly, these chemicals can cause hair and nail damage and loss as well as chemical burns to the skin. The fumes from some of these products can cause headaches and respiratory disorders. Further, individuals can be allergic to chemicals used in hair, nail, and skin care products, which is why many manufacturers of these products recommend skin patch testing of the product on the client prior to full application.

Illustrative of the potential danger of products used in the beauty industry is that during the early 1970s, use of a monomer bonding agent containing methyl methacrylate (MMA) was common in the application of artificial nails.

The agent was popular because of its excellent bonding properties; however, the surface bond of the MMA acrylic is so strong to the soft tissue that even a slight trauma to the nail can cause the nail to separate and lift off the nail bed. This can result in serious nail breaks, infection, and loss of the nail plate. As a result of increased awareness of the danger of using the bonding agent, effective July 1, 2001, the Mississippi Legislature amended MISS. CODE ANN. Section 73-7-7 (1972) to require the board to adopt regulations to ensure that no fingernail products used by licensed practitioners contain MMA.

# Licensure

**Although the Board of Cosmetology uses a national examination that has been validated, its state law and practical examinations have not. Thus even though the board has relied on its considerable collective experience in designing the state and practical examinations, without professional validation the board cannot assure that these tests measure the knowledge, skills, and abilities necessary to the competent practice of cosmetology. Also, concerning the board's licensing of practitioners licensed in other states who seek to practice in Mississippi, the board's process is unnecessarily burdensome, could result in arbitrary decisions, and could dissuade competent individuals from seeking licensure.**

## Purpose of Licensure

The purpose of licensure is to restrict the practice of a profession to those individuals who have demonstrated that they possess the knowledge, skills, and abilities necessary to engage successfully in that profession. Generally, professional licensure requires successful completion of formal educational requirements as well as passage of a validated examination. The licensing process should be fair in allowing all applicants who have demonstrated competence to practice and should have no elements that are unnecessarily restrictive, thereby preventing competent applicants from practicing.

## State Laws and Board Rules and Regulations Regarding Licensure

MISS. CODE ANN. Section 73-7-9 (1972) prohibits individuals from operating beauty salons or schools of cosmetology, practicing as instructors or practicing cosmetology, esthetics, manicuring, pedicuring, or wigology without a license or temporary permit from the Board of Cosmetology.

MISS. CODE ANN. Sections 73-7-13 through 23 and 73-7-51 through 57 (1972) establish requirements for licensure of cosmetologists, master cosmetologists (cosmetologists who complete specified additional educational requirements), instructors, schools, salons, estheticians, manicurists, wig salons, and wig specialists. As shown in Exhibit 8 on page 16, state law specifies minimum requirements for admission to examination for a license that include age, ability to communicate in English, general

## Exhibit 8: Minimum Requirements for Admission to Examination for a License Issued by the Board of Cosmetology*

| Type of License | Education | Age | Hours of training from an accredited school | Average grade from training hours | Experience |
|---|---|---|---|---|---|
| Cosmetologist | High school or equivalent | 17 | 1,500 in no less than 9 months | 85% | |
| Master Cosmetologist | High school or equivalent plus 16 hours of study in continuing education approved by the board within the licensing period | 17 | 1,500 | 85% | Holds a current valid Mississippi cosmetologist license, plus one year of active practice. |
| Manicurist | High school or equivalent | 17 | 350 | 85% | |
| Esthetician | High school or equivalent | 17 | 600 | 85% | |
| Wig Specialist | High school or equivalent | 17 | 300 | 85% | |
| Cosmetology Instructor | High school or equivalent and 12 semester hours of college and graduate of accredited school of cosmetology | 21 | 750 | 85% | Holds a current valid Mississippi cosmetology license plus 2 years' active practice or 2,000 hours of instruction |
| Esthetic Instructor | High school or equivalent plus 12 semester hours of college | 21 | 600 | 85% | Holds a current valid Mississippi esthetician's license plus 2 years' active practice or 1,000 hours of instruction |
| Manicuring Instructor | High school or equivalent plus 12 semester hours of college | 21 | 600 | 85% | Holds a current valid Mississippi manicurist's license plus 2 years' active practice or 1,000 hours of instruction |

SOURCE: MISS. CODE ANN. Sections 73-7-13 and 73-7-15; Board of Cosmetology rules and regulations.

*Also, all candidates for examination must be able to read, write, and speak English.

education, and successfully completed hours of instruction from an accredited school. In addition, the board's rules and regulations require all students enrolled in a school as an instructor trainee, cosmetologist, manicurist, esthetician, or wig specialist, to maintain an average grade of not less than 85% in both the theory and practical segments of the course in order to be eligible to apply for examination for licensure.

## Licensing of Schools and Salons

### Licensing of Schools

**During Fiscal Year 2002, the Board of Cosmetology licensed three new schools of cosmetology.**

The Board of Cosmetology has established detailed policies and procedures governing the establishment of cosmetology schools. These policies and procedures specify minimum requirements for space (square footage), equipment, sanitation, student enrollment, curriculum, and records. The school application process includes:

- an initial meeting with the board to discuss plans for operation;
- submission of required application documents, including financial statements; a floor plan with an equipment layout; a city building or fire code inspection; and copies of proposed school catalogs and brochures;
- an initial inspection of the proposed site to determine whether the school meets equipment and square footage requirements established by the board; and,
- a final inspection conducted by the board's school inspector and a board member from the area where the school is located after all equipment and supplies are in place to ensure compliance with minimum equipment and sanitation requirements.

A full board review of the application documents and the final inspection report is required for approval to operate.

During Fiscal Year 2002, the Board of Cosmetology licensed three new schools of cosmetology. The board works with applicants to ensure that they meet requirements.

### Licensing of Salons

**During Fiscal Year 2002, the Board of Cosmetology licensed 549 new salons.**

The Board of Cosmetology has also established policies and procedures governing the establishment of cosmetology salons. These policies and procedures establish required minimum equipment to operate a salon (e.g. an outside sign, one work station for each practitioner, one dryer for every two work stations, one wet sterilizer per practitioner). The policies and procedures also establish additional requirements for home-based salons (e.g., bathroom facilities for the salon must be separate from home facilities).

The board's new salon license application requires the applicant to provide the name and location of the proposed salon, information on the owners including their social security numbers, and a list of the equipment that the salon proposes to have on hand. If the application is in order, the board conducts an inspection of the premises once the salon is set up to operate to determine adherence to all requirements. The board does not issue a license to operate a salon until all of the requirements have been met.

During Fiscal Year 2002, the Board of Cosmetology licensed 549 new salons.

## Licensing of Individuals

In order to obtain a license to practice cosmetology, the applicant must complete an application for examination form that asks for basic information such as the applicant's age; ability to speak, read, and write English; and name of cosmetology school attended. The applicant must successfully complete a three-part examination administered by the board, composed of:

- a national examination testing the applicant's knowledge of professional, health, and safety methods as learned through formal classroom instruction (110 multiple choice questions developed by the National-Interstate Council of State Boards of Cosmetology);
- a thirty-question (multiple choice) written state examination that tests applicants' knowledge of state law and the board's rules and regulations; and,
- a practical examination that tests whether applicants possess minimal skills and knowledge

necessary for the license sought (e.g., cosmetology, manicuring, esthetics, wigology).

To protect the consumer while not overly restricting practice of the profession, both the application and the examinations should establish that the applicant possesses the minimum knowledge and skills necessary to perform the work competently.

## Temporary Work Permits

**The board issued 452 temporary work permits to qualified examination candidates in FY 2002.**

MISS. CODE ANN. Section 73-7-13 (1972) authorizes the board to issue temporary work permits to students who have completed the prescribed hours in an accredited school until the next examination is held. The board's policy limits the permits to a maximum of ninety days and requires a student applying for such a permit to work in a validly licensed salon under supervision of a practitioner holding a current Mississippi license. The permit cannot be transferred from one salon to another. The board rescinds the permit if the applicant fails any portion of the examination or fails to take the examination when scheduled (with allowance made for special circumstances such as illness or death in the family). The board issued 452 temporary work permits to qualified examination candidates in FY 2002.

## License Application

**Licensure applicants must submit a certified transcript documenting completion of required high school or GED coursework with an average grade of not less than 85% in all coursework.**

The Board of Cosmetology requires applicants to document completion of high school by submitting a copy of their diploma, high school transcript, or GED certificate. Also, the applicant must submit two recent photographs and a certified transcript documenting completion of required coursework with an average grade of not less than 85% in all coursework (both theory and practical segments). The board established the 85% minimum average prior to 1984 in an attempt to ensure that graduates would pass the licensure examinations.

## Licensure Examinations

***Although the Board of Cosmetology uses a national examination that has been validated, its state law and practical examinations have not. Thus even though the board has relied on its considerable collective experience in designing the state and practical examinations, without professional validation the board cannot assure that these tests measure the knowledge, skills, and abilities necessary to the competent practice of cosmetology.***

**The Council on Licensure, Enforcement, and Regulation (CLEAR) provides standard professional testing practices for regulatory boards.**

The criterion that PEER uses to determine the adequacy of a licensure examination is whether the examination has been validated. The Council on Licensure, Enforcement, and Regulation (CLEAR)[1] provides standard professional testing practices for regulatory boards. In the CLEAR *Exam Review* (Summer 1995), Norman R. Hertz defined test validity as follows:

> *The validity referred to in licensing examinations is known as content-related validity. An examination is considered content valid if it is based upon the results of an occupational analysis, sometimes called a job analysis or practice analysis. Content-related validity is based on the premise that a candidate who passes a licensing examination is knowledgeable in the required content of the job. It is an inappropriate interpretation to use the results to predict how effective a candidate will be in the occupation.*
>
> *In employment contexts, predictive validity can be established demonstrating that a higher score on employment examinations is associated with higher performance on the job. No such relationship can be established in licensing settings. All who pass the licensing examination are considered competent to practice. Examinations of this type are used to make mastery and non-mastery decisions. Any other use of the scores within these categories is inappropriate.*

Also, according to Eric Werner, CLEAR *Exam Review* (Winter 1990):

> *. . .the work of standard-setting judges should be guided by an analysis of practice*

[1] CLEAR is an international association that provides information, education, and training designed to improve the administrative regulatory practices of government officials and agencies concerned with professional and occupational regulation.

*(e.g., the results of a job analysis), an awareness of knowledge and job-related skills that distinguish acceptable from unacceptable candidates, and familiarity with what the test measures.*

**An examination that has not been validated could undertest the knowledge, skills, and abilities necessary for competent practice or include unnecessarily difficult material beyond the level necessary to establish minimum competence.**

The problem with an examination that has not been validated is that it could undertest the knowledge, skills, and abilities necessary for competent practice of the profession, in which case incompetent applicants could be licensed. Similarly, an exam that has not been validated could overtest (i.e., include unnecessarily difficult material beyond the level necessary to establish minimum competence) and exclude competent applicants from licensure. Also, validation provides examining bodies such as the Board of Cosmetology with a solid legal defense should the examination be challenged in court.

### *National Examination*

The State Board of Cosmetology contracts with the National-Interstate Council of State Boards of Cosmetology to provide a written, validated examination that tests the applicant's knowledge of his or her specialty area.

**The board's national examination has been validated and is periodically reviewed by subject matter experts.**

The examinations developed by the National-Interstate Council of State Boards of Cosmetology (NIC) are based on a current national job analysis of each specialty. The results of the national job analysis are further validated by nationally represented panels of subject matter experts. The council repeats this study every three to five years to accommodate changes in the profession. Also, the study results are continuously monitored and periodically reviewed by subject matter experts. The council also conducts ongoing test analysis and item review activities in accordance with testing industry standards (including those promulgated by CLEAR) to ensure the validity of the national examination.

### *State Examination*

The Board of Cosmetology developed the state examination, which tests on *Laws, Rules and Regulations* published by the board. This test has not been validated (refer to discussion of problems related to failure to validate tests above).

### *Practical Examination*

**The board developed its own state and practical examinations, which have not been validated.**

The Board of Cosmetology also developed the practical examination, which tests basic skills learned through classroom instruction. Like the state examination, the board's practical examination has not been validated.

Exhibit 9, below, lists the skills tested in the board's practical examinations, by specialty. The practical examinations also test the applicant's knowledge of proper sanitation procedures required in the practice of all skills tested.

## Exhibit 9: Skills Tested in the Board of Cosmetology's Practical Examinations, by Specialty

| Specialty | Skills Tested |
|---|---|
| Cosmetology | hair shaping/cutting, waving (both finger and permanent), thermal soft press (use of a heated metal comb for straightening hair), basic wet elements, and hair tinting and bleaching |
| Manicuring | sculptured nails, nail tips, and associated manicure procedures |
| Esthetics | preparation for facial, facial procedures, skin analysis, massage/manipulations, mask (choice and application), client consultation, and cosmetic application |
| Wigology | Fitting and cleaning a wig, hair shaping, style, comb out, braided extensions, electrically fused extensions, extensions by weaving (glued and sewn) |
| Instruction | write a lesson plan and teach a class of fifteen for twenty minutes' duration, teach a one-and-one-half hour skill class on cosmetological procedure assigned at the time of the examination |

SOURCE: Board of Cosmetology

Validation of a practical examination involves many of the same steps as validation of a written examination. Therefore, the information gathered to validate a written examination could also be used to establish the content of a practical examination. As previously discussed, the first step in validating an examination is to identify the knowledge, skills, and abilities necessary to competent practice by conducting a task analysis/job analysis (typically through surveys or focus groups). Creation of a practical examination involves identification of the knowledge, skills, and abilities that can/should be observed objectively rather than tested through a written examination (e.g., the skill of properly executing a blunt cut). Because the primary role of cosmetology examinations is public protection, the practical examinations are structured to test for the particular haircutting skill as well as the applicants' knowledge and use of protective measures in executing the procedure--e.g., in observing an applicant perform a blunt cut, in addition to assessing the execution of the cut objectively, the examiner would look for implementation of proper sanitation procedures in performing the cut and would observe whether the candidate properly draped the client, applied a neck protector, and held the scissors correctly to protect the client from injury.

**The entity that developed the national written exam used by Mississippi's board has also developed a validated practical exam that is not used by the board.**

Although not used by Mississippi's Board of Cosmetology, the NIC has developed a validated practical examination for use by state boards of cosmetology and charges states $15 per applicant tested using the examination. NIC requires that all examiners who use its practical examination obtain certification through the NIC's training course. The training course teaches students how to evaluate practical examination candidates objectively and consistently. Students must pass the training course in order to be certified by NIC.

### *Administration of Licensure Examinations*

**In FY 2002, the board administered 1,350 licensure examinations.**

The board conducts licensure examinations for cosmetologists, manicurists, estheticians, and wig specialists three to five times per month. The board examines instructor candidates when there are at least three applicants. In FY 2002, the board administered 1,350 examinations.

The board takes several steps to ensure that the applicant for the license is the person who takes the examination. For example, the applicant must submit a recent photo and physical description of height and eye color, which is

matched to the individual who comes to take the examination.

The board's school coordinator and designated board members proctor the written state and national examinations. All board members (who are all licensed cosmetologists and some of whom are also licensed instructors) administer the practical examination. To ensure objectivity in grading the practical examination, the board members do not know the names of the applicants or the schools that they attended. Also, board members take turns grading segments of each exam, rotating at least three times through each individual exam. If a board member determines that the person has not passed a segment of the practical examination, a second board member is asked to grade the applicant on that segment. According to the board's Executive Director, when board members disagree on the grading of a segment, they confer until they reach consensus.

**Any applicant who has failed any one of the board's examinations after three attempts is not eligible for reexamination until the applicant has returned to a school for additional training.**

The board's policy sets the passing score on written examinations for cosmetologists, manicurists, wig specialists, and estheticians at 70, and the passing score for instructors at 75. Should the applicant fail one or more parts of any of the examinations, the applicant must be reexamined in those areas. The board's policy specifies that any applicant who has failed any one of the examinations after three attempts is not eligible for reexamination until the applicant has returned to a school for additional training. The applicant is required to retake only the portion of the examination that he or she failed, up to a period of three years (after which the applicant must retake the entire examination).

Exhibit 10, below, shows the pass rates for the board's written national and state examinations and practical examinations for Calendar Year 2002.

## Exhibit 10: Calendar Year 2002 First-attempt Pass Rates for the Board of Cosmetology's Written and Practical Examinations

| | Type of Examination | | |
|---|---|---|---|
| **Specialty** | **Written National** | **Written State** | **Practical** |
| Cosmetology | 71% | 82% | 80% |
| Manicuring | 89% | 91% | 97% |
| Esthetics | 87% | 83% | 100% |

*Note: Due to a lack of applicants, the board did not administer a wig specialist examination during Calendar Year 2002.*

SOURCE: Board of Cosmetology.

## Demonstrator's Permit

MISS. CODE ANN. Section 73-7-25 (1972) requires demonstrators in the field of cosmetology to obtain a permit to operate for one year. The permit allows them to provide demonstrations of various products to salons and schools, but not to demonstrate any cosmetological procedures (e.g., styling, cutting hair). Demonstrators are not required to be licensed cosmetologists.

## Continuing Education Requirements for Licensed Instructors

MISS. CODE ANN. Section 73-7-15 (5) (1972) requires that every two years all instructors acquire twenty-four hours of continuing education. Instructors who fail to obtain the required continuing education are not allowed to instruct or enroll students until such education requirement has been met. The board monitors compliance with continuing education requirements by requiring the board's pre-approval of all continuing education courses and requiring course instructors to submit a sign-in sheet (which includes the licensee's social security number and hours of attendance) to the board.

## Licensing Reciprocity

***The board's reciprocal licensing process is unnecessarily burdensome, could result in arbitrary decisions, and could dissuade competent individuals from seeking licensure.***

MISS. CODE ANN. Section 73-7-23 (1972) provides that the board may issue a reciprocal license to any cosmetologist, esthetician, manicurist, or wig specialist. The practitioner must be over the age of seventeen years and must have satisfactorily completed the required number of accredited hours in another state, provided that that state board issues licenses under the same conditions. The Mississippi State Board of Cosmetology has established licensing reciprocity with Arkansas, Kansas, Louisiana, Minnesota, Montana, Nevada, Rhode Island, South Carolina, Tennessee, Vermont, and West Virginia.

**Because in the past some applicants obtained licenses using false identities, the board now requires a personal interview as part of the reciprocal licensing process.**

According to the board's rules and regulations, an applicant for a reciprocal license to practice in Mississippi must complete and submit to the board an application of intent to apply for reciprocity licensure. The board requires certification of the applicant's training hours and evidence that the licensee is in good standing.

In response to several cases in which out-of-state applicants were able to obtain licenses to practice in Mississippi using false identities, approximately six years

ago the board began requiring a personal interview as part of the licensing process. The stated purpose of the interview is to discuss the application, verify the applicant's age, identity, and ability to read, write, and speak English and to inform the applicant of any deficiencies in the application. However, the board's reliance on a personal interview rather than written documentation potentially introduces subjectivity into a process that should be strictly objective. It is possible that applicants are not asked the same questions during the personal interview and decisions regarding licensure are based on factors not contemplated in state law.

**The board's reliance on a personal interview rather than written documentation potentially introduces subjectivity into a process that should be strictly objective.**

Following the personal interview, the board also requires applicants to then complete another application that asks for the same information as required by the first form, with the exception of the school in which training was acquired and the state in which the individual is currently licensed. This is unnecessary and could be construed as harassment and an effort to dissuade competent individuals from seeking licensure to practice their occupation in the state of Mississippi.

# Enforcement

**The Board of Cosmetology has the inspection and complaint handling systems in place to enforce the state's laws, rules, and regulations related to cosmetology, but it does not use all of these tools to the greatest extent possible, thus weakening its enforcement effectiveness.**

The Board of Cosmetology enforces laws, rules, and regulations governing the profession by conducting an inspection program and investigating complaints made to the board.

MISS. CODE ANN. Section 73-7-27 (10) (1972) authorizes the board to impose fines upon a licensee or holder of a certificate in accordance with the following schedule:

(a) first violation, a fine of not less than fifty dollars nor more than one hundred dollars for each violation;

(b) second and each subsequent violation, a fine of not less than one hundred dollars nor more than four hundred dollars for each violation.

Also, the board's rules state that when there is a failure to correct, or a repeat violation is found on a subsequent inspection within a three-year period, the staff will recommend an administrative hearing during regularly scheduled monthly meetings to consider possible disciplinary action against the licensee or for referral to the proper city/county authorities. MISS. CODE ANN. Section 73-7-29 (1972) requires the board to assess a delinquent renewal penalty for practitioners who are late in renewing their licenses as follows:

| Type of Penalty | Number of Days Delinquent | Amount of Penalty |
|---|---|---|
| Delinquent renewal penalty (cosmetologist, manicurist, esthetician, wig specialist, and instructor) | 60 days to 1 year | $25 + license fee |
| | Over 1 year to 3 years, per year | $50 + license fee |
| Salon delinquent renewal penalty | 60 days to 1 year | $25 + license fee |
| | Over 1 year | $45 + license fee |

Also, in accordance with MISS. CODE ANN. Section 73-51-1 et seq. (1972), the board can petition the chancery court to enjoin any person engaging in the unlicensed practice of those professions regulated by the Board of Cosmetology. (PEER notes that the penalties provided in law are relatively low and do not offset the expenses incurred by the board to conduct hearings relative to noncompliance with state laws or the board's rules and regulations.)

## Inspections

**Each year the board's inspectors conduct at least one unannounced inspection of each of the state's salons and cosmetology schools.**

To ensure compliance with laws, rules, and regulations governing the practice of cosmetology, the board's five inspectors annually conduct at least one unannounced inspection of each of the state's 4,109 licensed salons and forty-two licensed cosmetology schools using a standard inspection form.

### Board Rules Regarding Inspections and Violations

According to Board Rule 110, any instances of noncompliance with laws, rules, and regulations governing the practice of cosmetology and related professions must be documented in writing by the board's inspectors on one of two prescribed forms:

- a violation report form for establishments and individuals licensed by the board; or,
- a "Complaint of Agent of the State Board of Cosmetology, Unlicensed Practice" for establishments and individuals not licensed by the board.

The inspector is to provide copies of these forms to the salon owner and any employees who fail to meet any standards included on the board's inspection form, with instructions on each violation report to complete the reverse side immediately by indicating in writing how the cited violation(s) will be corrected. The licensee is to sign and date the form and forward the information to the board's office.

## Adequacy of the Board's Inspection Forms

***The board's school and salon inspection forms cover the most critical laws, rules, and regulations established to ensure safe and competent provision of cosmetology and related services.***

The Board of Cosmetology has developed inspection forms for use in documenting inspections of salons and cosmetology schools. The Board of Cosmetology's salon inspection form focuses on compliance with laws, rules, and regulations governing safety, sanitation, and licensing (a copy of the salon inspection form is contained in Appendix A on page 43). The inspection form covers all requirements established in state law and the board's rules and regulations (e.g., Board Rule 803.VII.H requiring solid waste and refuse to be kept in containers with tight-fitting lids).

The board's school inspection form focuses on compliance with laws and the board's rules and regulations governing safety, sanitation, and licensing (a copy of the school inspection form is contained in Appendix B on page 44).

## Results of Review of Selected Inspection Reports

***Board inspectors do not complete all items on the survey forms and do not write violation reports for all violations, as is required by the board's policy.***

PEER reviewed a random selection of twenty-nine salon inspection reports and seven cosmetology school inspection reports to determine whether inspectors were addressing all items on the form and issuing violation reports for all instances of documented noncompliance.

### *Failure to Address All Items on the Inspection Form*

*In the sample reviewed by PEER, the board's inspectors did not address twenty-five items on inspection forms, most of which pertained to the posting of an outside sign or posting of the board's rules and regulations governing sanitation.*

PEER reviewed twenty-nine salon and seven school inspection forms and found twenty-five instances in which inspectors failed to make any notation regarding at least one item listed on the inspection forms. Most of the omitted items pertained to the presence of an outside sign (Board rule 702 requires salons to have an outside sign) or the posting of rules and regulations governing sanitation (Board rule 802 requires that each licensed salon must post a copy of the rules and regulations governing sanitation in a place conspicuous to the public). (PEER notes that the copy of rules and regulations governing

sanitation that the board requires salons to post does not contain board contact information, which would assist a consumer in reporting any observed violations.)

### *Failure to Write Violation Reports*

*In the sample reviewed by PEER, the board's inspectors did not issue eleven violation reports when required by the board's rules to do so.*

As noted on page 28, according to Board Rule 110, all violations of laws, rules, and regulations must be documented in writing by the board's inspectors on a "violation" report form.

**When inspectors do not write up a violation report, no record exists to document that the alleged violation occurred. This diminishes the enforcement options available to the board if subsequent violations of the same type are detected.**

PEER found eleven cases in which the inspector should have issued violation reports due to noncompliance but did not do so. PEER found instances where inspectors allowed some practitioners to correct sanitation problems while they wrote up others in a violation report. When inspectors do not write up a violation report, no record exists to document that the alleged violation occurred. This diminishes the enforcement options available to the board if subsequent violations of the same type are detected, as more severe penalties are available under state law and board policy for repeat violations (e.g., increased fines, referrals for administrative hearings).

Eight inspection reports should have resulted in violation reports for licenses that had been expired for from sixty days to three years. In the eight cases identified by PEER, inspectors allowed the salon and practitioner to purchase money orders to pay license fees and delinquent renewal penalties without issuing a violation report.

One possible reason for the number of violations dealing with the expiration of licenses is that the board does not contact licensees regarding license renewal. Although the Board of Cosmetology attaches a renewal form to each license that it issues, this is an impractical method of initiating license renewals. The licensee is expected to keep up with the form until the license is expired (licenses are issued for two years), then return the renewal fee with the form to the board's offices. According to the board's Executive Director, she does not mail renewal notices to practitioners at the time that an applicant's license is about to expire because she stated that practitioners move frequently, which results in returned mail.

## Handling of Complaints

***Although the board has a formal process in place to investigate complaints, it does not have a formal process for categorizing and analyzing the types of complaints received in order to develop ways to reduce the recurrence of problems in the future. Also, the board has not established a formal fine structure that would guide it in imposing similar fines for similar violations of state law and board rules and regulations.***

### Board Rules Regarding Handling of Complaints

*The board has a formal process in place to investigate complaints alleging misconduct or violations of statutes, rules, or regulations.*

MISS. CODE ANN. Section 73-7-27 (1972) and Section 111 of the board's rules and regulations authorize the board to investigate complaints alleging misconduct or violations of statute, rules, or regulations.

The board's rules stipulate that a complaint must be in writing, on a form prescribed by the board. Anyone can file a complaint with the board. A complaint form can be obtained from any inspector or from the board's office.

At the next regularly scheduled meeting of the Board of Cosmetology following receipt of the complaint, the Executive Director seeks authority to investigate the complaint by a majority vote of the board.

**The board has the authority to enter the premises of a school of cosmetology or salon at any time during regular business hours to conduct an investigation.**

The board has the authority to enter the premises of a school of cosmetology or salon at any time during regular business hours to conduct an investigation. Unless prior notice would compromise the investigation, the board notifies the accused licensee of the complaint, specifically stating the section of state law, rules, and regulations that the licensee has allegedly violated.

Upon completion of the investigation, the assigned inspector forwards the investigation results to the Executive Director, who either determines that the case is ready for presentation to the board or asks that the inspector obtain additional information.

At the next board meeting following completion of the investigation, the inspector presents the results of the investigation to the board. A majority of the members may move to dismiss the complaint or initiate a formal hearing on the complaint. The board notifies both the complainant and the accused of its decision.

## Adequacy of the Board's Analysis of Complaints

*The board does not have a formal process for categorizing and analyzing the types of complaints received in order to develop ways to reduce the recurrence of problems in the future.*

**The board received 75 complaints from January 2000 through July 2003, primarily allegations of unsanitary conditions, unlicensed salons and operators, and malpractice.**

The board received seventy-five complaints during the period of January 2000 through July 2003. In terms of the nature of the complaints, the primary allegations concerned unsanitary conditions, unlicensed salons and operators, and malpractice (e.g., hair loss and damage due to improper procedures). The board dismissed forty-three (57%) of the complaints following investigation and dismissed twenty-three of the complaints based on failure of the complainant to follow through with the board's requirements governing the filing of a complaint. The board conducted administrative hearings on the remaining nine cases.

While the board investigates individual complaints that it receives, it does not have a formal process for categorizing and analyzing the types of complaints received in order to develop ways to reduce the recurrence of problems in the future and reduce the number of complaints received in a given area.

## Adequacy of the Board's Disposition of Complaints

*The board has not established a formal fine structure that would guide it in imposing similar fines for similar violations of state law and board rules and regulations. PEER's review of a sample of six complaint investigations yielded three cases in which the board did not fine individuals for practicing without a current license and one case where the board failed to refer a malpractice (health and safety issue) complaint to the Board of Barber Examiners.*

A formal fine structure establishes in writing the categories of violations with corresponding levels of fines. The Board of Cosmetology has not adopted such a structure, instead considering each case on an individual basis.

**The Board of Cosmetology considers each violation on an individual basis.**

To examine the effects of the absence of a formal fine structure, PEER randomly selected seven complaints (two on the same individual; listed as complaint #4 on Exhibit 11 on page 33) from seventy-five complaints listed on the board's complaint log sheet for the period of January 2000 through July 2003 to review their disposition. PEER found problems with the board's disposition of four of the six cases reviewed.

## Exhibit 11: Summary of PEER's Sample of Complaints and their Disposition

| Description of complaint | | Investigation | Administrative Hearing | Disposition |
|---|---|---|---|---|
| *Unlicensed practice:* | | | | |
| 1 | Cosmetologist operating with a suspended license* | √ | √ | suspension of the cosmetologist's salon license |
| 2 | Unlicensed individual practicing with another individual's cosmetologist license | √ | √ | $400 fine levied on salon owner |
| 3 | Unlicensed instructor | √ | | Instructor had been unlicensed for three years; board required the instructor to retake the examinations to become re-licensed in accordance with state law because the license had lapsed three years |
| *Malpractice:* | | | | |
| 4 | Application of permanent solution resulted in hair damage and loss | | | Dismissed; board determined the case was "out of their jurisdiction" because salon was no longer licensed by Board of Cosmetology and practitioner had never been licensed as a cosmetologist |
| 5 | Nail service caused staph infection | √ | | Dismissed; unsubstantiated that nail salon was the cause |
| *Malpractice and Unsanitary Conditions:* | | | | |
| 6 | Hair tinting resulted in hair damage; cat drinking from toilet in salon | √ | | Dismissed; unsubstantiated that there was hair damage or that the salon was not clean; salon license had expired for one year and practitioner/owner's cosmetology license had expired for three years; no fine; individual required to take practical examination |

SOURCE: PEER analysis of Board of Cosmetology's complaint files.

* In accordance with MISS. CODE ANN. Section 93-11-157 (1972), the board suspended the cosmetologist's license for a failure to make child support payments.

Two of the cases reviewed involved practitioners whose licenses had been expired for over three years at the time of the complaint. The board disposed of these cases properly by requiring the individuals to retake and pass the examination in order to obtain current licenses. One of the cases also involved a salon license that had expired for one year. The board's rules require that a salon owner who fails to renew his/her salon license within one year from date of expiration must make a new application for licensure, including payment of an inspection fee for the required inspection. The board did not impose a penalty and did not require that the individual pay the costs that he or she should have paid for having an active license during the lapsed period, even though required to do so under MISS. CODE ANN. Section 73-7-29 (1972). Failure to penalize a person for operating without a license provides no incentive to comply with licensure requirements. The individual operating in this manner saves on the cost of a license for as long as the practice goes undetected and does not have to pay a fine if he or she is caught.

The third licensure case involved an individual who was not licensed to practice cosmetology practicing with another person's license. While the board did impose a $400 fine on the salon that employed the individual, the board did not seek injunctive relief against the individual who was operating without a license.

In the fourth case, the board dismissed the case because the salon was no longer licensed by the Board of Cosmetology and the practitioner had never been licensed as a cosmetologist. Although the Board of Cosmetology stated in its letter to the complainant that it was "possible" that the salon and practitioner were licensed by the Board of Barber Examiners, there was no evidence in the file to indicate that the Board of Cosmetology had attempted to verify this with the Board of Barber Examiners. PEER verified with the Board of Barber Examiners that the salon had been licensed by the Board of Barber Examiners at the time of the complaint. This case points out the jurisdictional problems that can arise when two boards attempt to regulate two professions with such similar practices (see discussion on page 36). In this case, the Board of Cosmetology assumed that the Board of Barber Examiners still licensed the practitioner and establishment. Without verifying this information, the Board of Cosmetology could have ignored a case of unlicensed practice. If both licenses had expired, it is possible that neither board would investigate the salon for unlicensed practice because they each might assume that

the other was responsible for the case. Further, the Board of Cosmetology did not notify the complainant of how to get in touch with the Board of Barber Examiners. As shown by this case, the consuming public is confused as to which board to contact with complaints.

## Imposition of Fines and Administrative Hearing Requirements

***The board does not consistently impose the fines authorized by state law for licensees' noncompliance, nor does it consistently impose administrative hearing requirements, thus weakening enforcement effectiveness.***

The authorization to impose fines strengthens the board's enforcement power by providing consequences for noncompliance. Repeat violators would feel a financial burden of noncompliance, particularly if the board chose to impose the maximum penalty.

**The Board of Cosmetology's inspectors often give first-time violators the opportunity to correct the violation without writing up a violation report.**

Upon reviewing the board's files, PEER found that when discovering violations through inspections or investigations, the Board of Cosmetology's inspectors often give first-time violators the opportunity to correct the violation without writing up a violation report.

Also, as noted on page 27, when there is a failure to correct, or a repeat violation is found on a subsequent inspection, the board's rules state that the staff is to recommend to the board an administrative hearing to consider possible disciplinary action against the licensee. A second offense of the same violation within a three-year period is to be recommended to the board for an administrative hearing or for referral to the proper city/county authorities.

**Because they do not fear consequences that could be imposed by the board, licensees may fail to take the board's enforcement power seriously and they may fail to comply with critical health and safety requirements.**

The board's failure to impose consistently the fines authorized by law for noncompliance, its failure to require violators to participate in administrative hearings, and its failure to seek injunctive relief for unlicensed practice consistently weaken its effectiveness in enforcing laws, rules, and regulations regarding the cosmetology profession. Because they do not fear consequences that could be imposed by the board, licensees may fail to take the board's enforcement power seriously and they may fail to comply with critical health and safety requirements.

# Overlap in Practice of Cosmetologists and Barbers

**The overlap in the scope of practice regulated by the Board of Cosmetology and the Board of Barber Examiners in Mississippi is significant and makes differentiating between the jurisdictions of the two boards difficult.**

The overlap between the legal definitions of barbering and cosmetology is so significant that it makes attempts at differentiating between the two difficult. State law limits the barber's practice to "the upper part of the human body" (MISS. CODE ANN. Section 73-5-39 [1972]), while state law allows cosmetologists to perform their services "on a person's head, face, neck, shoulder, arms, hands, legs or feet for cosmetic purposes" (MISS. CODE ANN. Section 73-7-2 [1972]). Exhibit 12, page 37, compares the practices included in the legal definitions of cosmetology versus barbering. Although, as the exhibit shows, the cosmetology and barbering professions are very similar, under state law the Board of Cosmetology also regulates the professions of manicuring, esthetics, and wigology.

Laws regulating the practice of barbering and laws regulating the practice of cosmetology each contain a provision for licensing the other profession. The cosmetology statutes (MISS. CODE ANN. Section 73-7-13 [1972]) provide that:

> *Any barber who can read, write and speak English and has successfully completed no less than fifteen hundred (1500) hours in an accredited barber school, and who holds a current valid certificate of registration to practice barbering and who holds a current valid license, is eligible to take the cosmetology examination to secure a cosmetology license upon successfully completing five hundred (500) hours in an accredited school of cosmetology.*

The barbering statutes (MISS. CODE ANN. Section 73-5-12 [1972]) provide that:

> *Any cosmetologist who can read, write and speak English and has successfully completed not less than fifteen hundred (1500) hours in an accredited school of cosmetology, and holds a valid, current license, shall be eligible to take the barber examination to secure a certificate of registration as a barber upon successfully*

*completing five hundred (500) hours in a barber school approved by the Board of Barber Examiners.*

Neither the Board of Cosmetology nor the Board of Barber Examiners keeps a list of dually licensed individuals.

## Exhibit 12: Comparison of Practices Included in Legal Definitions of Cosmetology versus Barbering

| Practice | | Cosmetology | Barbering |
|---|---|---|---|
| Hair: | | | |
| | cutting | √ | √ |
| | clipping | √ | |
| | shaving | | √ |
| | trimming | √ | √ |
| | styling | √ | |
| | arranging | √ | |
| | dressing | √ | |
| | curling | √ | |
| | waving | √ | √ |
| | permanent waving | √ | √ |
| | straightening | √ | √ |
| | cleansing/shampooing | √ | √ |
| | bleaching | √ | √ |
| | tinting | √ | √ |
| | coloring/dying | √ | √ |
| | singeing | | √ |
| | similar treatment | √ | |
| | arching eyebrows | √ | |
| | tinting eyebrows/eyelashes | √ | |
| | remove superfluous hair with depilatories | √ | |
| Body Applications: | | | |
| | oils | √ | |
| | antiseptics | √ | √ |
| | clays | √ | √ |
| | lotions | √ | √ |
| | powders | | √ |
| | other preparations | √ | |
| | cosmetic preparations | | √ |
| | manicuring/pedicuring | √ | |

SOURCE: PEER analysis of MISS. CODE ANN. Sections 73-5-39 and 73-7-2 (1972).

**Arguments for merging the boards include possible savings in administrative costs, consistency in regulation, and improved consumer access.**

Arguments for merging the boards include possible savings in administrative costs, consistency in regulation, and improved consumer access. One example of a consumer access problem posed by the existence of two boards is the incident discussed on page 34 of this report. When the Board of Cosmetology investigated a malpractice complaint regarding the application of a permanent solution that resulted in hair damage and loss, the board determined that the case was out of its jurisdiction because it had not licensed the salon in question. The board did not verify that the salon was licensed by the Board of Barber Examiners, but notified the complainant that such was "possible," yet did not give contact information for the Board of Barber Examiners. As shown by this case, the consuming public could easily be confused as to which board to contact with complaints.

Arguments expressed against combining regulation include the following:

- the cosmetology profession is "broader";
- barbers feel that their profession will be lost.

# Recommendations

## Licensure

1. The Board of Cosmetology should have its state law and practical examinations validated in order to ensure that they measure the knowledge, skills, and abilities necessary to entry-level competent practice.
2. The Board of Cosmetology should review its process for granting reciprocal licenses to eliminate subjectivity and possible exclusion of qualified candidates. To ensure that applicants meet the statutory requirement that they can read, speak, and write English, the board should consider developing a valid reading comprehension test for applicants. Applicants could be required to answer some questions in writing and some orally to measure their ability to read, write, and speak English. The board should also rely on information obtained through a background check to the extent possible to verify applicants' education, experience, and identity.
3. The Board of Cosmetology should reconsider its practice of issuing temporary work permits to students who have completed the prescribed hours in an accredited school until the next examination is held.

## Enforcement

4. The Board of Cosmetology's inspectors should complete all items on inspection forms in order to ensure that the licensee is carrying out all activities designed to protect the public.
5. The Board of Cosmetology's inspectors should write violation reports for all violations in order to maintain a record that serves as the basis for determining appropriate penalties.
6. The Board of Cosmetology should categorize and analyze the complaints that it receives in order to reduce their recurrence through the adoption of necessary measures such as possible changes to rules and regulations.

7. The Board of Cosmetology should enforce laws and regulations related to the unlicensed practice of cosmetology.

8. The Board of Cosmetology should adopt a formal fine structure based on severity of the violation and consistently impose fines according to this structure in order to deter individuals from violating laws, rules, and regulations governing the practice of cosmetology.

9. The Legislature should amend MISS. CODE ANN. Section 73-7-27 (1972) to increase the fines provided for as follows:

    a. for the first violation—not less than $100 nor more than $200;

    b. for the second and each subsequent violation—not less than $200 or more than $500.

    The Legislature should also amend MISS. CODE ANN. Section 73-7-29 (1972) to increase delinquent renewal penalties for cosmetologists, manicurists, estheticians, wig specialists, and instructors as follows:

    c. 60 days to one year--$50 plus license fee;

    d. over 1 year to three years, per year--$100 plus license fee.

    In the same CODE section, the Legislature should also increase the salon delinquent renewal penalty as follows:

    60 days to one year--$50 plus license fee

    and remove the delinquent renewal penalty for over one year because the board requires a salon that has let its license expire for over a year to apply for a new license.

## Overlap in Practice of Cosmetologists and Barbers

10. In order to improve the efficiency and effectiveness of regulation of the professions and in order to reduce confusion on the part of the consuming public, the Legislature should consider merging the Board of Barber Examiners and the Board of Cosmetology by creating a new board with five cosmetologist members and five barber members. This board would carry out the regulatory functions of both agencies and regulate all of the professions currently regulated by the two boards. The new board should repeal in

three years. While it is in operation, the new board should propose to the Legislature a single regulatory program embracing all functions currently licensed as barbering and cosmetology.

# Appendix A: Board of Cosmetology's Salon Inspection Form

Date _____

Agent _____

Mississippi State Board of Cosmetology
**Inspection Report**

Outside Sign ☐ Yes ☐ No

Rules and Regulations Posted ☐ Yes ☐ No

County _____

City _____

Salon Name _____

Salon Address _____

Salon License Posted? _____ Registration # _____ Exp Date _____

Owner/Manager Name _____

Manager Licensed? Yes ☐ No ☐ Manager Reg # _____ Exp Date _____

| List Practitioners: Name | Registration Number | Expiration Date | Lic. Posted |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

**Floors** *Non Porous/cleanable* _____ *Hair/Nail clippings removed from floor after each client* _____

**Work Stations** *Clean:* _____ *Comment* _____

**Wet Disinfectant** *Bactericidal, virucidal, fungicidal* _____ *Hospital Grade* _____ *Clean* _____

**Disinfected Implement Storage** *Container Clean* _____ *Container Closed* _____ *Implements Clean* _____

**Implements used on patrons** *Removed from Work Station* _____ *Stored in labeled receptacle provided for that purpose* _____

**Bottles and Containers** *Correctly Labeled* _____ *Poisonous substances stored separately* _____

**Creams and Lotions** *Closed (When not in Use) Containers* _____ *Clean* _____ *Comment* _____

**Wax** *Clear, not cloudy* _____ *Contains no debris* _____

**Towels & Linens** *Clean, stored in closed cabinet* _____ *Soiled deposited in closed receptacle* _____

**Drinking Water** *Type* _____ *Paper Cups* _____ *Sanitary* _____ *Stream Regulated (Fountain)* _____

**Waste Containers** *Clean* _____ *Closed* _____

**COSMETOLOGY:**

**Shampoo Bowls & Chairs** *Clean* _____ *Good Repair* _____ *Hot & Cold Water* _____ *Pressure Adequate* _____

*Headrest provided with clean towel or paper sheet for each patron* _____

**Hair Dryers** *Clean* _____ *Good repair* _____

**MANICURING:**

**Manicure Table & lamps** *Clean & in good Repair* _____ *Patron towel/ hand rest clean* _____ *Finger bowl clean* _____

*Implements in use during manicure placed in 70% solution of alcohol* _____ *Comment* _____

**Electric Nail File** *In Use?* _____ *Cert Posted* _____ *ID No* _____ *Training Inst* _____

**Acetone** *No more than 2 gallons* _____ *Properly labeled & Stored* _____

**ESTHETICS:**

**Treatment Beds, Tables, or Chairs** *Clean & in Good Repair* _____ *Located for patron privacy* _____

**Water supply** *Lavatory in each treatment area* _____ *Comment:* _____

**Toilet Facilities** *Clean* _____ *Good Repair* _____ *Well lighted* _____ *Ventilated to Outside Air* _____

*Lavatory* _____ *Soap* _____ *Individual Towels* _____ *Covered Waste Container* _____

**Findings & Infractions** _____

Signature of Salon Owner or Manager



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Rev. 1

**Inspection Report**
**STATE OF MISSISSIPPI**
**Board of Cosmetology**
**SCHOOLS**

_____ Date
_____ Inspector
_____ County
_____ City or Town

**School Name:** _____

Outside sign_____ School License Posted?_____ Reg. No._____ Exp. Date_____

Managing Instructor_____ Reg. No._____ Exp. Date_____ Posted?_____

List Instructors

| Name | Reg. No. | Expiration | License Posted |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Use additional sheet if necessary

Rules & Regulations Posted? _____ Student work sign posted? _____ Are all students & instructors properly identified with badges?_____ Comment: _____

**SANITATION:**

**Interior:** Condition — Acceptable_____ Unacceptable_____ Comment _____

Sanitation — Acceptable_____ Unacceptable_____ Comment _____

**Waste:** Tight Fitting Lids? Comment _____

**Water Supply:** Hot and Cold, under pressure, adequate? _____

**Drinking Water Facilities:** Paper Cups?_____ Slant Spray Fountain?_____ Sanitary?_____

Stream Properly Regulated?_____ Comments _____

**Toilet Rooms:** How many?_____ Clean?_____ Good Repair?_____ Well Lighted?_____

Ventilated to outside air? _____ Lavatories? _____ Hot & Cold Running Water? _____

Soap?_____ Individual Towels?_____ Comments _____

**Student Work Stations/adjustable chairs & mirrors:** How many? _____ Clean? _____ Good working order?_____ Student daily report at station?_____ Comments _____

**Dryers:** How many? _____ Clean? _____ Good Repair? _____ Back Bar Clean? _____

**Shampoo Bowls/Chairs:** How many? _____ Clean? _____ Good Repair? _____ Back Bar Clean? _____

**Towels:** Closed Cabinet?_____ Soiled towel covered container? _____

**Manicure Tables/stools:** How many? _____ Clean? _____ Good Working Order? _____

**Dispensary:** Clean? _____ Well stocked? _____ All bottles/containers correctly labeled? _____ Closed? _____

**Sanitizing Instruments:** Indiv. jars? _____ Bulk? _____ Adequate solution? _____ Clean? _____

Dry Sanitizer: Closed Container? _____ Adequately Identified? _____ Drawer? _____

Clean?_____ Comments _____

**Enrollment:**

Total enrollment? _____ Time clock? _____ Sign-in Sheet? _____ Does it appear that all students have signed/clocked in?_____ Comments _____

Student Instructor _____ License Posted?_____

use additional sheet if necessary

Reg. No. _____ Expiration date _____

**Findings & Infractions:** _____

_____ Signature of Director or Lead Instructor

# MISSISSIPPI STATE BOARD OF COSMETOLOGY

## Response to Recommendations of PEER Review

**Recommendation Number 1:**

**The Board of Cosmetology should have its state law and practical examinations validated in order to ensure that they measure the knowledge, skills, and abilities necessary to entry-level competent practice.**

The members of the Board, by law, must have been licensed for no less than ten years, thus bringing with their appointment a minimum of ten years of experience and *an awareness of knowledge and job related skills that distinguish acceptable from unacceptable candidates and a familiarity (with what the test measures).*

In developing the current practical examination, the Board reviewed and re-reviewed the skill criteria to established curriculum and standard text book procedures. Workshops were scheduled to work with and receive input from licensed Mississippi Cosmetology instructors. Upon its completion, all licensed instructors were invited to review the revised examination and make suggestions for changes prior to its implementation.

The Board however, does recognize the merits of having the examination validated by experienced test developers, and will implement a research project to determine how best to affect the validation of the examinations, and upon completing the project, will incorporate a request for funding of same.

**Recommendation Number 2:**

**The Board of Cosmetology should review its process for granting reciprocal licenses to eliminate subjectivity and possible exclusion of qualified candidates. To ensure that applicants must meet statutory requirement that they can read, speak and write English, the board should consider developing a valid reading comprehension test for applicants. Applicants could be required to answer some questions in writing and some orally to measure their ability to read, write and speak English. The board should also rely on information obtained through a background check to the extent possible to verify applicants' education, experience and identity.**

We will review our current reciprocity process to attempt to eliminate any opportunity for subjectivity and/or possible exclusion of qualified candidates, e.g., the Board will develop a valid reading comprehension test for applicants which will be administered to measure their ability to read, write and speak English. In addition, the Board will, to the extent possible, verify applicant's education, experience and identity through written resources.

The board has directed that the reciprocity provisions with other states be reviewed to assure maximum licensing of qualified candidates from other states. The staff is in the process of implementing this directive and the implementation will be ongoing until the staff can provide the board with comprehensive feed back regarding reciprocity licensing.

**Recommendation Number 3:**

**The Board of Cosmetology should reconsider its practice of issuing temporary work permits to students who have completed the prescribed hours in an accredited school until the next examination is held.**

Within the past three years, the Board has not received any complaints of violation of Board's Laws, rules or regulations against any individuals working under the authority of a permit; however the Board has received four complaints against students who have completed their training and were found to be working without a permit or any other license.

In support of the work permit, it allows students who have qualified for examination an opportunity to enter the work force under the direct supervision of a licensed practitioner. This affords the individual who has a permit an opportunity earn money, contribute to the economy, and refine skills in a supervised setting, just as they have been doing during the training period, when they were at that time allowed to provide services to patrons under the supervision of an instructor.

A cursory check of various states - which has not been exhaustive – reveals that at least eleven other states also use permits, i.e. Alabama, Alaska, Delaware, Ohio, West Virginia, Indiana, Colorado, Arkansas, Arizonia, Texas, and Virginia.

**Recommendation Number 4:**

**The Board of Cosmetology's inspectors should complete all items on inspection forms in order to ensure that all activities designed to protect the public are being carried out by the licensee.**

We concur completely, and in order to emphasize the importance of accurately completing all items on inspection forms, future performance evaluations of inspectors will address this issue.

**Recommendation Number 5:**

**The Board of Cosmetology's inspectors should write violation reports for all violations in order to maintain a record that serves as the basis for determining appropriate penalties.**

The Board concurs, and will instruct its inspectors to write violation reports for all alleged violations, regardless of how minor they are and/or whether or not it is a first alleged violation, all in order to maintain a record that serves as a basis to determine appropriate penalties.

**Recommendation Number 6:**

**The Board of Cosmetology should categorize and analyze the complaints that it receives in order to reduce their recurrence through the adoption of necessary measures such as possible changes to rules and regulations.**

The log of complaints received will be modified to include the type of complaints (e.g., unlicensed practice, sanitation, malpractice, etc.). A report of the types of complaints received will be presented to the members of the board at least annually, and at other times as deemed necessary in order that they may be reviewed to determine whether or not possible changes to rules and regulations would be in order.

**Recommendation Number 7:**

**The Board of Cosmetology should enforce laws and regulations related to the unlicensed practice of cosmetology.**

We strongly concur, and will do everything within our authority to enforce laws and regulations related to the unlicensed practice of cosmetology.

**Recommendation Number 8:**

**The Board of Cosmetology should adopt a formal fine structure based on severity of the violation and consistently impose fines according to this structure in order to deter individuals from violating laws, rules, and regulations governing the practice of cosmetology.**

As soon as possible, we will begin the process to implement this recommendation.

**Recommendation Number 9:**

**The legislature should amend MISS. CODE ANN. Section 73-7-27 to increase the fines as provided for as follows:**

- **a. for the first violation - not less than $100 nor more than $200;**
- **b. For the second and each subsequent violation - not less than $200 nor more than $500.**

**The Legislature should also amend MISS. CODE ANN. Section 73-7-29 to increase delinquent renewal penalties for cosmetologists, manicurists, estheticians, wig specialist, and instructors as follows:**

- **a. 60 days to one year - $50 plus license fee**
- **b. over 1 year to three years, per year - $100 plus license fee**

**In the same CODE section, the Legislature should also increase the salon delinquent renewal penalty as follows:**

**60 days to one year - $50 plus license fee**

**and remove the delinquent renewal penalty for over one year because the board requires a salon that has let its license expire for over a year to apply for a new license.**

The Board concurs with these changes in legislation.

**Recommendation Number 10:**

**In order to improve the efficiency and effectiveness of regulation of the professions and in order to reduce confusion on the part of the consuming public, the Legislature should consider dissolving the Board of Barber Examiners and the Board of Cosmetology and creating a new board with five cosmetologist members and five barber members. This board would carry out the regulatory functions of both agencies and regulate all of the professions currently regulated by two boards. The new board should repeal in three years. While it is in operation, the new board should propose to the Legislature a single regulatory program embracing all functions currently licensed as barbering and cosmetology.**

The Board unanimously opposes this recommendation and would assert that it can satisfactorily provide for the safety of the general public, regulatory oversight and licencing of its practitioners, pursuant to the current statute.

In addition, It seems appropriate that **before any merger** of regulatory boards is suggested, there should be a comprehensive and pertinent study done of the respective boards in order to provide the legislature with reliable, factual information. In view of the instant recommendation of PEER, at least the

following should be addressed: economic impact on cosmetology and barber schools, economic impact on tax payers, administrative and staff changes, impact on the safety of patrons, how the integrity of the various professions could be maintained in a merged board, whether or not a true cost savings could be affected, but not limited thereto. Even though it has been asserted that some overlap exists in the duties of the practitioners licensed by the barber board and the cosmetology board, the definitions of some of the terminology are broader/narrower in some instances as they are actually used by the boards. The comprehensive study should also address the curriculum issues and determine if, in actuality there is overlap in training and practice.

# PEER Committee Staff

Max Arinder, Executive Director
James Barber, Deputy Director
Ted Booth, General Counsel

Evaluation
Sam Dawkins, Division Manager
Linda Triplett, Division Manager
Pamela O. Carter
Kim Cummins
Sara Evans
Barbara Hamilton
Kelly Kuyrkendall
Karen Land
Joyce McCants
Charles H. Moore
John Pearce
David Pray
Brad Rowland
Sara Watson
Candice Whitfield
Larry Whiting

Editing and Records
Ava Welborn, Editor and Records Coordinator
Tracy Bobo
Sandra Haller

Administration
Mary McNeill, Accounting and Office Manager
Jean Spell
Gale Taylor

Data Processing
Larry Landrum, Systems Analyst

Corrections Audit
Louwill Davis, Corrections Auditor