

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1185 05-000.9-0118

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-12-85
DATE FOR REVIEW 7-21-85
DATE DUE 7-26-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 7-23-85 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-23-85 Revisor approved 7/15/85
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 6.14.85 Date

✓ Notice of Intent to Solicit Outside Opinion contains small biz notice + comments

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency no small biz notice - no "encouragement"
✓ Supplementary Notice re small biz

✓ Affidavits of Mailing Notice or rulemaking
1.17.85 At least 30 days prior to hearing/adoption
✓ 2.7.85

✓ Mailing list Certificates

✓ Publication in State Registers
1.21.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption
2.11.85.

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of ~~Mailing~~ Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

PHONE : 6-9412

DATE : July 11, 1985

TO : Judith V. Wehrwein
Attorney General Administration
Finance Division

FROM : Ronald E. Hunter
Special Assistant Attorney General

SUBJECT : Noncontroversial Rules
Relating to Cosmetology

The attached rules and associated documents regarding the Cosmetology rules adopted by the Department of Commerce are hereby submitted for review and approval.

According to Commerce Department records, no request for notice of submission to the Attorney General was received.

aso
Att.

cc: Richard G. Gomsrud
Commerce Department

RECEIVED
JUL 12 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MICHAEL A. HATCH, Commissioner
Department of Commerce

DATE: 7-23-85

ATTN: RONALD E. HUNTER
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to Cosmetology.

The above-referenced rule has been approved as to its legality by the Attorney General on July 23, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG copy

Department of Commerce

Adopted Rules Relating to Cosmetology

Rules as Adopted

2640.0100 DEFINITIONS.

Subpart 1. to 15. [Unchanged.]

Subp. 16. **Good repair.** "Good repair" means that an item is clean, with no holes, frayed wires, or tears in coverings, and fully operational for the purpose intended.

Subp. 17. [Unchanged.]

Subp. 18. **Office.** "Office" means the Department of Commerce.

Subp. 19. [Unchanged.]

Subp. 20. **Staff.** "Staff" means the personnel of the Department of Commerce.

Subp. 21. and 22. [Unchanged.]

2640.0600 ADVERTISING.

The following provisions govern all advertising relating to the education, licensing, or practice of cosmetology:

A. It is a violation of chapter 2640 to advertise in any manner that is misleading or inaccurate with respect to any services or policies offered by the licensee.

B. No advertisement shall state or imply favorable consideration by the Department of Commerce other than to state that the salon or school is licensed by the department.

C. Any salon or school advertisement shall list the licensed name of the establishment and the type of license held.

D. to F. [Unchanged.]

2640.0700 INSPECTIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Cost and frequency of inspections.** Each cosmetology salon and school shall be inspected annually. Additional inspections may be made as necessary to confirm correction of previous noncompliance. The cost of the annual

inspection shall be included in the licensing fee. The cost of additional inspections to confirm correction of previous noncompliance shall be assessed to the school or salon.

Subp. 5. and 6. [Unchanged.]

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Reexam limit.** No passing score on an examination shall be considered valid for more than 12 months.

Subp. 5. **Exam administered in English.** Examinations shall be administered and conducted in English. A reader may be used if documentation is provided that substantiates a reading disability. Documentation must be adequate so as to allow the commissioner to identify the reading disability, verify its existence as to the examination applicant, and confirm that it prevents the applicant from taking the examination in the prescribed manner. Use of a reader must be approved by the commissioner prior to application for the examination.

2640.1200 APPLICANTS FOR INDIVIDUAL LICENSE.

Applications for licensure shall be made in writing and contain the requirements of items A to C.

A. [Unchanged.]

B. The applicant shall demonstrate by examination minimal skills and knowledge necessary for the license sought. The applicant shall successfully complete a written examination demonstrating knowledge of professional, health, and safety methods and procedures and knowledge of Minnesota statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

C. The applicant shall pay the required examination and license fees. Applicants whose professional training is documented under parts 2640.1300, items B and C, and 2640.1600 shall also pay the processing fee.

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of having obtained the

following professional training, within three years prior to this application:

A. and B. [Unchanged.]

C. current licensure from another state, District of Columbia, territory, or country. A certified statement from the licensing body that the applicant is currently licensed shall be attached to the application. If the other jurisdiction does not issue a license, the applicant shall provide documentation of lawful practice for at least 1,800 hours within three years prior to the application. Applicants claiming training and experience in a foreign country shall supply official English language transcripts of all documentation and evidence submitted to the office.

2640.1500 INSTRUCTORS.

Subpart 1. **Full instructors.** In addition to the requirements of part 2640.1200, the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

A. [Unchanged.]

B. successful completion of at least 38 hours of training in a program or programs approved by the office and which will provide the knowledge and skills necessary to instruct in the field of cosmetology;

C. and D. [Unchanged.]

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Compliance with state rules.** The applicant shall demonstrate compliance with part 2640.1200, items A and C, and shall successfully complete a written examination demonstrating knowledge of Minnesota statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

Subp. 3. [Unchanged.]

Subp. 4. **Specific requirements for instructor.** An applicant for an instructor's license shall provide evidence of 38 hours of training comparable to the requirement of part 2640.1500, item B, and 1,800 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

2640.1800 MAINTAINING INDIVIDUAL LICENSES.

Subpart 1. **Compliance with applicable law.** The licensee shall continuously comply with all applicable provisions of Minnesota Statutes and rules.

Subp. 2. **Change of name or address.** The licensee shall advise the office of a change of name or address in writing, including both new and old name and address, within 30 days of the change, and pay the duplicate license fee.

Subp. 3. **Renewal.** The licensee shall renew the license as required by part 2640.1900 prior to its expiration date.

Subp. 4. **Display of license.** The licensee shall post his or her license as required by part 2640.3900, item Y.

Subp. 5. **Additional requirements for manager.** In addition to the requirements of subparts 1 to 4, the manager shall ensure that all salon or school personnel comply with all applicable statutes and rules, and that the salon or school which he or she manages is in compliance with all applicable statutes and rules.

Subp. 6. **Additional requirements for instructor.** In addition to the requirements of subparts 1 to 4, the instructor shall carry out the curriculum of the school, as approved by the office, preparing students for licensure under the laws of Minnesota.

2640.1900 LICENSE RENEWAL FOR INDIVIDUALS.

Subpart 1. **Application.** All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. An individual who does not renew his or her license by December 31 of the year in which it is due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Failure to receive a notice of

renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 2. and 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. **Inactive license.** An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of subparts 1 and 3. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, section 155A.03, subdivision 2.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. **Procedure for lapsed licensee.** If after an individual's license expires, the individual shall be reissued a license after submission of a request for renewal, proof of experience or education as required in part 2640.1900, subpart 2, payment of the license fee, and payment of the processing fee. If more than one year has elapsed, the applicant shall apply for a new license in accordance with parts 2640.1200 to 2640.1600.

Subp. 2. **Penalty.** The manager of a salon or school shall pay a penalty of $25 for each individual practicing in the salon or school who was not properly licensed at the time he or she was hired.

2640.2100 REINSTATEMENT AFTER DENIAL, SUSPENSION, OR REVOCATION.

An applicant shall have a license reinstated for the remainder of its unexpired term or shall be relicensed in the following circumstances:

A. [Unchanged.]

B. after revocation or if the suspended license has expired, reinstatement will be accomplished by meeting the following requirements:

(1) to (4) [Unchanged.]

(5) the individual applicant shall meet the requirements of part 2640.1200, items A to C and, if applicable, part 2640.1600, and the renewal requirements of part 2640.1900,

subpart 2.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Application.** The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

D. evidence of the salon's compliance with local zoning requirements, local building codes and ordinances, and the rules of the Minnesota Department of Health and the State Fire Marshall if no local fire codes exist;

E. and F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3400 SALON LICENSE RENEWAL.

Subpart 1. [Unchanged.]

Subp. 2. **Request for renewal.** All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. A salon license that is not renewed by December 31 of the year due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Not receiving a notice of renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 3. to 5. [Unchanged.]

Subp. 6. [See repealer.]

Subp. 7. **Identity of manager.** The licensee shall state the name of the salon manager and the number and expiration date of his or her license on the renewal application.

2640.3600 SALON REQUIREMENTS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Termination of license.** A salon license is not permanently transferable and terminates after occurrence of a change of either ownership or location. Upon change of either salon ownership or location, the salon's designated manager will have 60 days to apply for and receive a new salon license in

accordance with part 2640.3200.

Subp. 5. [Unchanged.]

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Entrance and exit.** Entrances and exits shall comply with local building codes and ordinances.

Subp. 3. [Unchanged.]

Subp. 4. **Floors.** All floors shall be kept clean and free from hair and other debris at all times and shall be in good repair, free from crevices, cracks, holes, or tears which could collect dirt or hair.

Carpet shall not be an acceptable floor covering unless it is commercial grade carpet.

Subp. 5. **Lighting and electricity.** Each salon shall provide direct lighting to all work areas. Light fixtures shall be clean and dust-free.

There shall be at least one electrical outlet in each work station.

Subp. 6. **Plumbing; water supply.** There shall be clean, hot, and sanitary running water provided in the work area, dispensary area, and toilet facilities.

Each salon shall provide toilet facilities, on its premises or in an adjacent common area, which are not used for any unrelated purpose such as storage or as a dispensary. The toilet facilities shall be clean and sanitary and shall contain, at a minimum, a commode, lavatory, soap dispenser, single-service sanitary towels, and a waste basket. The door shall be kept closed at all times.

Subp. 7. **Ventilation.** Salon ventilation shall comply with local building codes and ordinances.

2640.3800 FIXTURES, FURNITURE, AND EQUIPMENT.

A salon shall meet the following minimum requirements:

A. to C. [Unchanged.]

D. There shall be at least one wet disinfecter large enough to completely immerse all items to be disinfected.

E. All furniture in the service area shall have a washable covering or finish and shall at all times be kept clean and in good repair.

F. There shall be a waste receptacle at each work station. This receptacle shall be emptied at least daily. It shall be lined with a disposable plastic bag or liner, or washed daily.

There shall be at least one container which shall be used exclusively as a receptacle for soiled towels and linen. It shall be kept closed at all times. It must comply with local fire codes. If there are no applicable local fire codes, the state fire code applies.

There shall be at least one large covered container for disposal of garbage. This container shall be emptied at intervals necessary to maintain cleanliness. The container shall be lined with a disposable plastic bag or liner, or be washed daily. It must comply with local fire codes and must be kept closed at all times. If there are no applicable local fire codes, the state fire code applies.

G. to K. [Unchanged.]

2640.3900 OPERATIONAL REQUIREMENTS FOR SALONS.

It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

A. to I. [Unchanged.]

J. Each towel, robe, and linen shall be used only once and then be properly laundered. After use and until laundering, each item shall be placed in a container which complies with local fire codes or the state fire code where no local fire codes exist. All soiled towels and linens shall be laundered in washing machines with laundry detergent, in water of a temperature of at least 160 degrees Fahrenheit. Commercial laundering is acceptable.

K. The procedures contained in subitems (1) to (7) shall be used to disinfect items:

(1) and (2) [Unchanged.]

(3) Each item shall be immersed for at least ten minutes in a disinfectant solution comprised of the following: sodium hypochlorite (200 ppm of available chlorine); or iodophor germicidal detergent (200 ppm of available iodine); or quaternary ammonium germicidal detergent solution (200 ppm); or 70 to 95 percent ethyl or isopropyl alcohol.

(4) Metal implements and tools shall be disinfected by immersion in a solution of 70 to 95 percent ethyl or isopropyl alcohol.

(5) to (7) [Unchanged.]

L. to X. [Unchanged.]

Y. Current licenses of salon personnel shall be conspicuously posted in the reception area or in each licensee's assigned work station. The licensee's street address may be obliterated with tape, but name and town must remain unobstructed. If the license is at the reception area, the licensee's name shall be posted at the work station. The salon manager is responsible for assuring that all licenses are current and renewed.

Z. The current shop license shall be conspicuously posted in the reception area.

AA. and BB. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. [Unchanged.]

Subp. 6. **Salons in private residences.** Salons may be established in private residences, if the following conditions are met:

A. to D. [Unchanged.]

E. If the primary residential toilet facilities are used for salon clients, they must comply with the standards in part 2640.3700, subpart 6.

Subp. 7. [Unchanged.]

REPEALER. Minnesota Rules, parts 2640.1900, subpart 4,

1 2640.3400, subpart 6, and 2640.4100, subpart 4 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 23 1985 3:14 P.M

Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY

July 23 1985

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Cosmetology

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 21, 1985 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14, subdivision 1 on January 17, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 25 written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to Cosmetology are adopted this 14th day of June, 1985 pursuant to authority vested in me by Minnesota Statutes, section 155A.05.

MICHAEL A. HATCH
Commissioner of Commerce

State of Minnesota
Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Relating to Cosmetology Rules including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate and amend existing rules and adopt new rules governing Cosmetology Rules. Promulgation of these rules is authorized by Minnesota Statutes, sections 155A.05.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Melbourne Boynton, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6313.

All statements of information and comment shall be accepted until August 29, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

BEAUTY SHOP OWNERS ....

- **Keep abreast of the latest from the Board of Cosmetology**
- **Learn valuable tips that will help you do better in the marketplace.**

When you buy the **MINNESOTA COSMETOLOGY UPDATE,** you'll receive extensive and timely information that will help you keep up with the latest in your field.

For only $12.00 per annual subscription, the **MINNESOTA COSMETOLOGY UPDATE** will provide you with important information concerning ....

- **Rule Interpretations**
- **Professional Seminars and Meetings**
- **Aspects of Cosmetology**
  - **Booth Licenses**
  - **Starting a Salon**
  - **Starting a Cosmetology School**
  - **Health Problems**
- **Enforcement Activity and Decisions**
- **Articles on Potential New Legislation**
- **Information on Advisory Council**
  - **New Appointments**
  - **Council Changes**

.... and much more. Many beauty shop owners like yourself have already subscribed to this popular newsletter and have found it to be very useful and informative.

Other cosmetology related-publications you need are the cosmetology laws and rules. You already know how vital legal requirements are to your business, but it is equally important that you keep up-to-date on any changes that may have taken place since you last reviewed them. The current laws and rules available are ....

- **Cosmetology Laws 1983 edition $3.00**
- **Cosmetology Rules 1982 edition $4.50**

I love my Book
thank you

Can you see to it that all
Ponography Books are not allowed
in the Beauty & Barber shops —

Many young people attend shops
for Services and are subject to
Playboy and Other books setting
around — thank you

RECEIVED
AUG 02 1984
STATE OF MINNESOTA
COSMETOLOGY

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cosmetology

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 4th day of January, 1985 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology Rules

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sec. 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Mel Boynton, Director of Licensing, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 155A.05. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cosmetology

ORDER FOR NOTICE CONCERNING THE IMPACT OF THE PROPOSED RULES ON SMALL BUSINESSES

IT IS ORDERED this 6th day of February 1985 that Notice concerning the impact of the above captioned proposed rules be given to all persons who have registered their names with the Department of Commerce for that purpose, pursuant to Minnesota Statutes, Section 14.14, subdivision 1(a), and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rose T. Weiner , being first duly sworn, deposes and says:

That on the 7th day of February, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice concerning the Impact on Small Business of the Previously Published Rules Relating to Cosmetology by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Rose T. Weiner
ROSE T. WEINER

Subscribed and sworn to before me this
17th day of June, 1985.

Nancy I. Link
Notary Public

NANCY I. LINK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 3, 1990

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

Notice concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Cosmetology

The Department of Commerce recently published rules relating to Cosmetology in the State Register on January 21, 1985 (9SR 1643). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This Notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this Notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

MICHAEL A. HATCH
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rose T. Weiner , being first duly sworn, deposes and says:

That on the 17th day of January, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Rose T. Weiner
ROSE T. WEINER

Subscribed and sworn to before me this
23 day of January , 1985.

Samuel F. Johnson

SAMUEL F. JOHNSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1985

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology Rules

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sec. 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Mel Boynton, Director of Licensing, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 155A.05. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2640.0100 DEFINITIONS.

Subpart 1. to 15. [Unchanged.]

Subp. 16. Good repair. "Good repair" means that ~~existing~~ an item is clean, with no holes, frayed wires, or tears in coverings, and fully operational for the purpose intended.

Subp. 17. [Unchanged.]

Subp. 18. Office. "Office" means the ~~Office of Consumer Services~~ Department of Commerce.

Subp. 19. [Unchanged.]

Subp. 20. Staff. "Staff" means the personnel of the ~~cosmetology unit, Office of Consumer Services~~ Department of Commerce.

Subp. 21. and 22. [Unchanged.]

2640.0600 ADVERTISING.

The following provisions govern all advertising relating to the education, licensing, or practice of cosmetology:

A. ~~All advertising shall comply with Minnesota Statutes, sections 325F.67 to 325F.70 and related rules~~ It is a violation of chapter 2640 to advertise in any manner that is misleading or inaccurate with respect to any services or policies offered by the licensee.

B. No advertisement shall state or imply favorable consideration by the ~~Office of Consumer Services~~ Department of Commerce other than to state that the salon or school is licensed by the ~~office~~ department.

C. Any salon or school advertisement ~~that a salon or school is licensed by the state of Minnesota~~ shall ~~specify~~ list the licensed name of the establishment and the type of license held ~~and the license number~~.

D. to F. [Unchanged.]

2640.0700 INSPECTIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Cost and frequency of inspections. Each cosmetology salon and school shall be inspected annually.

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~~B.--The applicant shall attach to the application a two-inch-by-two-inch photograph taken within the past year.~~

~~B.~~ C. The applicant shall pay the required examination and license fees. Applicants whose professional training is documented under ~~the provisions of~~ parts 2640.1300, items B and C, and 2640.1600 shall also pay the processing fee.

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of having obtained the following professional training, within three years prior to this application:

A. and B. [Unchanged.]

C. current licensure from another state, District of Columbia, territory, or country. A ~~copy of the current license or a~~ certified statement from the licensing body that the applicant is currently licensed shall be attached to the application. If the other jurisdiction does not issue a license, the applicant shall provide documentation of lawful practice for at least 1,800 hours within three years prior to the application. Applicants claiming training and experience in a foreign country shall supply official English language transcripts of all documentation and evidence submitted to the office.

2640.1500 INSTRUCTORS.

Subpart 1. **Full instructors.** In addition to the requirements of part 2640.1200, the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

A. [Unchanged.]

B. successful completion of at least ~~48~~ 38 hours of training in a program or programs approved by the office and which will provide the knowledge and skills necessary to instruct in the field of cosmetology;

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which he or she manages is in compliance with all applicable statutes and rules.

Subp. ~~7~~ 6. **Additional requirements for instructor.** In addition to the requirements of subparts 1 to ~~6~~ 4, the instructor shall carry out the curriculum of the school, as approved by the office, preparing students for licensure under the laws of Minnesota.

2640.1900 LICENSE RENEWAL FOR INDIVIDUALS.

Subpart 1. **Application.** ~~The licensee shall submit a written renewal application request before his or her current license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, the licensee is still responsible for timely renewal~~ All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. An individual who does not renew his or her license by December 31 of the year in which it is due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Failure to receive a notice of renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 2. and 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. **Inactive license.** An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of subparts ~~1, 3,~~ and ~~4~~ 3. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, section 155A.03, subdivision 2.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED ~~PRACTITIONER~~ LICENSE.

Subpart 1. ~~Failure to renew. Failure to renew a practitioner license prior to its expiration date results in a lapsed license. The applicant shall comply with the requirements of part 2640.1900, subpart 2 and~~

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of part 2640.1900, subpart 2.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

Subp. 2. **Application.** The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

D. evidence of the salon's compliance with local zoning requirements, local building codes and ordinances, and the rules of the Minnesota Department of Health~~, State Building Code and Standards~~, and the State Fire Marshall if no local fire codes exist;

E. and F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3400 SALON LICENSE RENEWAL.

Subpart 1. [Unchanged.]

Subp. 2. **Request for renewal.** ~~The licensee shall be responsible for requesting renewal of his or her salon license, in writing, before the license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, responsibility for proper and timely renewal remains with the licensee~~ All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. A salon license that is not renewed by December 31 of the year due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Not receiving a notice of renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 3. to 5. [Unchanged.]

Subp. 6. [See repealer.]

Subp. 7. **Identity of manager.** The licensee shall state the name of the salon manager and the number and expiration date of his or her license on the renewal application.

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B. Each salon shall provide toilet facilities, on its premises or in an adjacent common area, which are not used for any unrelated purpose such as storage or as a dispensary. The toilet facilities shall be clean and sanitary and shall contain, at a minimum, a commode, lavatory, soap dispenser, single-service sanitary towels, and a waste basket. The door shall be kept closed at all times.

Subp. 7. Ventilation. Salon ventilation shall comply with ~~the requirements of the state building code. Window ventilation shall not be acceptable as a method of meeting the~~ standard local building codes and ordinances.

2640.3800 FIXTURES, FURNITURE, AND EQUIPMENT.

A salon shall meet the following minimum requirements:

A. to C. [Unchanged.]

D. There shall be at least one ~~nonporous~~ wet disinfecter large enough to completely immerse all items to be disinfected.

E. All furniture in the service area shall have a washable covering or finish and shall at all times be kept clean and in good repair.

F. There shall be a waste receptacle at each work station. This receptacle shall be emptied at least daily. It shall be lined with a disposable plastic bag or liner, or washed daily.

There shall be at least one ~~covered metal~~ container which shall be used exclusively as a receptacle for soiled towels and linen. It shall be kept closed at all times. It must comply with local fire codes. If there are no applicable local fire codes, the state fire code applies.

There shall be at least one large covered ~~metal~~ container for disposal of garbage. This container shall be emptied at intervals necessary to maintain cleanliness. The container shall be lined with a disposable plastic bag or liner, or be washed daily~~;~~. It must comply with local fire codes and must be kept closed at all times. If there are no applicable local fire codes, the state fire code applies.

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~~photograph of the licensee, alone, taken within the last three years, shall be attached to each license.~~ If the license is at the reception area, the licensee's name ~~and type of license held~~ shall be posted at the work station. The salon manager is responsible for assuring that all licenses are current and renewed.

Z. The current shop license ~~and the salon rules~~ shall be conspicuously posted ~~together~~ in the reception area ~~at approximately eye level~~.

AA. and BB. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. [Unchanged.]

Subp. 6. **Salons in private residences.** Salons may be established in private residences, if the following conditions are met:

A. to D. [Unchanged.]

E. If the primary residential toilet facilities ~~shall not be~~ are used for salon clients, they must comply with the standards in part 2640.3700, subpart 6.

Subp. 7. [Unchanged.]

REPEALER. Minnesota Rules, parts 2640.1900, subpart 4, 2640.3400, subpart 6, and 2640.4100, subpart 4 are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY.

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 17th day of January, 1985.

Rose T. Weiner

ROSE T. WEINER

Cosmetology Rules Mailed 1-17-85

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STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, Sec. 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 7th day of February 1985.

Rose T. Weiner

ROSE T. WEINER

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Cosmetology

Notice concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Cosmetology

The Department of Commerce recently published rules relating to Cosmetology in the State Register on January 21, 1985 (9SR 1643). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This Notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this Notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

MICHAEL A. HATCH
Commissioner of Commerce

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Ohio State Life Insurance Company
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Columbus, OH 43215

Oppenheimer, Wolff, Foster,
Shepard & Donnelly
1700 1st National Bank Building
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Orion Group, Inc.
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Farmington, CT 06032

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Minneapolis, MN 55401

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
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Phillips Legislative Service, Inc.
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2000 North Central Tower
St. Paul, MN 55101

Robert E. Swift, Vice President
Title Insurance Company of MN
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Minneapolis, MN 55401

Union Fidelity Life Insurance Co.
Union Fidelity Office Park
Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheibl, Vice President
Wausau Insurance Group
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Larry J. Smith
Assistant Secretary Public Affairs
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STATE REGISTER

STATE OF MINNESOTA



VOLUME 9, NUMBER 33

February 11, 1985

Pages 1775-1838

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Cosmetology (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Cosmetology

The Department of Commerce recently published rules relating to Cosmetology in the *State Register* on January 21, 1985 (9 SR 1643). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on Feburary 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Financial Planners (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Financial Planners

The Department of Commerce recently published rules relating to Financial Planners in the *State Register* on January 21, 1985 (9 SR 1649). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired on February 21, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

STATE REGISTER

STATE OF MINNESOTA



VOLUME 9, NUMBER 30

January 21, 1985

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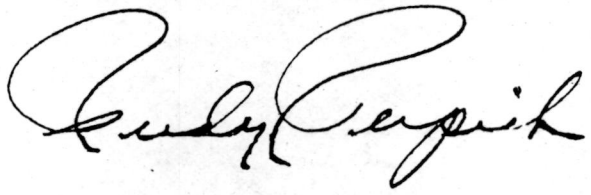
Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 20th day of December, 1984.



PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Cosmetology

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Sect. 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Mel Boynton, Director of Licensing, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Section 155A.05. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, General Counsel Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Rose Weiner at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2640.0100 DEFINITIONS.

Subpart 1. to 15. [Unchanged.].

Subp. 16. Good repair. "Good repair" means that ~~a thing~~ an item is clean, with no holes, frayed wires, or tears in coverings, and fully operational for the purpose intended.

Subp. 17. [Unchanged.]

Subp. 18. Office. "Office" means the ~~Office of Consumer Services~~ Department of Commerce.

Subp. 19. [Unchanged.]

Subp. 20. Staff. "Staff" means the personnel of the ~~cosmetology unit, Office of Consumer Services~~ Department of Commerce.

Subp. 21. and 22. [Unchanged.]

2640.0600 ADVERTISING.

The following provisions govern all advertising relating to the education, licensing, or practice of cosmetology:

A. ~~All advertising shall comply with Minnesota Statutes, sections 325F.67 to 325F.70 and related rules~~ It is a violation of chapter 2640 to advertise in any manner that is misleading or inaccurate with respect to any services or policies offered by the licensee.

B. No advertisement shall state or imply favorable consideration by the ~~Office of Consumer Services~~ Department of Commerce other than to state that the salon or school is licensed by the ~~office~~ department.

C. Any salon or school advertisement ~~that a salon or school is licensed by the state of Minnesota~~ shall ~~specify~~ list the licensed name of the establishment and the type of license held ~~and the license number~~.

D. to F. [Unchanged.]

2640.0700 INSPECTIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Cost and frequency of inspections. Each cosmetology salon and school shall be inspected annually. Additional inspections may be made as necessary to confirm correction of previous noncompliance. The cost of the annual inspection shall be included in the licensing fee. The cost of additional inspections to confirm correction of previous noncompliance shall be assessed to the school or salon.

Subp. 5. and 6. [Unchanged.]

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Reexam limit. ~~No license applicant may take an exam more than three times in 12 months.~~ No passing score on an examination shall be considered valid for more than 12 months.

Subp. 5. Exam administered in English. Examinations shall be administered and conducted in English ~~without an interpreter or reader.~~ A reader may be used if documentation is provided that substantiates a reading disability. Documentation must be adequate so as to allow the commissioner to identify the reading disability, verify its existence as to the examination applicant, and confirm that it prevents the applicant from taking the examination in the prescribed manner. Use of a reader must be approved by the commissioner prior to application for the examination.

2640.1200 APPLICANTS FOR INDIVIDUAL LICENSE.

Applications for licensure shall be made in writing and contain the requirements of items ~~B to F~~ A to C.

A. [Unchanged.]

B. ~~The applicant shall provide written evidence on a standardized form, from a physician, dated within one year, that he or she is free from all communicable diseases and parasites.~~

~~C.~~ The applicant shall demonstrate by examination minimal skills and knowledge necessary for the license sought. The applicant shall successfully complete a written examination demonstrating knowledge of professional, health, and safety methods and procedures and knowledge of Minnesota statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

~~D. The applicant shall attach to the application a two-inch by two-inch photograph taken within the past year.~~

~~E.~~ C. The applicant shall pay the required examination and license fees. Applicants whose professional training is documented under ~~the provisions of~~ parts 2640.1300, items B and C, and 2640.1600 shall also pay the processing fee.

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of having obtained the following professional training, within three years prior to this application:

A. and B. [Unchanged.]

C. current licensure from another state, District of Columbia, territory, or country. A ~~copy of the current license or a~~ certified statement from the licensing body that the applicant is currently licensed shall be attached to the application. If the other jurisdiction does not issue a license, the applicant shall provide documentation of lawful practice for at least 1,800 hours within three years prior to the application. Applicants claiming training and experience in a foreign country shall supply official English language transcripts of all documentation and evidence submitted to the office.

2640.1500 INSTRUCTORS.

Subpart 1. Full instructors. In addition to the requirements of part 2640.1200, the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

A. [Unchanged.]

B. successful completion of at least ~~48~~ 38 hours of training in a program or programs approved by the office and which will provide the knowledge and skills necessary to instruct in the field of cosmetology;

C. and D. [Unchanged.]

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. [Unchanged.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 2. Compliance with state rules. The applicant shall demonstrate compliance with part 2640.1200, items A~~,~~ ~~B,~~ ~~D,~~ and ~~E~~ C, and shall successfully complete a written examination demonstrating knowledge of Minnesota statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

Subp. 3. [Unchanged.]

Subp. 4. Specific requirements for instructor. An applicant for an instructor's license shall provide evidence of ~~48~~ 38 hours of training comparable to the requirement of part 2640.1500, item B, and 1,800 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

2640.1800 MAINTAINING INDIVIDUAL LICENSES.

Subpart 1. Compliance with applicable law. The licensee shall continuously comply with all applicable provisions of Minnesota Statutes and rules.

Subp. 2. ~~Health.~~ ~~The licensee shall continue to be free from communicable diseases and parasites.~~

~~Subp. 3.~~ Change of name or address. The licensee shall advise the office of a change of name or address in writing, including both new and old name and address, within 30 days of the change, and pay the duplicate license fee.

Subp. ~~4~~ 3. Renewal. The licensee shall renew the license as required by part 2640.1900 prior to its expiration date.

Subp. ~~5~~ 4. Display of license. The licensee shall post his or her license as required by part 2640.3900, item Y.

Subp. ~~6~~ 5. Additional requirements for manager. In addition to the requirements of subparts 1 to ~~5~~ 4, the manager shall ensure that all salon or school personnel comply with all applicable statutes and rules, and that the salon or school which he or she manages is in compliance with all applicable statutes and rules.

Subp. ~~7~~ 6. Additional requirements for instructor. In addition to the requirements of subparts 1 to ~~5~~ 4, the instructor shall carry out the curriculum of the school, as approved by the office, preparing students for licensure under the laws of Minnesota.

2640.1900 LICENSE RENEWAL FOR INDIVIDUALS.

Subpart 1. Application. ~~The licensee shall submit a written renewal application request before his or her current license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, the licensee is still responsible for timely renewal~~ All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. An individual who does not renew his or her license by December 31 of the year in which it is due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Failure to receive a notice of renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 2. and 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. Inactive license. An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of subparts 1~~,~~ ~~3,~~ and 4 3. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, section 155A.03, subdivision 2.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED ~~PRACTITIONER~~ LICENSE.

Subpart 1. ~~Failure to renew.~~ ~~Failure to renew a practitioner license prior to its expiration date results in a lapsed license. The applicant shall comply with the requirements of part 2640.1900, subpart 2 and:~~

~~A. if fewer than 30 days have elapsed since the license expiration, the applicant shall submit a written application for renewal of license, the license fee, and the late penalty;~~

~~B. if more than 30 days have elapsed, the individual shall not practice cosmetology until he or she has applied for and received a new license in accordance with the provisions of parts 2640.1200, items B to E and, if applicable, 2640.1600.~~

~~Subp. 2.~~ Procedure for ~~inactive~~ lapsed licensee. ~~If a licensee has not actively practiced cosmetology during the period of 30 days to three years after expiration of the license, he or she~~ If after an individual's license expires, the individual shall be reissued a license after submission of ~~an affidavit attesting to the fact that the applicant has not practiced cosmetology since the expiration date~~ a request for renewal, proof of experience or education as required in part 2640.1900, subpart 2, payment of the license fee, and payment of the processing fee. If more than ~~three years have~~ one year has elapsed, the applicant shall apply for a new license in accordance with ~~the provisions of~~ parts 2640.1200 to 2640.1600.

Subp. ~~3.~~ 2. Penalty. The manager of a salon or school shall pay a penalty of $25 for each individual practicing in the salon or school who was not properly licensed at the time he or she ~~commenced this practice~~ was hired.

2640.2100 REINSTATEMENT AFTER DENIAL, SUSPENSION, OR REVOCATION.

An applicant shall have a license reinstated for the remainder of its unexpired term or shall be relicensed in the following circumstances;

A. [Unchanged.]

B. after revocation or if the suspended license has expired ~~by more than 30 days~~, reinstatement will be accomplished by meeting the following requirements:

(1) to (4) [Unchanged.]

(5) the individual applicant shall meet the requirements of part ~~2640.1600~~ 2640.1200, items ~~C to F~~ A to C and, if applicable, part 2640.1600, and the renewal requirements of part 2640.1900, subpart 2.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

Subp. 2. Application. The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

D. evidence of the salon's compliance with local zoning requirements, local building codes and ordinances, and the rules of the Minnesota Department of Health~~, State Building Code and Standards,~~ and the State Fire Marshall if no local fire codes exist;

E. and F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3400 SALON LICENSE RENEWAL.

Subpart 1. [Unchanged.]

Subp. 2. Request for renewal. ~~The licensee shall be responsible for requesting renewal of his or her salon license, in writing, before the license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, responsibility for proper and timely renewal remains with the licensee~~ All licenses expire on December 31 of the year due and each licensee is responsible for renewing his or her license. A salon license that is not renewed by December 31 of the year due is considered unlicensed as of January 1. A postmark of December 31 constitutes timely renewal. Not receiving a notice of renewal from the office does not constitute a valid excuse for not renewing the license.

Subp. 3. to 5. [Unchanged.]

Subp. 6. [See repealer.]

Subp. 7. Identity of manager. The licensee shall state the name of the salon manager and the number and expiration date of his or her license on the renewal application.

2640.3600 SALON REQUIREMENTS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Termination of license. A salon license ~~shall~~ is not ~~be~~ permanently transferable and ~~shall terminate upon the~~ terminates after occurrence of a change of either ownership or location. ~~The old license shall be returned to the office and an application for a new license shall be made in the same manner as if no license had been issued previously~~ Upon change of either salon ownership or location, the salon's designated manager will have 60 days to apply for and receive a new salon license in accordance with part 2640.3200.

Subp. 5. [Unchanged.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. Entrance and exit. ~~Each salon shall have at least two entrance/exit points~~ Entrances and exits shall comply with local building codes and ordinances.

Subp. 3. [Unchanged.]

Subp. 4. Floors. ~~Floors:~~

~~A.~~ All floors shall be kept clean and free from hair and other debris at all times and shall be in good repair, free from crevices, cracks, holes, or tears which could collect dirt or hair.

~~B.~~ Carpet shall not be an acceptable floor covering unless it is commercial grade carpet.

Subp. 5. Lighting and electricity. ~~Lighting and electricity:~~

~~A.~~ Each salon shall provide direct lighting to all work areas. Light fixtures shall be clean and dust-free.

~~B.~~ There shall be at least one electrical outlet in each work station.

Subp. 6. Plumbing; water supply. ~~Plumbing; water supply:~~

~~A.~~ There shall be clean, hot, and sanitary running water provided in the work area, dispensary area, and toilet facilities.

~~B.~~ Each salon shall provide toilet facilities, on its premises or in an adjacent common area, which are not used for any unrelated purpose such as storage or as a dispensary. The toilet facilities shall be clean and sanitary and shall contain, at a minimum, a commode, lavatory, soap dispenser, single-service sanitary towels, and a waste basket. The door shall be kept closed at all times.

Subp. 7. Ventilation. Salon ventilation shall comply with ~~the requirements of the state building code. Window ventilation shall not be acceptable as a method of meeting the standard~~ local building codes and ordinances.

2640.3800 FIXTURES, FURNITURE, AND EQUIPMENT.

A salon shall meet the following minimum requirements:

A. to C. [Unchanged.]

D. There shall be at least one ~~nonporous~~ wet disinfecter large enough to completely immerse all items to be disinfected.

E. All furniture in the service area shall have a washable covering or finish and shall at all times be kept clean and in good repair.

F. There shall be a waste receptacle at each work station. This receptacle shall be emptied at least daily. It shall be lined with a disposable plastic bag or liner, or washed daily.

There shall be at least one ~~covered metal~~ container which shall be used exclusively as a receptacle for soiled towels and linen. It shall be kept closed at all times. It must comply with local fire codes. If there are no applicable local fire codes, the state fire code applies.

There shall be at least one large covered ~~metal~~ container for disposal of garbage. This container shall be emptied at intervals necessary to maintain cleanliness. The container shall be lined with a disposable plastic bag or liner, or be washed daily~~;~~. It must comply with local fire codes and must be kept closed at all times. If there are no applicable local fire codes, the state fire code applies.

G. to K. [Unchanged.]

2640.3900 OPERATIONAL REQUIREMENTS FOR SALONS.

It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

A. to I. [Unchanged.]

J. Each towel, robe, and linen shall be used only once and then be properly laundered. After use and until laundering, each item shall be placed in ~~the required metal receptacle, which shall be kept covered~~ a container which complies with local fire codes or the state fire code where no local fire codes exist. All soiled towels and linens shall be laundered in washing machines with laundry detergent, in water of a temperature of at least 160 degrees Fahrenheit. Commercial laundering is acceptable.

K. The procedures contained in subitems (1) to (7) shall be used to disinfect items:

(1) and (2) [Unchanged.]

(3) Each item shall be immersed for at least ten minutes in a disinfectant solution comprised of the following: sodium hypochlorite (200 ppm of available chlorine); or iodophor germicidal detergent (200 ppm of available iodine); or quaternary ammonium germicidal detergent solution (200 ppm); or ~~70 percent ethyl alcohol or 95 percent~~ 70 to 95 percent ethyl or isopropyl alcohol.

(4) Metal implements and tools shall be disinfected by immersion in a solution of ~~70 percent ethyl alcohol or 95 percent~~ 70 to 95 percent ethyl or isopropyl alcohol.

(5) to (7) [Unchanged.]

L. to X. [Unchanged.]

Y. Current licenses of salon personnel shall be conspicuously posted ~~at approximately eye level~~ in the reception area or in each licensee's assigned work station. The licensee's street address may be obliterated with tape, but name and town must remain unobstructed. ~~A two inch by two inch photograph of the licensee, alone, taken within the last three years, shall be attached to each license.~~ If the license is at the reception area, the licensee's name ~~and type of license held~~ shall be posted at the work station. The salon manager is responsible for assuring that all licenses are current and renewed.

Z. The current shop license ~~and the salon rules~~ shall be conspicuously posted ~~together~~ in the reception area ~~at approximately eye level~~.

AA. and BB. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See repealer.]

Subp. 5. [Unchanged.]

Subp. 6. Salons in private residences. Salons may be established in private residences, if the following conditions are met:

A. to D. [Unchanged.

E. If the primary residential toilet facilities ~~shall not be~~ are used for salon clients, they must comply with the standards in part 2640.3700, subpart 6.

Subp. 7. [Unchanged.]

REPEALER. Minnesota Rules, parts 2640.1900, subpart 4, 2640.3400, subpart 6, and 2640.4100, subpart 4 are repealed.

Department of Commerce

Proposed Rules Relating to Financial Planners

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
OFFICE OF THE COMMISSIONER

In the Matter of the Proposed
Amendment of Rules Relating
to Minnesota Statutes
Chapter 155A (Cosmetology)

STATEMENT OF
NEED AND
REASONABLENESS

Statement of Authority

The authority to promulgate rules for Minnesota Statute Chapter 155A is set forth in Minnesota Statute Section 155A.05 as well as Minnesota Statute Section 45.023.

I. BACKGROUND

A comprehensive set of rules governing the teaching, licensing, practice and regulation of cosmetology services in Minnesota were adopted in early 1983. These rules were promulgated as a result of the transfer of the authority for licensing and regulation of former Minnesota Board of Cosmetology Examiners to the Director of the Office of Consumer Services on July 1, 1981.

By Act of the Minnesota Legislature, the Office of Consumer Services was, in part, transferred to the Office of Attorney General effective July 1, 1983. Responsibility for regulation of the cosmetology industry as required under Minnesota Statutes Chapter 155A was placed, however, under the newly formed Department of Commerce.

Since assumption of regulatory authority for the cosmetology industry, the Commissioner of Commerce and the staff of the Cosmetology Unit have been actively involved in enforcement of the existing cosmetology rules and have sought public comment as to their fairness, effectiveness and regulatory impact. Much input has been received from the Minnesota Cosmetology Advisory Council (MCAC), a nine member citizen body appointed by the Commissioner at the direction of Chapter 155A, to advise him on matters relating to cosmetology. This council includes representatives of cosmetology training schools, practitioners and members of the public. The amendments to the cosmetology rules presented herein have been thoroughly reviewed and subsequently approved by MCAC.

Recommendations for amendments to the rules have also been received from individuals and professional associations within the cosmetology industry. Among efforts to involve these persons and to solicit their response to the amendment proposed were the following:

1. On July 30, 1984, the department published a notice of intent to solicit outside opinions with regard to amending the cosmetology rules in the State Register. The notice was published as a result of the Department's ongoing review of the existing rules. The review pointed out a number of flaws and shortcomings in the existing rules which necessitated change.

2. In September, 1984, a mailing was sent to every licensed cosmetology salon in Minnesota. The mailing provided background on the transfer of the Office of Consumer Services and subsequent assumption of regulatory authority by the Commerce Department. It also discusses the Commissioner's intent to make changes to the cosmetology rules based on comments received from industry members and the public over the one and a half year since their initial adoption. Eight major rule changes were discussed. Comment on these and suggestion for other possible changes was requested by the Commissioner. Over 500 letters of suggestion and/or support for the amendments were received and considered. Several of these ideas were incorporated into the final proposed amendments to the rules.

3. The Commissioner and the staff of the Cosmetology Unit have met formally and informally with members of professional industry associations including the Minnesota Hairdressers and Cosmetologists Association and the Minnesota Cosmetology Schools Association to discuss proposed amendments to the rules. Input was received as to the effectiveness of the existing rules, impact of possible changes and improvements that would enhance regulatory effectiveness while limiting burdensome compliance requirements. These associations have been provided with copies of final proposed amendments and have indicated their support.

These efforts have resulted in a great deal of thoughtful, constructive suggestion and guidance in the development of these proposed amendments to the Minnesota Cosmetology Rules. The objective of maintaining sound regulation while limiting potentially onerous compliance requirements will be well served by adoption of the changes proposed.

II. AMENDMENTS TO THE COSMETOLOGY RULES

Minn. Rule 2640.0100. DEFINITIONS

Subp. 16. Good Repair. Amendments made to this subpart are designed to clarify the existing language. Reference to the words "a thing" is removed and replaced with the words "an item". The new term does not result in a consequential change in the meaning of the subpart, but rather is more grammatically appropriate within the context of the rule.

Subp. 18. Office. This amendment removes the reference to the "Office of Consumer Services" and replaces it with reference to the "Department of Commerce". The change reflects the transfer and regulatory authority to the Department of Commerce and makes the rules consistent with present law.

Subp. 20. Staff. This amendment removes reference to the Cosmetology Unit, Office of Consumer Services and replaces it with reference to the Department of Commerce. This is consistent with the law and is a technical amendment which clarifies the rules.

Minn. Rules 2640.0600. ADVERTISING.

Item A is amended to clarify the existing rules by removing the cross reference to other Minnesota Statutes and replacing it with clarifying language that more fully states in a single location the prohibition against misleading or inaccurate advertising of cosmetology services or policies offered by a licensee. This amendment is designed to eliminate the necessity of referring to a copy of the Minnesota Statutes which may not be readily available to those who use or reference these rules.

Item B is amended to remove the reference to the "Office of Consumer Services" and replace this with reference to the "Department of Commerce." This amendment is designed to properly reference the Department of Commerce as provided for in existing state law.

Item C is amended to provide a better grammatical construction of the present rule. Further, Item C requires that if a salon or school chooses to advertise, it shall also indicate what type of license is held and the licensed name of the establishment. This is intended to give the reader of the advertisement a clear understanding of the type of services provided by the advertiser.

Minn. Rules 2640.0700. INSPECTIONS.

Subp. 4. Cost and frequency of inspections. The existing cosmetology rule requireseach salon and school to be be inspected annually. Additional inspections required to confirm the compliance of a salon or school with the corrections required in a previous inspection report will be paid for by the facility which requires additional inspection. The department has determined that it is proper to have those licensees who generate inspection expenses over and above the cost of a single annual inspection should bear the burden of those additional inspections rather than place them on other licensees or on the general public through increases in licensing fees or additionl budget expenditures. This procedure results in the cost of additional inspections being placed the particular salon or school which by its activities for failure to comply with existing rules generates additional inspection expense.

Amendment to this subpart adds the term "or salon" to clarify this inspection requirement. This amendment reflects the statutory requirement that salons and schools be inspected annually by the department.

Minn. Rules 2640.1100. EXAMINATION ADMINISTRATION.

Subp. 4. Reexam limit. This rule is amended to allow a licensed applicant to take an examination as often as he or she wishes. The rule previously limited an applicant to three examinations in any twelve month period. It is the position of the Department that an applicant should be allowed to retake an examination at his or her discretion. The existing rule unfairly restricts a licensed applicant from taking an exam more than three times in a twelve month period. It is more fair and appropriate to allow a potential licensee to take the licensing examination at his or her discretion whenever that person is prepared to do so. The test is offered numerous times throughout the year, and any restriction on retesting simply places an economic burden on the potential licensee and does not assure that the individual will have a better chance at passing the test simply because they are restricted from taking the test a limited number of times in any twelve month period.

The amendment further clarifies the intent of the rule by stating that no passing score on an examination shall be considered valid for more than twelve months.

Subp. 5. Exam administered in English. The present rule does not allow examinations to be conducted with the assistance of an interpreter or a reader. The amendment is designed to allow the use of a reader in administration of a cosmetology examination where an examinee is able to document the existence of a reading disability. Use of a reader is a valid request where an examinee may suffer from a reading disability such as dislexia or has another serious disability which prevents them from taking the examination in the usual manner.

The Department has been advised that the rule on this current form is also a likely violation of Federal Equal Opportunity laws. Since other professions allow the use of readers for those licensees who have reading disabilities, the Department proposes to amend the existing law to bring it into compliance with federal requirements.

Use of a reader must be approved by the Commissioner prior to taking the examination. This amendment allows the Department advance notice to inform its testing service of the need for the provision of a reader. The reader then is made available by the testing service at the time the license applicant reports for his or her examination.

Minn. Rules 2640.1200. APPLICANTS FOR INDIVIDUAL LICENSE

The requirement of Item B, that a cosmetology applicant provide evidence from a physician that he or she is free of all communicable diseases and parasites, is deleted from the rules. The term "communicable" disease is vague and could include such illnesses as colds, the flu, or other minor infections. The rules is at best, therefore, inappropriate as few people would be able to meet such a standard.

Furthermore, other health related fields do not place such a requirement on their applicants. Doctors do not have to take a physical examination for licensure. Nurses do not have to take a physical examination. The rule, therefore, places an unequal burden on those seeking cosmetology licensure.

Item D is amended by deleting the requirement that an applicant must provide a photograph along with his or her application for licensure. The present regulation requires that license applications be accompanied by a 2" x 2" photo of the applicant. Such a requirement serves no purpose in the application. Positive identification, if ever required, can easily be accomplished through other means should a question arise. Again, no other profession has such a regulation and since the requirement is an unnecessary cost to the applicant and of no use to the Department, the Department proposes that the rule be dropped.

Item C is amended to remove redundant language in the present rules and, thereby, making them more grammatically appropriate.

The remaining sections under this rule are renumbered in line with the amendments made.

Minn. Rules 2640.1300. COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

Item C of this rule, which allows for licensure of cosmetologists currently licensed in another state, is amended to delete the requirement that an individual provide a copy of his or her current license. This is a costly and unnecessary expense. The amendment to the rule states that a certified statement from the licensing body in which the applicant is currently licensed shall be sufficient evidence of the applicants current status as a cosmetologist in another jurisdiction. This amendment removes an unnecessary provision but retains the essential requirement that appropriate evidence of current licensure be provided by the applicant.

Minn. Rules 2640.1500. INSTRUCTORS.

Current cosmetology rules require that instructors receive adequate continuing education to assure that they are familiar with the current techniques and practices of the industry. The amendment reduces the continuing education requirement from 48 to 38 hours of training approved by the office. Over the year and a half that the present rules have been in effect, the Department has determined that several schools offer adequate programs for continuing education within the 38 hour requirement. To obtain the last 10 hours of continuing education, many instructors are required to take courses that far exceed the additional 10 hours needed. The amendment to the rule is designed to accomplish the objective of assigning current, up to date training for instructors without burdening them with the cost and time requirement of additional unnecessary training.

Minn. Rules 2640.1700. LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subp. 2. Compliance with state rules. This subpart is renumbered to make it consistent with the renumbering in Minn. Rules 2640.1200.

Subp. 4. Specific requirements for instructor. This subpart is renumbered to make it consistent with the change in the continuing education requirement for cosmetology instructors as provided in Minn. Rules 2640.1500.

Minn. Rules 2640.1800. MAINTAINING INDIVIDUAL LICENSES.

Subp. 2. Presently cosmetology licensees are required to provide a physicians certification that they are free of communicable diseases at the time of application for relicensure. The requirements of this subpart are deleted to make it consistent with the removal of the

requirement as provided for in Minn. Rules 2640.1200. The need for removal of this requirement is discussed earlier in this statement.

The remainder of the rule is renumbered accordingly.

Minn. Rules 2640.1900. LICENSE RENEWAL FOR INDIVIDUALS.

Subp. 1. Application. Under the present rules cosmetology licensees are required to renew their licenses every three years upon the date of initial issuance. The Department proposes to set a consistent renewal deadline for all licensees on December 31 in the year of expiration. The objective is to make it easier for licensees to remember when their licenses must be renewed and to facilitate more efficient processing of license renewals by the Licensing Division of the Department of Commerce. As at present, licensees will be advised of their responsibility to renew their license by notification from the Department.

Subp. 4. This section is repealed to provide consistency with the new license renewal procedure as provided in Subpart 1.

Subp. 5. This subpart is renumbered to make it consistent with the renumbering of other subparts in the rule.

Minn. Rules 2640. 2000. PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subp. 1 and Subp. 2. These subparts are amended to remove unnecessary and complicated procedures for renewal of a lapsed license. At the present time if a practitioner fails to renew his or her license prior to the date of license expiration, he or she is required to pay a penalty if reapplication is made within 30 days of that date. If more than 30 days have elapsed the individual is required to submit to a reexamination and payment of applicable late penalties. For a practitioner who inadvertently allows his or her license to lapse through oversight or failure to receive a renewal notice, the penalties imposed by the present rule are harsh and unnecessary. Under the proposed amendment, if an individual's license expires that person would be given up to one year to renew their license upon submitting the required license renewal information. It would eliminate an unnecessary and unfair penalty where a license has lapsed by oversight. This amendment makes the rule fairer, less burdensome and, yet, accomplishes the objective of assuring current licensure by practicing cosmetologists.

Subp. 3. Penalty. Amendment to this subpart renumbers it consistent with the repeal of the language in Subpart 1. The subpart retains the penalty on a salon or school which hires or allows an individual to practice cosmetology while not licensed. The new language "was hired" clarifies the fact that the manager of the salon or school will be responsible for any person practicing under their supervision from the time that person was hired. The existing

language "commenced this practice" might otherwise be confused with the entire period of time that an individual has been providing cosmetology services. The new language, therefore, is designed to better state the intent of the rule and the responsibilities of the manager of a salon.

Minn. Rules 2640. 2100. REINSTATEMENT AFTER DENIAL, SUSPENSION, OR REVOCATION.

Item B of this rule is amended to make it consistent with the new procedure for activating a lapsed license as provided for in Minn. Rules 2640.2000. Likewise, subitem 5 is amended to correct a typographical error in the present rules and renumber the proposed rules in accordance with changes made elsewhere in earlier sections.

Minn. Rules 2640.3200. SALON LICENSURE.

The present rules governing the licensure and operation of cosmetology salons require that such facilities meet the standards set out in the State Building Code. At the present time the State Building Code has been adopted by only three of Minnesota's 87 counties. Requirements that a salon meet codes standards which are not adopted or enforced by building inspectors in most parts of the state make compliance with this rule at best, difficult, if not impossible. It is the Department's position that salons be required to comply with the existing local building codes and ordinances in effect at the time of application for licensure, and not the State Building Code. To impose a requirement that exceeds a building code applicable to all other business operators within a local area would produce an undue and costly requirement on salon operators. The Department believes that compliance with local building codes coupled with annual inspections by the Department will provide the same health and safety protection to the public that now exists without the burden of meeting a state code which is not applicable in most areas of Minnesota.

The change in this rule, however, retains the requirement that a salon must meet the State Fire Code if no local fire codes exist. These amendments to the cosmetology rules will insure that salons are constructed and maintained in accordance with the codes applicable to all other businesses within a localized area and assure that the safety of salon operators and patrons will remain protected in the instance where a municipality or other unit of government does not have an established fire code.

Minn. Rules 2640.3400. SALON LICENSE RENEWAL.

Subp. 2. This section is amended to make the date and requirements for salon license renewal consistent with those for renewal of individual cosmetology licenses. Upon adoption of these

amended rules all salon licenses will expire on December 31 of the year due rather than at a variety of times throughout the year as is the case under the present rules. This amendment will make it easier for a salon owner to remember his or her license renewal date as well as facilitate more efficient and expeditious processing of renewal application by the Licensing Division of the Department of Commerce.

Subp. 7. Identity of manager. This subpart is amended by adding clarifying language. At the time of a salon license renewal, the name and license number of the salon manager must be provided so that the Licensing Division can ascertain that there is an identified licensed manager responsible for the salon. This amendment simply clarifies the requirement that this information be included on the renewal application.

Minn. Rules 2640.3600. SALON REQUIREMENTS.

Subp. 4. Termination of license. Present regulations effectively require the closing of a salon when a change of address or ownership takes place. The salon reopens after the various building, fire, and cosmetology inspections have occurred. Due to the processing time for such inspections, an operator may be out of business for several days or weeks resulting in a loss of income and/or the allegiance of past customers. The amendment to this subpart proposes that a 60 day "grace" period for relicensing of a salon in such situations be allowed. The proposed 60 day period will allow adequate time for the salon owner to accomplish the required inspections and application for change in either ownership or address while not imposing the burden of an unnecessary loss of income or clientele.

Minn. Rules 2640.3700. PHYSICAL REQUIREMENTS.

Subp. 2. Entrance and exist. This subpart is amended by removing the requirement that a salon have at least two entrance/exit points. This requirement is replaced with language that requires that a salon shall comply with local building codes and ordinances. The amendment is designed to insure that salons meet the requirements for similar operations in their local area and thereby maintain a standard which is required for similar operations in their locale. The Department believes that it is easier and more appropriate for local building code inspectors to certify as to the physical adequacy of cosmetology salons when this is determined by the standards established and used in their own communities. Building code inspectors are trained and authorized to make such certifications and this change removes the requirement that cosmetology health and safety inspectors enforce building code requirements. Each inspector then is responsible for conducting the inspections which they are properly trained to do.

Subp. 4, Subp. 5, Subp. 6. These subparts are amended to make appropriate grammatical changes in the existing cosmetology rules to make them consistent with standards established by the Revisor of Statutes.

Subp. 7. Ventilation. The requirement in present rules regarding ventilation in cosmetology salons has, in many instances, placed an undue and costly burden on salon operators. The Department received numerous complaints that compliance with the requirement as it is presently stated would require major and costly rehabilitation to many existing establishments. The present rule goes beyond even the standards established in the State Building Code. We have been informed that compliance with the ventilation standard as set out in the present rules could cost operators up to $6,000 per salon and would result in considerably higher energy bills due to heat and air conditioning loss. In some instances, operators who could not afford such costs would be required to close their businesses.

As with the amendments to other subparts regarding physical requirements, the Department proposes that the salon meet local building codes and ordinances as required of all other business establishments in their area. The Department believes that the change will result in continued protection of consumers of cosmetology services while eliminating the extremely harsh requirement of the present rule.

Minn. Rules 2640.3800. FIXTURES, FURNITURE AND EQUIPMENT.

Item E is amended to require that only furniture in the service area of a salon be covered with washable materials. This amendment is designed to assure that furniture used in a salon's service area is covered with material that can be cleaned and maintained in a manner which meets appropriate health standards. At the same time other furniture, such as that in a lobby or waiting area, would not be required to meet the same standards. Such furniture is often made with fabric coverings and is completely adequate and appropriate for its intended use. The Department believes that furniture used in areas other than the service area of a salon can be appropriately left to the discretion of the salon operator and need not come under this requirement.

Item F currently provides that containers for the disposal of rubbish or the accumulation of soiled towels must be made of metal and covered with metal lids. The objective of the regulation is to reduce potential fire hazards. However, the Department has been informed that there are products which are not metal and yet meet appropriate fire safety standards. Again, the Department proposes that such containers comply with local fire codes or, if none exist, with the standards set forth in the State Fire Code. This amendment assures that the original objective of the regulation will continue to be met and yet allows for discretion on the part of a salon operator in the selection of the equipment used in his or her salon.

Minn. Rules 2640.3900. OPERATIONAL REQUIREMENTS FOR SALONS

Item J is amended to remove the requirement for use of metal containers and allow for the use of any container which complies with appropriate fire safety codes. The rationale here is the same as that set forth in the amendments to Minn. Rules 2640.3800 above.

Item K is amended at part 3 and part 4 to correct a discrepancy in the present cosmetology rules. The rule is designed to establish parameters for the strength of disinfecting solutions used in cosmetology salons. As stated in the present rules one standard is established for ethyl alcohol and another is set for isopropryl alcohol. The intend of the original rule is thereby accomplished through this grammatical change.

Item Y is amended to remove the requirement that a photograph of a cosmetology licensee accompany that individual's license when it is displayed in his or her work area. This is an unnecessary requirement and is removed through this amendment. Should there be a need to verify a licensee's identity, this can be accomplished through any variety of other methods other than attaching a photograph to a license. The requirement that the photograph be current and of a specific size, as is presently the case, serves no purpose within the health and safety inspection objective of the rules.

Item Y is further amended to require that the salon manager be responsible for assuring that all persons practicing cosmetology in a salon maintain current licenses. While each individual cosmetologists is required to abide by the Department's licensing rules, it is appropriate that the salon manager also be held responsible for overseeing the license status of those working in his or her salon. This appropriately places responsibility on the employer to assure that his or her employees are working within the requirements of these rules and the laws of the State of Minnesota.

Item Z is amended to remove unnecessary and overly-specific requirements as to the posting of a cosmetology salon license. The change will allow greater discretion on the part of a salon operator in the posting of a license while maintaining the requirement that it be placed in conspicuous public view.

Minn. Rules 2640.4100. SPECIFIC TYPES OF SALON LICENSES

Subp. 4. Mobile salons. The prohibition against mobile salons is removed from the present cosmetology rules to allow for the use of mobile salon units where appropriate. The earlier restriction against mobile salons was designed to prevent the use of facilities which might be unhealthy or unsanitary. The Department has become aware, however, that mobile salons can be designed to meet the same health requirements established for all other salons. Earlier concerns over the inability of Cosmetology Unit Inspectors to properly inspect mobile salons has been shown to be misplaced. Mobile salons, like any other salon, will be required to be inspected annually at a time

and place designated by the Cosmetology Unit. Likewise, cosmetology services provided through the use of mobile salons can be especially beneficial to elderly or disabled persons who may be otherwise unable to take advantage of such services beyond their easy access. Building code requirements for fixed structures will obviously not be applicable to mobile salons. Mobile salons, however, will be required to meet the health and safety provisions provided elsewhere in these rules. They will also be required to meet the standards, where applicable, set forth in the State Fire Code as provided in the rules. These inspections will assure that mobile salons operate under conditions which properly protect the health and safety of cosmetology services to consumers.

Subp. 6. item E is amended to allow the use of primary toilet facilities in residential salons. Such facilities will be required to comply with the standards for health and cleanliness established for any other salon. This amendment is designed to eliminate a costly burden to residential salon operators who would otherwise be required to install separate toilet facilities to service their operations. This requirement is unnecessary and its amendment will eliminate an unreasonable cost placed on the small business operators.

REPEALER

Minn. Rules 2640.1900, subp. 4. This subpart is repealed to eliminate unnecessary language with regard to licence renewal for individuals. Due to the amendments made to the requirement for renewal of cosmetology licenses, a method for otherwise determining the timeliness of a renewal application is unnecessary.

Minn. Rules 2640.3400, subp. 6. Repeal of this subpart eliminates unnecessary language regarding the determination of timely renewal application for salon licenses. With the amendment to licensing procedures for cosmetology salons, this language becomes unnecessary.

Minn. Rules 2640.4100, subp. 4. Rationale for repeal of this subpart is provided in the earlier discussion regarding this rule.

Impact on Small Business

Minnesota Statute Section 14.115 requires that the impact of proposed rules on small businesses be considered in the development of rules. Specifically, the statute at subdivision 2, requires a less stringent compliance standard and reporting requirement for small businesses be considered. The statute also requires that methods designed to reduce the impacts of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives with the rules.

Despite the lack of comments resulting from the Department's notice to solicit outside opinion, the Commissioner considered whether the provisions of the rules might be modified to accommodate the interest of small businesses. Consideration was given as to possible ways in which the requirements might be relaxed for small businesses or amended to reduce any burden on some small businesses.

These particular rule changes resulted from comments received by the Commissioner and the Department in regard to the existing rules. An evaluation of the rules determined that many of them were unnecessarily technical and overly burdensome. This impact was equally borne by both large and small businesses. However, the vast majority of licensees subject to these rules are small businesses. Accordingly, all of the changes proposed in these rules are proposed with the intent of reducing the burden of existing rules on the small business licensees.

Consideration was given in the promulgation of these rules to the fact that most licensees subject to them will be sole proprietors or have only one or two employees. Their ability to monitor compliance with stringent or overly technical rules is limited at best. Accordingly, these rules attempt to insure the safety of the patrons of the licensees while at the same time not imposing a burdensom regulatory requirement on the licensees. The impact of the rules on the licensees, who as previously stated are almost all small businesses, is discussed in the foregoing parts of the Statement of Need and Reasonableness.

Each of the methods described in Minnesota Statutes § 14.115, subdivision 2(a) - 3 were considered in proposing the rules. Provisions contained in the proposed rules are believed to be necessary to achieve the legislative purposes with the least burdensome effect upon small businesses.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Cosmetology

CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, RONALD E. HUNTER do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Ronald E. Hunter

Special Assistant Attorney General

Dated: July 10, 1985

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Cosmetology

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Richard G. Gomsrud, being first duly sworn, deposes and says:

That he is Department Counsel for the Department of Commerce.

That part of his duties is the promulgation and adoption of departmental rules, including those captioned above.

That to date, no person has requested notice of submission of the rules in the above-entitled matter to the Attorney General.

Richard G. Gomsrud

RICHARD G. GOMSRUD
Department Counsel, Department of Commerce

Subscribed and sworn to before me this
14th day of June, 1985.

Nancy I. Link

NANCY I. LINK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 3, 1990