

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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05.0004, 0118

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-30-86
DATE FOR REVIEW 8-8-86
DATE DUE 8-13-86

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

Approved 8/12/86 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 8-18-86 Revisor approved 8-5-86 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see S.R.

✓ Order Adopting 7-28-86 Date combined w/FF

NA Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
NA date of Hearing

NA Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking modification? small biz statement
7 Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4-25-86 At least 30 days prior to ~~hearing/~~adoption

✓ Mailing list Certificate

✓ Publication in State Register
4-28-86 At least 30/20 days prior to ~~hearing~~/adoption

NA Hearing Examiner's Report

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

✓ Agency's Findings of Fact combined w/ order adopting

NA LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness + Supplement

NA 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 unsigned

✓ Affidavit of Mailing Notice of Submission to Attorney General

_____ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MICHAEL A. HATCH, COMMISSIONER
Department of Commerce

ATTN: JOHN L. KIRWIN
Special Assistant Attorney General

DATE: 8/18/86

FROM: J. MICHAEL MILES jmm
Assistant Attorney General

PHONE: 296-6555

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 August 13, 1986.

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.

JMM:pmf

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1292

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 1

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 2

Department of Commerce

Adopted Rules Relating to Cosmetology

Rules as Adopted

2640.0100 DEFINITIONS.

Subpart 1. to 17. [Unchanged.]

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

Subp. 19. to 21. [Unchanged.]

Subp. 22. **Wet disinfector.** "Wet disinfector" means a receptacle containing a disinfectant solution.

2640.0500 UNREGULATED SERVICES.

Subpart 1. [Unchanged.]

Subp. 2. **Disclosure of courses.** Each school shall clearly identify those courses and clinical experiences in its curriculum which are not required by the ~~office~~ department and which pertain to services not licensed by the state. These courses shall be clearly identified in all recruitment advertising and written material used for the purposes of soliciting prospective students.

Nonrequired courses and unregulated services shall be conspicuously identified in all written material, in type of the same size as the course or service name.

Instructional time and clinical experience in unregulated services shall not be included in the minimum hours of schooling required for licensure.

2640.0700 INSPECTIONS.

Subpart 1. ~~Office~~ Department staff to conduct. Salons and schools shall be inspected by the ~~office~~ department staff. Advance notice of inspections shall not be given.

Subp. 2. **Grading.** Inspectors shall grade items "S" for compliance with Minnesota Statutes, chapter 155A and these rules and "U" for noncompliance.

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All items graded "U" shall be corrected within ten business days, and written notification of the correction shall be sent to the ~~office~~ department within that time.

Failure to correct a noncompliance item may be grounds for suspension or revocation of the salon or school license, and of the individual license of the manager and the cosmetologist, manicurist, esthetician, or instructor involved.

Subp. 3. **Business hours and location.** Each salon owner shall provide the ~~office~~ department with an accurate schedule of the hours that the salon is open for business. If the salon is open by appointment only, the salon owner shall designate one-half day a month when he or she shall be available at the salon for inspection of the salon.

For country shops, owners shall supply a detailed map indicating the salon's exact location and directions for driving to that salon.

Subp. 4. to 6. [Unchanged.]

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. **Schedules and sites.** Examination schedules and sites shall be determined by the ~~office~~ department.

Subp. 2. **Exam space.** Each school shall make space available on its premises for the performance of the licensing examinations upon request by the ~~office~~ department, if the request is reasonable and timely.

Subp. 3. **Instructor examination.** Instructor examination:

A. The ~~office~~ department shall have access to the clinic area of a licensed school no more than once per year and to licensed instructors no more than twice per year for assistance in conducting the practical examination for instructors.

B. Each examinee is responsible for providing his or her own model for the practical examination and shall be responsible for insuring the suitability of that model for the examination. Models shall be over 16 years of age and shall be required to sign a waiver releasing the ~~office~~ department, the

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examiners, the host school, and the examinee of all professional liability. The model shall not be a licensed cosmetologist or a cosmetology student.

Subp. 4. **Reexam limit.** A passing exam score is valid for 12 months.

Subp. 5. [Unchanged.]

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of having completed 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~~ department.

2640.1400 MANAGERS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of a current cosmetologist, esthetician, or manicurist license, and at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

2640.1500 INSTRUCTORS.

Subpart 1. **Full instructors.** In addition to the

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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~~ department and which will provide the knowledge and skills necessary to instruct in the field of cosmetology;

C. [Unchanged.]

D. at least 1,400 hours of experience as a licensed cosmetologist, manicurist, or esthetician in a licensed salon, supervised by a licensed manager, within the three years prior to this application.

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. to 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 1,400 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. [Unchanged.]

Subp. 2. **Change of name or address.** The licensee shall advise the ~~office~~ department 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. to 5. [Unchanged.]

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~~ department, 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~~ department does not constitute a valid excuse for not renewing the license.

Subp. 2. **Practical and educational requirements.** The licensee shall establish that his or her knowledge and skills are up to date, by meeting the following requirements no later than the expiration of his or her current license:

A. [Unchanged.]

B. An instructor shall pay the processing fee and shall provide evidence of having successfully completed 45 hours of continuing education approved by the ~~office~~ department, including at least 15 hours of teaching-related material and 15 hours related to analysis and use of professional clinical products.

Subp. 3. and 5. [Unchanged.]

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. **Procedure for lapsed licensee.** If an individual's license has expired, 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 three years has elapsed, the applicant shall apply for a new license in accordance with parts 2640.1200 to 2640.1600.

Subp. 2. [Unchanged.]

2640.2100 REINSTATEMENT AFTER DENIAL, SUSPENSION, OR REVOCATION.

An applicant shall have a license reinstated for the

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remainder of its unexpired term or shall be relicensed in the following circumstances:

A. after suspension of license, by meeting the following requirements:

(1) [Unchanged.]

(2) the applicant shall make application for reinstatement of license, in writing and on forms supplied by the ~~office~~ department;

(3) and (4) [Unchanged.]

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

(1) [Unchanged.]

(2) the applicant shall make application for relicensure, in writing and on forms provided by the ~~office~~ department;

(3) to (5) [Unchanged.]

2640.3100 SCOPE OF RULES.

The provisions of parts 2640.3100 to 2640.4100 apply to cosmetology, esthetician, and manicure salons. The following are exceptions for estheticians salons: parts 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S. The following are exceptions for manicure salons: parts 2640.3700, subpart 5, item B; 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S.

2640.3200 SALON LICENSURE.

Subpart 1. **All salon licenses.** The requirements of parts 2640.3100, 2640.3200, 2640.3700, 2640.3800, and 2640.4100 shall be met by all applicants proposing to establish a salon. Upon compliance, the ~~office~~ department will issue a provisional license which will enable the salon to open for business. The salon's compliance with all applicable provisions of Minnesota Statutes, chapter 155A and these rules shall be confirmed by an operational inspection by the ~~office staff~~ department. A permanent license for the balance of the three-year license

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cycle shall be issued upon confirmation of the salon's compliance.

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

A. to F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3300 MAINTAINING A SALON LICENSE.

The following requirements shall be met by all salons:

A. [Unchanged.]

B. The manager shall advise the ~~office~~ department of a change in name of the salon in writing, including both new and old name and address, within 30 days of the change.

C. and D. [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~~ department does not constitute a valid excuse for not renewing the license.

Subp. 3. to 7. [Unchanged.]

2640.3600 SALON REQUIREMENTS.

Subpart 1. **Location.** No cosmetology service shall be provided in a place other than a licensed cosmetology salon, esthetician salon, manicurist salon, cosmetology school, or as otherwise provided by these rules.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Change of name.** The salon manager or owner shall

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inform the ~~office~~ department in writing, within 60 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the ~~office~~ department upon receipt of the license in the new name.

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. There shall be at least 120 square feet of work space exclusive of any restroom, reception, or supply area for a one-practitioner cosmetology salon, 110 square feet of work space for a one-practitioner esthetician salon, and 100 square feet of work space for a one-practitioner manicure salon.

B. There shall be at least 50 additional square feet of work space for each additional licensee simultaneously on duty in a cosmetology salon or an esthetician salon, and at least 35 additional square feet of work space of each additional licensee simultaneously on duty in a manicure salon.

C. The supply area shall not be accessible to the public.

Subp. 2. to 7. [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 J. [Unchanged.]

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 (1,600 ppm); or 70 to 95 percent ethyl or isopropyl alcohol.

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(4) Metal implements and tools shall be disinfected by immersion in a solution of 70 to 95 percent ethyl or isopropyl alcohol. As an alternative to immersion, electric clippers may be treated by spraying them with a commercial spray containing active ingredients of not less than 0.25 percent o-phenyl phenol, 11 percent isopropl alcohol, and 88.75 percent inert ingredients.

(5) to (7) [Unchanged.]

L. to BB. [Unchanged.]

2640.4000 SALON SUPERVISION.

A. [Unchanged.]

B. Only one person shall be designated as a manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon, esthetician salon or manicurist salon; a licensed esthetician in an esthetician salon or a licensed manicurist in a manicure salon.

C. and D. [Unchanged.]

E. The manager shall maintain, on the salon premises, the work time records of each employee, as required by Minnesota Statutes, section 177.30. Time records shall be provided upon written request to the licensee or to the ~~office~~ department.

F. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Esthetician and manicure services.** Esthetician services shall not be offered in a manicurist salon. Manicurist services shall not be offered in a licensed esthetician salon.

Subp. 5. to 6. [Unchanged.]

Subp. 7. **Independent contractor.** A cosmetologist, esthetician, or manicurist, licensed by the state of Minnesota may lease work space from a licensed salon for use as an independent business if the following conditions are met:

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A. the lessee shall have a current Minnesota manager's license;

B. the leased work space shall be at least 50 square feet for a cosmetologist or esthetician and 35 square feet for a manicurist;

C. the lessee shall have professional liability insurance in the amount required for salon licenses. It is acceptable for the salon owner's professional liability policy to provide coverage to the lessee;

D. the lessee shall comply with all requirements of this chapter regarding the operation of the leased space as if the space were a salon; and

E. the owner and/or manager of the salon from whom the space is leased must confirm that the lessee is in compliance with the requirements of this subpart prior to entering into the lease and at all times during its term.

2640.5100 COMPLIANCE BY PRESENT LICENSEES AND STUDENTS.

Subpart 1. **Scope.** All individual licenses in effect on April 1, 1983, shall continue to be valid under the following circumstances.

Subp. 2. [See repealer.]

Subp. 3. **Senior instructor licenses.** Senior instructor licenses are discontinued. Current senior instructor licenses shall be renewed as instructor licenses. Senior instructor licenses which expire before January 1, 1988, shall not be required to satisfy the requirements of part 2640.1900.

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. **Salons and booths, temporary exemptions.** Salons and booths licensed on April 1, 1983, shall be exempt from the following provisions until January 1, 1988:

A. Part 2640.3700, subparts 1, 2, and 4, item B until replacement;

B. and C. [Unchanged.]

Subp. 7. [See Repealer.]

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Subp. 8. **Interpreters.** Foreign language students whose enrollment registration is on file in the ~~office~~ department on April 1, 1983, may use an interpreter at the examinations, provided that they have first demonstrated to the ~~office~~ department that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

Subp. 9. [See repealer.]

Subp. 10. **Variances.** The ~~director~~ commissioner may grant a variance from physical requirements to schools not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement.

2640.5200 SCHOOL LICENSURE.

Subpart 1. **Application contents.** The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the ~~office~~ department, on forms supplied by the ~~office~~ department, giving the following information:

A. to C. [Unchanged.]

D. evidence of the school's compliance with local zoning requirements and the rules of the Minnesota Department of Health, local building codes, fire codes, and ordinances;

E. the name of the licensed manager who will be employed by the school, including that individual's license number and expiration date;

F. a roster of all instructors, including license number, designation of employment status (full-time or part-time) and days of the week and hours scheduled for instruction;

G. a diagram of the school drawn to scale on 8-1/2 inches x 11 inches or 8-1/2 inches x 14 inches paper, providing the dimensions of the school as a whole and designating the size and location of all entrances and exits, and the location and

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dimensions of all required areas and facilities;

H. a complete inventory of facilities and equipment supportive of instructional and clinical operations, as required by these rules;

I. a designation of the licenses for which instruction will be offered;

J. a detailed outline of the courses of training to be offered, designating the preclinical and clinical curriculum, text materials, and the clinical plan designed for each license category;

K. the maximum possible number of enrollees the school will be able to accommodate;

L. copies of all financial aid and refund policies;

M. copies of all student rules and disciplinary policies;

N. a copy of the standard enrollment contract;

O. copies of all written material used to solicit prospective students, including but not limited to tuition, refund, and fee schedules, catalogs, brochures, and all recruitment advertisements; and

P. a current balance sheet, income statement, or evidence of sufficient financial worth to conduct a school and to meet its financial obligations.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Surety bond.** The applicant shall file with the ~~director of the office~~ commissioner a continuous corporate surety bond in the amount of $10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed $10,000. The surety of the bond may cancel it upon giving 60 days notice in writing to the ~~director~~

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of-the-office commissioner and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

Subp. 5. [Unchanged.]

2640.5300 MAINTAINING A SCHOOL LICENSE.

Subpart 1. [Unchanged.]

Subp. 2. **Notification of changes.** Each school shall notify the office department within 30 days of the effective date, unless otherwise indicated below, and in writing, of all alterations, additions, and deletions in the information contained in its original license application, and supply current information, including but not limited to:

A. changes in managerial or instructional staff including additions and terminations, or changes in employment status (full-time, part-time, or number of hours worked). The school shall notify the office department of all such changes within ten days of the effective date of the change;

B. changes in the education services or course of training offered, the curriculum, text materials, or clinical experience plan;

C. remodeling or significant alteration of the physical plant in which the school is housed.

Subp. 3. **Retention of ad copies.** The school shall maintain copies of all advertisements for clinic services for three years. They shall be provided to the office department at its request.

2640.5400 SCHOOL LICENSE RENEWAL.

All of the following requirements shall be met in order to renew a license:

A. The licensee shall be responsible for requesting renewal of his or her school license, in writing, before that license expires. This may be accomplished on the license renewal notice form provided by the office department. However, if this renewal notice is not received, it is still the licensee's responsibility to properly renew the school license.

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B. to E. [Unchanged.]

F. The licensee shall have filed with the ~~director of the office~~ commissioner a surety bond as required by part 2640.5200, subpart 4.

G. and H. [Unchanged.]

2640.5500 DELINQUENT SCHOOL LICENSES.

Failure to renew a school license prior to its expiration date shall result in a delinquent license. The applicant shall comply with the following:

A. If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the processing fee.

B. If more than 30 days have elapsed since the expiration of the license, the licensee shall reapply for a school license as if no license had been previously issued. The school's operation without a valid license shall be a violation of the law and no student training provided during that period will be recognized by the ~~office~~ department.

2640.5600 CERTIFICATE OF IDENTIFICATION.

Subpart 1. **Issuance.** Upon written request to the ~~office~~ department, a licensee may be issued a certificate of identification authorizing his or her lawful practice in a place other than a licensed salon. To obtain the certificate, the individual shall:

A. [Unchanged.]

B. provide documentation to the ~~office~~ department of at least 2700 hours of lawful practice in Minnesota;

C. and D. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

2640.5700 DUPLICATE LICENSE.

A duplicate license will be issued only upon the loss or destruction of the initial license. The licensee shall submit to the ~~office~~ department an affidavit indicating why a duplicate

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license is required, and submit the required fee.

2640.5800 BASIC REQUIREMENTS FOR SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Employment of licensed instructors.** No cosmetology school shall employ an instructor who does not hold a current Minnesota cosmetology instructor license. A school may use guest instructors who do not hold a cosmetology license to provide supplemental information to students from related fields, such as medicine, public relations, or law. Guest instruction and extracurricular educational activities shall constitute no more than three percent of the hours of the total course of study.

Subp. 4. [Unchanged.]

Subp. 5. **Change of name.** The school owner or manager shall inform the ~~office~~ department, in writing, of a name change within 60 days of the effective date of the change and pay the school name change fee. A license will be issued in the new name for the unexpired term of the old license, which shall be returned to the ~~office~~ department upon receipt of the license in the new name.

Subp. 6. and 7. [Unchanged.]

2640.5900 FACILITIES REQUIREMENTS FOR LICENSURE.

In addition to the requirements of parts 2640.5200 and 2640.5800, the requirements contained in parts 2640.6000 to 2640.7500 shall be met by the school before a license will be issued. Compliance with these requirements shall be confirmed by an inspection by ~~cosmetology unit staff~~ the department. The license shall be issued after a satisfactory initial inspection.

2640.6000 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. There shall be a combined clinic and classroom size of at least 25 square feet for each enrollee to be accommodated. This space shall exclude all ~~office~~ department space, storage areas, lounge facilities, and restrooms.

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B. to E. [Unchanged.]

Subp. 2. **Entrances and exits.** Entrances and exits must comply with the requirements of applicable local building codes and ordinances.

Subp. 3. to 5. [Unchanged.]

2640.6100 FIXTURES, FURNITURE, EQUIPMENT.

A school shall meet the following minimum requirements:

A. and B. [Unchanged.]

C. There shall be at least one facial chair, clean and in good repair, for each ten enrollees. This may be a work station chair with a reclining back and attachable headrest.

D. to G. [Unchanged.]

H. There shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school.

I. and J. [Unchanged.]

2640.6200 SUPPLIES AND MATERIALS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Instructional aids.** The school shall have instructional aids to provide the required instruction to all enrollees. There shall be at least one bulletin board, located in the student lounge, which shall contain, but not be limited to, all communications addressed to the students from the ~~office~~ department and copies of the student rules and disciplinary policies. There shall be at least one blackboard in each classroom.

Subp. 5. [Unchanged.]

2640.6300 ADVANCED TRAINING AND DEMONSTRATIONS.

It is permissible to offer instruction in cosmetology in a place other than a licensed school of cosmetology in the following situations:

A. [Unchanged.]

B. community education classes, as defined in part 2640.0100.

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2640.6600 CURRICULUM APPROVAL AND CONTENT.

Each cosmetology school shall have a curriculum approved by the ~~office~~ department to provide instruction, divided into daily lesson plans. The curriculum shall include theory and practical application of skills, including the instruction set forth in parts 2640.6700 to 2640.7000.

2640.6700 COSMETOLOGIST TRAINING.

A. to D. [Unchanged.]

E. Documentation of the student's completion of the required quotas in each category in item D shall be sent to the ~~office~~ department with the documentation of successful completion of the entire course of training.

F. [Unchanged.]

2640.6800 ESTHETICIAN TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of approximately 200 hours in the applied sciences.

(1) [Unchanged.]

(2) Documentation of the student's completion of the required facials or makeup applications shall be sent to the ~~office~~ department with the documentation of successful completion of the entire course of training.

E. [Unchanged.]

2640.6900 MANICURIST TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of approximately 150 hours in applied sciences and skills.

(1) [Unchanged.]

(2) The documentation of the student's completion of the required manicures shall be sent to the ~~office~~ department with documentation of successful completion of the course of training.

E. [Unchanged.]

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2640.7000 **REFRESHER COURSES.**

A licensed cosmetology school, salon, or a professional association may plan and offer a refresher course taught by licensed instructors of at least 40 hours in length for cosmetologists, estheticians, and/or manicurists. The course shall focus on knowledge, skills, and product types related to chemical services and shall balance lectures, demonstrations, and clinical experiences. It shall be held in a licensed salon or school. Sponsors of a proposed course shall apply for ~~office~~ department approval at least ten business days prior to the course date. The course sponsor shall pay the processing fee. The course sponsor shall provide the individuals who successfully pass a final course examination with course completion certificates. The class attendees are then responsible for providing a copy of the completion certificates to the Department of Commerce when required.

2640.7100 CREDIT TOWARDS ANOTHER LICENSE.

A licensed esthetician or manicurist who received his or her training within the last five years may receive the following credit for that training toward another license:

A. to C. [Unchanged.]

D. esthetician training = 100 hours credit toward a manicurist license.

2640.7700 MANAGER.

A. There shall be a manager responsible for each school at all times. No manager may concurrently be responsible for more than one school nor for a school and a salon. When the manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

B. and C. [Unchanged.]

D. The manager shall ensure that all equipment required by these rules is clean and maintained in proper working condition, that proper supplies are in stock at all

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times, and that safety, sanitation, and operational requirements are met by the school.

2640.7800 INSTRUCTORS.

A. There shall be at least two licensed instructors on the school premises during the time students are present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and all students shall be under the supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

(1) [Unchanged.]

(2) The school shall notify the ~~office~~ department in writing within ten days of each occurrence of failure to meet the required instructor quota.

B. If a school is not in compliance with item A, students will be notified by the ~~office~~ department that it will not accept hours accrued during the period of noncompliance.

C. [Unchanged.]

D. All instructors shall wear identification badges at all times while providing training, stating their name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

2640.7900 ENROLLMENT CONTRACTS.

The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract. The contract shall state the starting date of schooling. A notice stating that the licensing examination is given only in English shall accompany the contract copy provided to the student, parent, or guardian.

The school and a student who has enrolled for training because he or she failed the state examination and reciprocity applicants shall enter into a contract which specifies the precise nature of theory and clinical experience to be covered during the training course.

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2640.8200 STUDENT RECORDS.

Student records shall be maintained as follows:

A. All records relating to students shall be maintained and up-to-date, in a secure and orderly fashion and shall be kept on the school premises. All student records shall be legible and shall be available for inspection by a representative of the ~~office~~ department during normal business hours of the school or by mail upon the written request of the ~~office~~ department.

B. and C. [Unchanged.]

D. All student records shall be maintained by the school, or a custodian if the school ceases operation, for at least five years from the date of the student's termination or completion of training; or a transcript of the course work of each student may be kept, the transcript to contain the student's name, the date student enrolled, the date of termination of enrollment and the circumstances of termination, the total number of hours completed, and the school owner or manager's notarized signature verifying the contents of the transcript. When requested by a student or former student, copies must be provided at the cost of duplication.

E. The school shall maintain the following reports for each student:

(1) a student registration form containing the student's full and correct name, course of training for which enrolled, and start date. The status of the student shall be stated as full-time or part-time, day or night classes;

(2) [Unchanged.]

(3) certification of completion of preclinical courses. Documentation signed by the school owner or manager shall indicate that the student has successfully completed the required hours of preclinical work. A student shall not be allowed to perform any service or portion thereof in the school clinic on a client until this certification has been completed;

(4) a progress evaluation report. Upon completion of one-half of the total required hours, the school

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shall give the student and the ~~office~~ department a written progress evaluation assessing the student's progress towards successful fulfillment of the license requirements;

(4) [Unchanged.]

(5) certification of readiness to take the written examination. Documentation signed by school owner or manager, shall indicate that the student has successfully completed 1,350, 500, and 315 hours, for cosmetologist, esthetician, and manicurist respectively, of preclinical and clinical training, and is prepared to take the written state licensing examinations. This certification must be received by the ~~student~~ department before the student will be scheduled for the written examinations;

(6) documentation signed by school owner or manager, shall indicate that the student has successfully completed the course of training for which he or she enrolled , including documentation of the student's completion of the practical exercises, as required by parts 2640.6700, item D, 2640.6800, item D, subitem (1), and 2640.6900, item D, subitem (1), and documentation of the student's successful completion of the skills certification review, on a form provided by the ~~office~~ department;

(7) a certification shall be written and maintained by the school if a student withdraws, is suspended, or expelled from his or her course of training. The certification shall be signed by the school owner or manager, shall indicate the last day on which the student was enrolled, the total number of hours the student has successfully completed as of that date, a transcript detailing the nature of those hours, and the reason for the withdrawal, suspension, or revocation. A copy of a student's termination certification and/or completion of course of training certification must be provided to the student within ten days of the termination from or completion of the cosmetology training.

2640.8400 STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN

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REQUIRED TIME.

A license applicant must pass the examination and be licensed within a period of not more than three years from the date of successful completion of the required training. A student who does not meet this requirement will be required to complete a reactivation course or complete the required training in addition to the skills certification, whichever is greater, before making application for examination.

2640.8500 TRANSFER STUDENTS.

When a student has paid or made arrangement to pay all applicable tuition fees to a school, that school shall certify a student's hours to another school within ten days of the student's written request. The former school may charge a nominal fee for providing this certification and transfer of hours.

2640.8600 FULL COURSE OF INSTRUCTION.

No student shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except that a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn unregulated services, and reciprocity applicants who require additional schooling may be enrolled for these purposes.

2640.8700 DISPLAY OF LICENSES.

Current licenses of all school personnel shall be conspicuously posted in the reception area.

The school's current license shall be conspicuously posted.

2640.8800 PRE-ENROLLMENT DISCLOSURES.

The following information shall be given to prospective students along with any materials designed to solicit their enrollment: minimum requirements for licensing in the fields in which the school offers instruction, tuition and all fees, the

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enrollment contract, refund policy, and student regulations. Prior to enrollment, written materials regarding refund policies must be discussed with and acknowledged as being understood by anyone enrolling in a cosmetology school. All written materials used to solicit prospective students shall comply with part 2640.0600. Copies of all solicitation materials shall be retained by the school for a period of five years from the last date of use.

2640.8900 SCHOOL CLINICS.

All instruction in school clinics and all work performed by students in school clinics shall comply with the operational requirements for a cosmetology salon in part 2640.3900, items A to L. In addition:

A. to D. [Unchanged.]

E. No student shall perform clinic services until he or she has successfully completed the required hours of preclinical training.

F. [Unchanged.]

G. All students and instructors shall be required to wear an identification badge at all times. The badges shall be at least two inches by one inch; state the student's name; and state that the student is either a "Cosmetologist Trainee," "Esthetician Trainee," or "Manicurist Trainee." Badges shall be furnished by the school as part of tuition costs.

H. [Unchanged.]

I. Instructors shall ensure that students and instructors maintain the clinic work area in the same manner and degree as is required for salon cleanliness under part 2640.3900, item O.

J. Instructors shall ensure that all students working in the school clinic and all instructors observe the same personal hygiene and safety requirements as those imposed on salon practitioners in part 2640.3900, item P.

K. Cosmetology services shall not knowingly be performed in a school clinic on any person who has a

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communicable disease or parasite.

L. [Unchanged.]

2640.9100 FEE ADJUSTMENTS, LICENSING.

Subpart 1. **Refunds.** Refunds shall be given in the following situations: overpayment; death or permanent disability before license effective date; or an individual's ineligibility for licensure. Applicants determined ineligible to receive a license will be refunded the license fee minus any processing fee this chapter requires.

Subp. 2. [Unchanged.]

2640.9200 FEE SCHEDULE.

The fee schedule shall be as follows:

A. Three-year license fees:

(1) Cosmetologist, manicurist, esthetician, $30;

(2) Instructor, manager, $45;

(3) Salon, $50;

(4) School, $750.

B. Penalties:

(1) Reinspection fee, variable;

(2) Manager with lapsed practitioner, $25.

C. Administrative fees:

(1) Duplicate license (includes individual name or address change), $5;

(2) Certificate of identification, $20;

(3) Processing fee (covers licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals), $15;

(4) School original application, $150.

2640.9400 REQUEST FOR WAIVER.

A written request for waiver of specific rule requirements may be granted by the commissioner in cases of hardship or medical necessity.

REPEALER. Minnesota Rules, part 2640.5100, subparts 2, 4,

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5, 7, and 9 are repealed. Minnesota Rules, part 2640.5100, subparts 6 and 8 are repealed effective January 1, 1988.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 18 1986
Joan Anderson Growe
Secretary of State
10:19 AM

APPROVED AS TO FORM AND LEGALITY
8/13 1986

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cosmetology

FINDINGS OF FACT AND CONCLUSIONS AND ORDER ADOPTING RULE

Notice of the Commissioner's proposed adoption of the above entitled rules without public hearing was published in the State Register on Monday April 28 at 10 S.R. 2199. Notice was sent by United States Mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subd. 1, paragraph (a) and 14.22 on April 25, 1986.

All persons were given the opportunity to submit comments on the Rule for thirty days after notice of proposed rulemaking. Fewer than 25 requests for hearing within the 30 day comment period were received. No submissions or comments on the rules were received by the Department. Based upon the comments and evidence on the record for the agency I find that the rules are needed and reasonable and that it is appropriate to adopt the rules as they were published.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Relating to Cosmetology are adopted as published this 28th day of July 1986 pursuant to the authority vested in me by Minnesota Statutes Section 45.023 and 155A.05.

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 OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 11th day of April 1986 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

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. 1

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 Department and does not result in a substantial change. 2 3

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. 4

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to 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. 5 6

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. 12

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness. 14

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonablenss, 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, Department 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 proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 6

In the Matter of the Proposed Rules
Relaating to Cosmetology

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF MAILING

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

That on the 25th day of April, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, the attached Notice of Intent to Adopt Without a Public Hearing was served 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 Minnesota Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by the Department.

Richard G. Gomsrud

Subscribed and sworn to before me
this 29th day of May, 1986

Notary Public

MARILYN J. ROBINSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires June 18, 1987

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE
500 METRO SQUARE BUILDING
ST. PAUL, MN 55101

ATTENTION:
RULE RELATED MATERIAL

FIRST CLASS MAIL

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
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 Department and does 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.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to 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.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonablenss, 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, Department 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 proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Cosmetology

Rules as Proposed

2640.0100 DEFINITIONS.

Subpart 1. to 21. [Unchanged.]

Subp. 22. **Wet disinfector.** "Wet disinfector" means a nonporous receptacle containing a disinfectant solution.

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. to 3. [Unchanged.]

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

Subp. 5. [Unchanged.]

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

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

A. to C. [Unchanged.]

2640.1400 MANAGERS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of a current cosmetologist, esthetician, or manicurist license, and at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

2640.1500 INSTRUCTORS.

Subpart 1. **Full instructors.** In addition to the requirements of part 2640.1200, the applicant shall pay a

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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. to C. [Unchanged.]

D. at least ~~1,800~~ 1,400 hours of experience as a licensed cosmetologist, manicurist, or esthetician in a licensed salon, supervised by a licensed manager, within the three years prior to this application.

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. to 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~~ 1,400 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. **Procedure for lapsed licensee.** If ~~after~~ an individual's license ~~expires~~ has expired, 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~~ three years has elapsed, the applicant shall apply for a new license in accordance with parts 2640.1200 to 2640.1600.

Subp. 2. [Unchanged.]

2640.3100 SCOPE OF RULES.

The provisions of parts 2640.3100 to 2640.4100 apply to both cosmetology, esthetician, and manicure salons~~, except for parts 2640.3700, subpart 5, item B, 2640.3800, items B and C, and 2640.3900, items A to C and G, which do not apply to manicure salons~~. The following are exceptions for estheticians

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salons: parts 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S. The following are exceptions for manicure salons: parts 2640.3700, subpart 5, item B; 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

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

A. to F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3300 MAINTAINING A SALON ~~OR BOOTH~~ LICENSE.

The following requirements shall be met by all salons ~~and booths~~:

A. to D. [Unchanged.]

2640.3600 SALON REQUIREMENTS.

Subpart 1. **Location.** No cosmetology service shall be provided in a place other than a licensed cosmetology salon, esthetician salon, manicurist salon, cosmetology school, or as otherwise provided by these rules.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Change of name.** The salon manager or owner shall inform the office in writing, within ~~30~~ 60 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the office upon receipt of the license in the new name.

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. There shall be at least 120 square feet of work space exclusive of any restroom, reception, or supply area for a one-practitioner cosmetology salon, 110 square feet of work space for a one-practitioner esthetician salon, and 100 square

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feet of work space for a one-practitioner manicure salon.

B. There shall be at least 50 additional square feet of work space for each additional licensee simultaneously on duty in a cosmetology salon or an esthetician salon, and at least 35 additional square feet of work space of each additional licensee simultaneously on duty in a manicure salon.

C. The supply area shall not be accessible to the public.

Subp. 2. to 7. [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 J. [Unchanged.]

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~~ 1,600 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. As an alternative to immersion, electric clippers may be treated by spraying them with a commercial spray containing active ingredients of not less than 0.25 percent o-phenyl phenol, 11 percent isopropl alcohol, and 88.75 percent inert ingredients.

(5) to (7) [Unchanged.]

L. to BB. [Unchanged.]

2640.4000 SALON SUPERVISION.

A. [Unchanged.]

B. Only one person shall be designated as a manager

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for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon, esthetician salon or manicurist salon; a licensed esthetician in an esthetician salon or a licensed manicurist in a manicure salon.

C. to F. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Esthetician and manicure services. ~~Esthetician services shall be provided only in a licensed cosmetology salon.~~ Esthetician services shall not be offered in a manicurist salon. Manicurist services shall not be offered in a licensed esthetician salon.

Subp. 5. to 6. [Unchanged.]

Subp. 7. ~~Booth license~~ Independent contractor. A ~~Minnesota licensed~~ cosmetologist, esthetician, or manicurist manager, licensed by the state of Minnesota may lease work space from a licensed salon ~~and operate that space~~ for use as an independent business ~~upon obtaining a booth license. An applicant for a booth license shall meet~~ if the following ~~requirements~~ conditions are met:

A. the ~~applicant~~ lessee shall ~~hold~~ have a current Minnesota manager manager's license;

B. ~~the applicant shall provide documentation of leased work space from a licensed Minnesota salon. The work space shall be at least 50 square feet for a cosmetologist or esthetician and 35 square feet for a manicurist. The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties;~~

C. the ~~applicant~~ lessee shall ~~provide evidence of~~

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coverage-by have professional liability insurance in the amount required for salon ~~licensees~~ licenses. It ~~shall be~~ is acceptable for the salon owner's professional liability policy to ~~cover the booth licensee~~ provide coverage to the lessee;

D. the ~~applicant~~ lessee shall ~~be responsible for operating his or her work space in full compliance with these rules~~ comply with all requirements of this chapter regarding the operation of the leased space as if the space were a salon; and

E. the owner and/or manager of the salon from whom the space is leased must confirm that the lessee is in compliance with the requirements of this subpart prior to entering into the lease and at all times during its term.

2640.5100 COMPLIANCE BY PRESENT LICENSEES AND STUDENTS.

Subpart 1. Scope. All individual licenses in effect on ~~the effective date of these rules~~ April 1, 1983, shall continue to be valid under the following circumstances.

Subp. 2. [See repealer.]

Subp. 3. Senior instructor licenses. Senior instructor licenses are discontinued. Current senior instructor licenses shall be renewed as instructor licenses. Senior instructor licenses which expire before January 1, 1988, shall not be ~~renewed upon compliance with~~ required to satisfy the requirements of part 2640.1900~~, subparts 1 and 3 to 5. licenses which expire on or after January 1, 1988, shall be renewed upon compliance with part 2640.1900, subparts 1, 2, item B, and 3 to 5.~~

~~In addition to these requirements, all individuals holding licenses as senior instructor or instructor shall comply with the requirements of part 2640.1500, item B on or before December 31, 1984. Failure to do so shall result in revocation of license.~~

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. Salons and booths, temporary exemptions. Salons and booths licensed on April 1, 1983, shall be exempt from the

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following provisions until January 1, 1988:

A. Part 2640.3700, subparts 1, 2, and 4, item B until replacement~~, and subpart 7 until July 1, 1984~~;

B. and C. [Unchanged.]

Subp. 7. [See Repealer.]

Subp. 8. **Interpreters.** Foreign language students whose enrollment registration is on file in the office on ~~the effective date of these rules~~ April 1, 1983, may use an interpreter at the examinations, provided that they have first demonstrated to the ~~director~~ office that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

Subp. 9. [See repealer.]

Subp. 10. **Variances.** The director may grant a variance from physical requirements to schools ~~a variance from physical~~ requirements not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement. ~~All requests for variance shall be submitted prior to May 15, 1983.~~

2640.5200 SCHOOL LICENSURE.

Subpart 1. **Application contents.** The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

~~D. the daily and weekly class schedule;~~

~~E~~ evidence of the school's compliance with local zoning requirements and the rules of the Minnesota Department of Health, ~~State Building Code and Standards, and the State Fire Marshall~~ local building codes, fire codes, and ordinances;

~~F~~ E. the name of the licensed manager who will be employed by the school, including that individual's license number and expiration date;

~~G~~ F. a roster of all instructors, including license

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number, designation of employment status (full-time or part-time) and days of the week and hours scheduled for instruction;

~~H.~~ G. a diagram of the school drawn to scale on 8-1/2 inches x 11 inches or 8-1/2 inches x 14 inches paper, providing the dimensions of the school as a whole and designating the size and location of all entrances and exits, and the location and dimensions of all required areas and facilities;

~~I.~~ H. a complete inventory of facilities and equipment supportive of instructional and clinical operations, as required by these rules;

~~J.~~ I. a designation of the licenses for which preparation instruction will be offered;

~~K.~~ J. a detailed outline of the courses of training to be offered, designating the preclinical and clinical curriculum, text materials, and the clinical plan designed for each license category;

~~L.~~ K. the maximum possible number of enrollees the school will be able to accommodate;

~~M.~~ L. copies of all financial aid and refund policies;

~~N.~~ M. copies of all student rules and disciplinary policies;

~~O.~~ N. a copy of the standard enrollment contract;

~~P.~~ O. copies of all written material used to solicit prospective students, including but not limited to tuition, refund, and fee schedules, catalogs, brochures, and all recruitment advertisements; and

~~Q.~~ P. a current balance sheet, income statement, or evidence of sufficient financial worth to conduct a school and to meet its financial obligations.

Subp. 2. to 5. [Unchanged.]

2640.5300 MAINTAINING A SCHOOL LICENSE.

Subpart 1. [Unchanged.]

Subp. 2. **Notification of changes.** Each school shall notify the office within 30 days of the effective date, unless

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otherwise indicated below, and in writing, of all alterations, additions, and deletions in the information contained in its original license application, and supply current information, including but not limited to:

A. changes in managerial or instructional staff including additions and terminations, or changes in employment status (full-time, part-time, or number of hours worked). The school shall notify the office of all such changes within ~~three~~ ten days of the effective date of the change;

~~B. changes in any written material and advertising used to solicit prospective students;~~

~~C~~ B. changes in the education services or course of training offered, the curriculum, text materials, or clinical experience plan;

~~B~~ C. remodeling or significant alteration of the physical plant in which the school is housed;

~~E. the most current balance sheet, income statement, or evidence of financial worth shall be submitted to the office on January 1 of each year.~~

Subp. 3. [Unchanged.]

2640.5500 DELINQUENT SCHOOL LICENSES.

Failure to renew a school license prior to its expiration date shall result in a delinquent license. The applicant shall comply with the following:

A. If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the ~~required late penalty~~ processing fee.

B. [Unchanged.]

2640.5800 BASIC REQUIREMENTS FOR SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Employment of licensed instructors.** No cosmetology school shall employ an instructor who does not hold a current Minnesota cosmetology instructor license. A school may use ~~occasional~~ guest instructors ~~or lecturers~~ who do not

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hold a cosmetology license to provide supplemental information to students from related fields, such as medicine, public relations, or law. Guest instruction and extracurricular educational activities shall constitute no more than three percent of the hours of the total course of study.

Subp. 4. [Unchanged.]

Subp. 5. **Change of name.** The school owner or manager shall inform the office, in writing, of a name change~~,--in writing,--30~~ within 60 days before of the effective date of the change and pay the school name change fee. A license will be issued in the new name for the unexpired term of the old license, which shall be returned to the office upon receipt of the license in the new name.

Subp. 6. and 7. [Unchanged.]

2640.5900 FACILITIES REQUIREMENTS FOR LICENSURE.

In addition to the requirements of parts 2640.5200 and 2640.5800, the requirements contained in parts 2640.6000 to ~~2640.6200~~ 2640.7500 shall be met by the school before a license will be issued. Compliance with these requirements shall be confirmed by an inspection by cosmetology unit staff. The license shall be issued after a satisfactory initial inspection.

2640.6000 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. to D. [Unchanged.]

~~E.--There-shall-be-an-instructors'-lounge-separate from-the-student-lounge.~~

Subp. 2. **Entrances and exits.** ~~Each-school-shall-have-at least-two-entrance/exit-points~~ Entrances and exits must comply with the requirements of applicable local building codes and ordinances.

Subp. 3. to 5. [Unchanged.]

2640.6100 FIXTURES, FURNITURE, EQUIPMENT.

A school shall meet the following minimum requirements:

A. and B. [Unchanged.]

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C. There shall be at least one facial chair, clean and in good repair, for each ~~six~~ ten enrollees. This may be a work station chair with a reclining back and attachable headrest.

D. to G. [Unchanged.]

H. There shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school. ~~Each student's hours shall be recorded at the beginning and end of each day and before and after lunch.~~

I. and J. [Unchanged.]

2640.6300 ADVANCED TRAINING AND DEMONSTRATIONS.

It is permissible to offer instruction in cosmetology in a place other than a licensed school of cosmetology in the following situations:

A. [Unchanged.]

B. community education classes, as defined by ~~Minnesota Statutes, chapter 155A~~ in part 2640.0100.

2640.6800 ESTHETICIAN TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 200 hours in the applied sciences.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.6900 MANICURIST TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 150 hours in applied sciences and skills.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.7000 REFRESHER COURSES.

A licensed cosmetology school, salon, or a professional association may plan and offer a refresher course taught by licensed instructors of at least 40 hours in length for

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cosmetologists, estheticians, and/or manicurists. The course shall focus on knowledge, skills, and product types related to chemical services and shall balance lectures, demonstrations, and clinical experiences. It shall be held in a licensed salon or school. Sponsors of a proposed course shall apply for office approval at least ~~45~~ ten business days prior to the course date. ~~The application shall be on a form provided by the office.~~ The course sponsor shall pay the processing fee. The course sponsor shall provide the ~~office with the name and license number of all~~ individuals who successfully pass a final course examination with course completion certificates. The class attendees are then responsible for providing a copy of the completion certificates to the Department of Commerce when required.

2640.7100 CREDIT TOWARDS ANOTHER LICENSE.

A licensed esthetician or manicurist who received his or her training within the last five years may receive the following credit for that training toward another license:

A. to C. [Unchanged.]

D. esthetician training ~~does not produce any credit toward a manicurist license~~ = 100 hours credit toward a manicurist license.

2640.7700 MANAGER.

A. There shall be a manager responsible for each school at all times. ~~There shall be only one person designated as manager for each school.~~ No manager may concurrently be responsible for more than one school nor for a school and a salon. When the manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

B. and C. [Unchanged.]

D. The manager shall ensure that all equipment required by these rules is clean and maintained in proper working condition, that proper supplies are in stock at all times, and that safety, sanitation, and operational requirements

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are met by the school. ~~The manager shall be responsible for recruitment and advertising materials.~~

2640.7800 INSTRUCTORS.

A. There shall be at least two licensed instructors on the school premises during the time students are present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and all students shall be under the ~~direct~~ supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

(1) [Unchanged.]

(2) The school shall notify the office in writing within ~~three~~ ten days of each occurrence of failure to meet the required instructor quota.

B. to C. [Unchanged.]

D. All instructors shall wear identification badges at all times while providing training, stating their ~~full~~ name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

2640.7900 ENROLLMENT CONTRACTS.

The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract. The contract shall state the starting date of schooling. A notice stating that the licensing examination is given only in English shall accompany the contract copy provided to the student, parent, or guardian.

The school and a student who has enrolled for training because he or she failed the state examination and reciprocity applicants shall enter into a contract which specifies the precise nature of theory and clinical experience to be covered during the training course.

2640.8200 STUDENT RECORDS.

Student records shall be maintained as follows:

A. to C. [Unchanged.]

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D. All student records shall be maintained by the school, or a custodian if the school ceases operation, for at least five years from the date of the student's termination or completion of training; or a transcript of the course work of each student may be kept, the transcript to contain the student's name, the date student enrolled, the date of termination of enrollment and the circumstances of termination, the total number of hours completed, and the school owner or manager's notarized signature verifying the contents of the transcript. When requested by a student or former student, copies must be provided at the cost of duplication.

E. The school shall ~~submit to the office~~ maintain the following reports for each student:

(1) a student registration form containing the student's full and correct name, course of training for which enrolled, and start date. The status of the student shall be stated as full-time or part-time, day or night classes; ~~--This information must be received by the office within ten days of the student's start date and shall be accompanied by the processing fee;~~

(2) [Unchanged.]

(3) certification of completion of preclinical courses. Documentation signed by the school owner or manager shall indicate that the student has successfully completed the required hours of preclinical work. A student shall not be allowed to perform any service or portion thereof in the school clinic on a client until this certification has been sent completed;

(4) [Unchanged.]

(5) certification of readiness to take the written examination. Documentation signed by school owner or manager, shall indicate that the student has successfully completed 1,350, 500, and 315 hours, for cosmetologist, esthetician, and manicurist respectively, of preclinical and clinical training, and is prepared to take the written state licensing examinations. This certification must be received by

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the ~~office~~ student before the student will be scheduled for the written examinations;

(6) documentation signed by school owner or manager, shall indicate that the student has successfully completed the course of training for which he or she enrolled~~, included shall be~~, including documentation of the student's completion of the practical exercises, as required by parts 2640.6700, item D, 2640.6800, item D, subitem (1), and 2640.6900, item D, subitem (1), and documentation of the student's successful completion of the skills certification review, on a form provided by the office;

(7) a ~~statement~~ certification shall be ~~sent by the school to the office~~ written and maintained by the school if a student withdraws, is suspended, or expelled from his or her course of training. The certification shall be signed by the school owner or manager, shall indicate the last day on which the student was enrolled, the total number of hours the student has successfully completed as of that date, a transcript detailing the nature of those hours, and the reason for the withdrawal, suspension, or revocation. ~~This certification must be received by the office within ten days of the end of enrollment~~ A copy of a student's termination certification and/or completion of course of training certification must be provided to the student within ten days of the termination from or completion of the cosmetology training.

2640.8400 STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN REQUIRED TIME.

~~Individuals registering as students in a school of cosmetology must complete their training, successfully~~ A license applicant must pass the examination, and be licensed within a period of not more than ~~five~~ three years from the date of successful completion of the required training. ~~Otherwise, records of student hours and training received will no longer be considered valid for licensure in Minnesota~~ A student who does not meet this requirement will be required to complete a

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reactivation course or complete the required training in addition to the skills certification, whichever is greater, before making application for examination.

2640.8500 TRANSFER STUDENTS.

~~A student shall apply to the office in writing for transfer of hours from one school to another. The office shall forward to the receiving school a certified copy of the previous school's certification of withdrawal, suspension or expulsion, or of the transcript of hours completed as indicated on that certification. No school shall give credit to a student for hours completed in another school without a certification of hours from the office or from a non-Minnesota licensing authority as to the total number of hours~~ When a student has paid or made arrangement to pay all applicable tuition fees to a school, that school shall certify a student's hours to another school within ten days of the student's written request. The former school may charge a nominal fee for providing this certification and transfer of hours.

2640.8600 FULL COURSE OF INSTRUCTION.

No student ~~unless licensed under provisions of Minnesota Statutes, chapter 155A,~~ shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except for that a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn unregulated services, and reciprocity applicants who require additional schooling may be enrolled for these purposes.

2640.8700 DISPLAY OF LICENSES.

Current licenses of all school personnel shall be conspicuously posted in the reception area ~~at approximately eye level. A two inch by two inch photograph of the licensee alone~~

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~~taken-within-the-past-three-years-shall-be-attached-to-each license.~~

The school's current school license shall be conspicuously posted ~~with-the-personnel's-licenses.~~

2640.8800 PRE-ENROLLMENT DISCLOSURES.

~~If-the-school-brochure-does-not-contain~~ The following information~~,~~ ~~it~~ shall be given to prospective students along with ~~the-brochure-and-other~~ any materials designed to ~~elicit~~ solicit their enrollment: minimum requirements for licensing in the fields in which the school offers instruction, tuition and all fees, the enrollment contract, refund policy, and student regulations. Prior to enrollment, written materials regarding refund policies must be discussed with and acknowledged as being understood by anyone enrolling in a cosmetology school. All written materials used to solicit prospective students shall comply with part 2640.0600. Copies of all solicitation materials shall be retained by the school for a period of five years from the last date of use.

2640.8900 SCHOOL CLINICS.

All instruction in school clinics and all work performed by students in school clinics shall comply with the operational requirements for a cosmetology salon in part 2640.3900, items A to L. In addition:

A. to D. [Unchanged.]

E. No student shall perform clinic services until he or she has successfully completed the required hours of preclinical training ~~and-the-school-has-sent-to-the-office-a certification-of-that-completion.~~

F. [Unchanged.]

G. All students and instructors shall be required to wear an identification badge at all times. The badges shall be at least two inches by one inch; state the student's ~~first-and last~~ name; and state that the student is either a "Cosmetologist Trainee," "Esthetician Trainee," or "Manicurist Trainee." ~~A freshman-is-a-student-who-has-not-completed-the-required-hours~~

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~~of-preclinical-training.--A-senior-is-a-student-who-has completed-the-preclinical-training.--Freshman-badges-shall-be green-and-senior-badges-shall-be-blue.--Different-shades-of-blue may-be-used-to-designate-various-degrees-or-levels-of-senior students.~~ Badges shall be furnished by the school as part of tuition costs.

H. [Unchanged.]

I. Instructors shall ensure that students and instructors maintain the clinic work area in the same manner and degree as is required for salon cleanliness under part 2640.3900, ~~items~~ item O ~~to-S~~.

J. Instructors shall ensure that all students working in the school clinic and all instructors observe the same personal hygiene and safety requirements as those imposed on salon practitioners in part 2640.3900, ~~items-T-to-W~~ item P.

K. Cosmetology services shall not knowingly be performed in a school clinic on any person who has a communicable disease~~,-condition~~, or parasite.

L. [Unchanged.]

2640.9100 FEE ADJUSTMENTS, LICENSING.

Subpart 1. **Refunds.** Refunds shall be given in the following situations: overpayment; death or permanent disability before license effective date; or an individual's ineligibility for licensure. ~~Ineligible-instructor-and-manager~~ Applicants ~~shall-be-refunded-the-license-fee-only.--Ineligible cosmetologist,-manicurist,-or-esthetician-applicants-shall~~ determined ineligible to receive a license will be refunded the license fee minus the any processing fee this chapter requires.

Subp. 2. [Unchanged.]

2640.9200 FEE SCHEDULE.

The fee schedule shall be as follows:

A. Three-year license fees:

(1) Cosmetologist, manicurist, esthetician, $30;

(2) Instructor, manager, $45;

(3) Salon, ~~booth~~, $50;

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(4) School, $750.

B. Penalties:

~~(1) late-penalty,-school-license-renewal,-$100,~~
~~salon-and-booth-license-renewal,-$50,-individual-license~~
~~renewal,-$10,~~

~~(2)-Reinstatement,-$30,~~

~~(3)-Insufficient-funds-checks,-$10,~~

~~(4)~~ Reinspection fee, variable;

~~(5)~~ (2) Manager with lapsed practitioner, $25.

C. Administrative fees:

(1) Duplicate license (includes individual name or address change), ~~$10~~ $5;

(2) Certificate of identification, $20;

(3) ~~Examination-fees,-written-exam~~
~~(cosmetologist,-manicurist,-esthetician),-$8,-written-exam~~
~~(manager-or-instructor),-$12,-practical-exam,-$18,~~

~~(4)~~ Processing fee (covers ~~student-enrollment,~~ ~~course-evaluation,-verification-of-hours/training-experience~~ licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals), $15;

~~(5)-School-name-change,-$100,~~

~~(6)~~ (4) School original application, $150.

2640.9400 REQUEST FOR WAIVER.

A written request for waiver of specific rule requirements may be granted by the commissioner in cases of hardship or medical necessity.

REPEALER. Minnesota Rules, part 2640.5100, subparts 2, 4, 5, 7, and 9 are repealed. Minnesota Rules, part 2640.5100, subparts 6 and 8 are repealed effective January 1, 1988.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 7

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Rules
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 1st day of May 1986.

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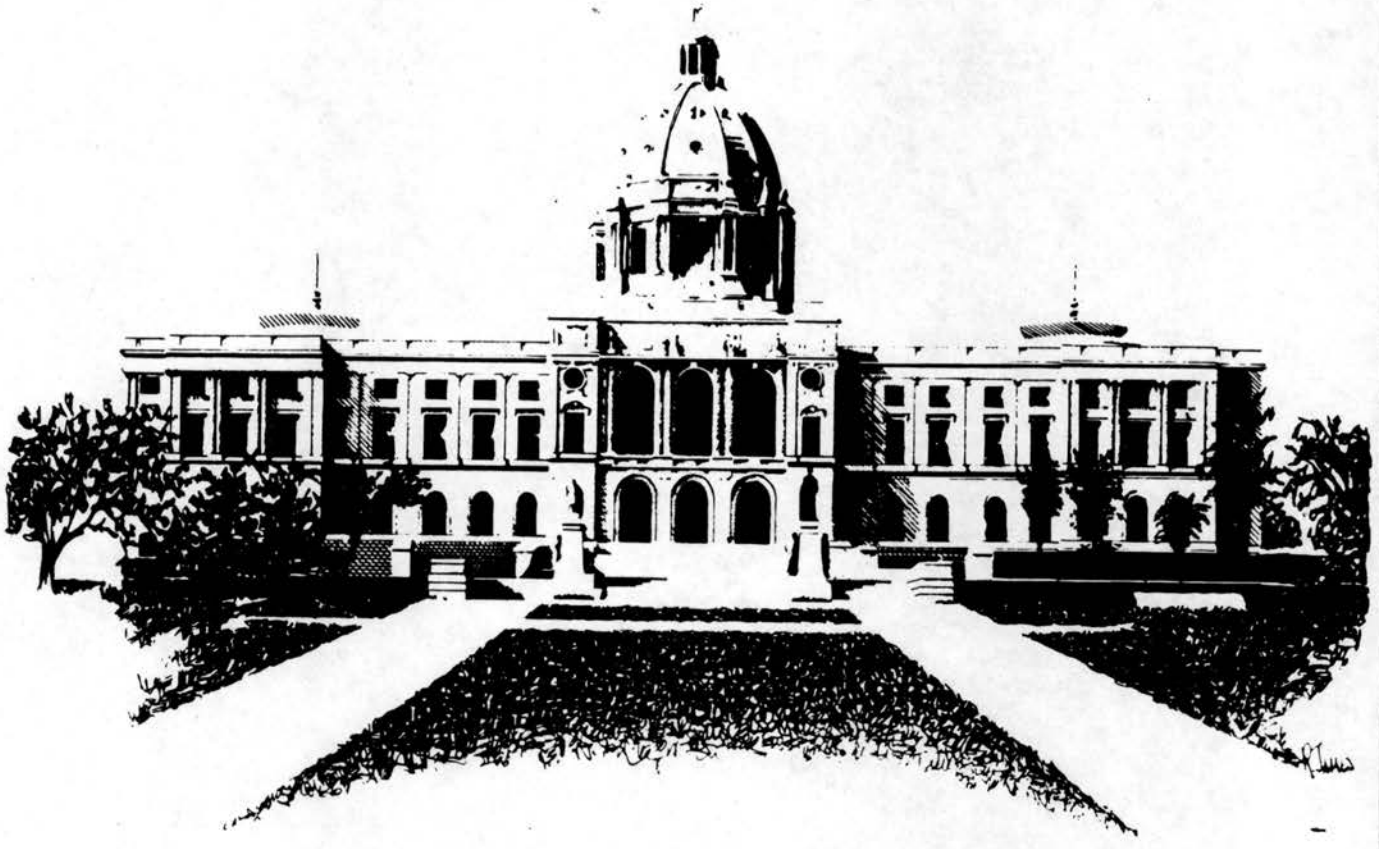
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Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 8

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PROPOSED RULES

Pursuant to Minn. Stat. of 1984, §§ 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 Department and does 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.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard C. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to 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.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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, Department 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 proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2640.0100 DEFINITIONS.

Subpart 1. to 21. [Unchanged.]

Subp. 22. **Wet disinfector.** "Wet disinfector" means a ~~nonporous~~ receptacle containing a disinfectant solution.

2640.1100 EXAMINATION ADMINISTRATION.

Subpart 1. to 3. [Unchanged.]

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

Subp. 5. [Unchanged.]

2640.1300 COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

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

A. to C. [Unchanged.]

2640.1400 MANAGERS.

In addition to the requirements of part 2640.1200, the applicant shall provide documentation of a current cosmetologist, esthetician, or manicurist license, and at least 2,700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

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. to C. [Unchanged.]

D. at least ~~1,800~~ 1,400 hours of experience as a licensed cosmetologist, manicurist, or esthetician in a licensed salon, supervised by a licensed manager, within the three years prior to this application.

Subp. 2. [Unchanged.]

2640.1700 LICENSE RECIPROCITY WITH OTHER JURISDICTIONS.

Subpart 1. to 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~~ 1,400 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

2640.2000 PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. **Procedure for lapsed licensee.** If ~~after~~ an individual's license ~~expires~~ has expired, 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~~ three years has elapsed, the applicant shall apply for a new license in accordance with parts 2640.1200 to 2640.1600.

Subp. 2. [Unchanged.]

2640.3100 SCOPE OF RULES.

The provisions of parts 2640.3100 to 2640.4100 apply to ~~both~~ cosmetology, esthetician, and manicure salons~~, except for parts 2640.3700, subpart 5, item B, 2640.3800, items B and C, and 2640.3900, items A to C and G, which do not apply to manicure salons~~. The following are exceptions for estheticians salons: parts 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S. The following are exceptions for manicure salons: parts 2640.3700, subpart 5, item B; 2640.3800, items B and C; and 2640.3900, items A, B, C, G, L, Q, and S.

2640.3200 SALON LICENSURE.

Subpart 1. [Unchanged.]

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

A. to F. [Unchanged.]

Subp. 3. to 5. [Unchanged.]

2640.3300 MAINTAINING A SALON ~~OR BOOTH~~ LICENSE.

The following requirements shall be met by all salons ~~and booths~~:

A. to D. [Unchanged.]

2640.3600 SALON REQUIREMENTS.

Subpart 1. **Location.** No cosmetology service shall be provided in a place other than a licensed cosmetology salon, esthetician salon, manicurist salon, cosmetology school, or as otherwise provided by these rules.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Change of name.** The salon manager or owner shall inform the office in writing, within ~~30~~ 60 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the office upon receipt of the license in the new name.

2640.3700 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. There shall be at least 120 square feet of work space exclusive of any restroom, reception, or supply area for a one-practitioner cosmetology salon, 110 square feet of work space for a one-practitioner esthetician salon, and 100 square feet of work space for a one-practitioner manicure salon.

B. There shall be at least 50 additional square feet of work space for each additional licensee simultaneously on duty in a cosmetology salon or an esthetician salon, and at least 35 additional square feet of work space of each additional licensee simultaneously on duty in a manicure salon.

C. The supply area shall not be accessible to the public.

Subp. 2. to 7. [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:

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A. to J. [Unchanged.]

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~~ 1,600 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. As an alternative to immersion, electric clippers may be treated by spraying them with a commercial spray containing active ingredients of not less than 0.25 percent o-phenyl phenol, 11 percent isopropl alcohol, and 88.75 percent inert ingredients.

(5) to (7) [Unchanged.]

L. to BB. [Unchanged.]

2640.4000 SALON SUPERVISION.

A. [Unchanged.]

B. Only one person shall be designated as a manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon, esthetician salon or manicurist salon; a licensed esthetician in an esthetician salon or a licensed manicurist in a manicure salon.

C. to F. [Unchanged.]

2640.4100 SPECIFIC TYPES OF SALON LICENSES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Esthetician and manicure services.** ~~Esthetician services shall be provided only in a licensed cosmetology salon.~~ Esthetician services shall not be offered in a manicurist salon. Manicurist services shall not be offered in a licensed esthetician salon.

Subp. 5. to 6. [Unchanged.]

Subp. 7. **~~Booth license~~ Independent contractor.** A ~~Minnesota licensed~~ cosmetologist, esthetician, or manicurist ~~manager~~, licensed by the state of Minnesota may lease work space from a licensed salon ~~and operate that space~~ for use as an independent business ~~upon obtaining a booth license. An applicant for a booth license shall meet~~ if the following ~~requirements~~ conditions are met:

A. the ~~applicant~~ lessee shall ~~hold~~ have a current Minnesota ~~manager~~ manager's license~~.~~;

B. the ~~applicant shall provide documentation of~~ leased work space ~~from a licensed Minnesota salon. The work space~~ shall be at least 50 square feet for a cosmetologist or esthetician and 35 square feet for a manicurist~~. The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties.~~;

C. the ~~applicant~~ lessee shall ~~provide evidence of coverage by~~ have professional liability insurance in the amount required for salon ~~licensees~~ licenses. It ~~shall be~~ is acceptable for the salon owner's professional liability policy to ~~cover the booth licensee.~~ provide coverage to the lessee;

D. the ~~applicant~~ lessee shall ~~be responsible for operating his or her work space in full compliance with these rules~~ comply with all requirements of this chapter regarding the operation of the leased space as if the space were a salon; and

E. the owner and/or manager of the salon from whom the space is leased must confirm that the lessee is in compliance with the requirements of this subpart prior to entering into the lease and at all times during its term.

2640.5100 COMPLIANCE BY PRESENT LICENSEES AND STUDENTS.

Subpart 1. **Scope.** All individual licenses in effect on ~~the effective date of these rules~~ April 1, 1983, shall continue to be valid under the following circumstances.

Subp. 2. [See repealer.]

Subp. 3. **Senior instructor licenses.** Senior instructor licenses are discontinued. Current senior instructor licenses shall be renewed as instructor licenses. Senior instructor licenses which expire before January 1, 1988, shall not be ~~renewed upon compliance with~~ required to satisfy the requirements of part 2640.1900~~, subparts 1 and 3 to 5. Licenses which expire on or after January 1, 1988, shall be renewed upon compliance with part 2640.1900, subparts 1, 2, item B, and 3 to 5~~.

~~In addition to these requirements, all individuals holding licenses as senior instructor or instructor shall comply with the~~

~~requirements of part 2640.1500, item B on or before December 31, 1984. Failure to do so shall result in revocation of license.~~

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. **Salons and booths, temporary exemptions.** Salons and booths licensed on April 1, 1983, shall be exempt from the following provisions until January 1, 1988:

A. Part 2640.3700, subparts 1, 2, and 4, item B until replacement~~, and subpart 7 until July 1, 1984~~;

B. and C. [Unchanged.]

Subp. 7. [See Repealer.]

Subp. 8. **Interpreters.** Foreign language students whose enrollment registration is on file in the office on ~~the effective date of these rules~~ April 1, 1983, may use an interpreter at the examinations, provided that they have first demonstrated to the ~~director~~ office that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

Subp. 9. [See repealer.]

Subp. 10. **Variances.** The director may grant a variance from physical requirements to schools ~~a variance from physical requirements~~ not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement. ~~All requests for variance shall be submitted prior to May 15, 1983.~~

2640.5200 SCHOOL LICENSURE.

Subpart 1. **Application contents.** The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

A. to C. [Unchanged.]

D. ~~the daily and weekly class schedule;~~

~~E.~~ evidence of the school's compliance with local zoning requirements and the rules of the Minnesota Department of Health, ~~State Building Code and Standards, and the State Fire Marshall~~ local building codes, fire codes, and ordinances;

~~F.~~ E. the name of the licensed manager who will be employed by the school, including that individual's license number and expiration date;

~~G.~~ F. a roster of all instructors, including license number, designation of employment status (full-time or part-time) and days of the week and hours scheduled for instruction;

~~H.~~ G. a diagram of the school drawn to scale on 8-1/2 inches x 11 inches or 8-1/2 inches x 14 inches paper, providing the dimensions of the school as a whole and designating the size and location of all entrances and exits, and the location and dimensions of all required areas and facilities;

~~I.~~ H. a complete inventory of facilities and equipment supportive of instructional and clinical operations, as required by these rules;

~~J.~~ I. a designation of the licenses for which ~~preparation~~ instruction will be offered;

~~K.~~ J. a detailed outline of the courses of training to be offered, designating the preclinical and clinical curriculum, text materials, and the clinical plan designed for each license category;

~~L.~~ K. the maximum possible number of enrollees the school will be able to accommodate;

~~M.~~ L. copies of all financial aid and refund policies;

~~N.~~ M. copies of all student rules and disciplinary policies;

~~O.~~ N. a copy of the standard enrollment contract;

~~P.~~ O. copies of all written material used to solicit prospective students, including but not limited to tuition, refund, and fee schedules, catalogs, brochures, and all recruitment advertisements; and

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~~Q.~~ P. a current balance sheet, income statement, or evidence of sufficient financial worth to conduct a school and to meet its financial obligations.

Subp. 2. to 5. [Unchanged.]

2640.5300 MAINTAINING A SCHOOL LICENSE.

Subpart 1. [Unchanged.]

Subp. 2. **Notification of changes.** Each school shall notify the office within 30 days of the effective date, unless otherwise indicated below, and in writing, of all alterations, additions, and deletions in the information contained in its original license application, and supply current information, including but not limited to:

A. changes in managerial or instructional staff including additions and terminations, or changes in employment status (full-time, part-time, or number of hours worked). The school shall notify the office of all such changes within ~~three~~ ten days of the effective date of the change;

B. ~~changes in any written material and advertising used to solicit prospective students;~~

~~C.~~ changes in the education services or course of training offered, the curriculum, text materials, or clinical experience plan;

~~D.~~ C. remodeling or significant alteration of the physical plant in which the school is housed~~;~~

~~E. the most current balance sheet, income statement, or evidence of financial worth shall be submitted to the office on January 1 of each year~~.

Subp. 3. [Unchanged.]

2640.5500 DELINQUENT SCHOOL LICENSES.

Failure to renew a school license prior to its expiration date shall result in a delinquent license. The applicant shall comply with the following:

A. If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the ~~required late penalty~~ processing fee.

B. [Unchanged.]

2640.5800 BASIC REQUIREMENTS FOR SCHOOLS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Employment of licensed instructors.** No cosmetology school shall employ an instructor who does not hold a current Minnesota cosmetology instructor license. A school may use ~~occasional~~ guest instructors ~~or lecturers~~ who do not hold a cosmetology license to provide supplemental information to students from related fields, such as medicine, public relations, or law. Guest instruction and extracurricular educational activities shall constitute no more than three percent of the hours of the total course of study.

Subp. 4. [Unchanged.]

Subp. 5. **Change of name.** The school owner or manager shall inform the office, in writing, of a name change~~, in writing, 30~~ within 60 days ~~before~~ of the effective date of the change and pay the school name change fee. A license will be issued in the new name for the unexpired term of the old license, which shall be returned to the office upon receipt of the license in the new name.

Subp. 6. and 7. [Unchanged.]

2640.5900 FACILITIES REQUIREMENTS FOR LICENSURE.

In addition to the requirements of parts 2640.5200 and 2640.5800, the requirements contained in parts 2640.6000 to ~~2640.6200~~ 2640.7500 shall be met by the school before a license will be issued. Compliance with these requirements shall be confirmed by an inspection by cosmetology unit staff. The license shall be issued after a satisfactory initial inspection.

2640.6000 PHYSICAL REQUIREMENTS.

Subpart 1. **Space.** Space:

A. to D. [Unchanged.]

~~E. There shall be an instructors' lounge separate from the student lounge.~~

Subp. 2. **Entrances and exits.** ~~Each school shall have at least two entrance/exit points~~ Entrances and exits must comply with the requirements of applicable local building codes and ordinances.

Subp. 3. to 5. [Unchanged.]

2640.6100 FIXTURES, FURNITURE, EQUIPMENT.

A school shall meet the following minimum requirements:

A. and B. [Unchanged.]

C. There shall be at least one facial chair, clean and in good repair, for each ~~six~~ ten enrollees. This may be a work station chair with a reclining back and attachable headrest.

D. to G. [Unchanged.]

H. There shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school. ~~Each student's hours shall be recorded at the beginning and end of each day and before and after lunch.~~

I. and J. [Unchanged.]

2640.6300 ADVANCED TRAINING AND DEMONSTRATIONS.

It is permissible to offer instruction in cosmetology in a place other than a licensed school of cosmetology in the following situations:

A. [Unchanged.]

B. community education classes, as defined ~~by Minnesota Statutes, chapter 155A~~ in part 2640.0100.

2640.6800 ESTHETICIAN TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 200 hours in the applied sciences.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.6900 MANICURIST TRAINING.

A. to C. [Unchanged.]

D. There shall be planned clinical instruction and experience of ~~approximately~~ 150 hours in applied sciences and skills.

(1) and (2) [Unchanged.]

E. [Unchanged.]

2640.7000 REFRESHER COURSES.

A licensed cosmetology school, salon, or a professional association may plan and offer a refresher course taught by licensed instructors of at least 40 hours in length for cosmetologists, estheticians, and/or manicurists. The course shall focus on knowledge, skills, and product types related to chemical services and shall balance lectures, demonstrations, and clinical experiences. It shall be held in a licensed salon or school. Sponsors of a proposed course shall apply for office approval at least ~~45~~ ten business days prior to the course date. ~~The application shall be on a form provided by the office.~~ The course sponsor shall pay the processing fee. The course sponsor shall provide the ~~office with the name and license number of all~~ individuals who successfully pass a final course examination with course completion certificates. The class attendees are then responsible for providing a copy of the completion certificates to the Department of Commerce when required.

2640.7100 CREDIT TOWARDS ANOTHER LICENSE.

A licensed esthetician or manicurist who received his or her training within the last five years may receive the following credit for that training toward another license:

A. to C. [Unchanged.]

D. esthetician training ~~does not produce any credit toward a manicurist license~~ 100 hours credit toward a manicurist license.

2640.7700 MANAGER.

A. There shall be a manager responsible for each school at all times. ~~There shall be only one person designated as manager for each school.~~ No manager may concurrently be responsible for more than one school nor for a school and a salon. When the

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manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

B. and C. [Unchanged.]

D. The manager shall ensure that all equipment required by these rules is clean and maintained in proper working condition, that proper supplies are in stock at all times, and that safety, sanitation, and operational requirements are met by the school. ~~The manager shall be responsible for recruitment and advertising materials.~~

2640.7800 INSTRUCTORS.

A. There shall be at least two licensed instructors on the school premises during the time students are present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and all students shall be under the ~~direct~~ supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

(1) [Unchanged.]

(2) The school shall notify the office in writing within ~~three~~ ten days of each occurrence of failure to meet the required instructor quota.

B. to C. [Unchanged.]

D. All instructors shall wear identification badges at all times while providing training, stating their ~~full~~ name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

2640.7900 ENROLLMENT CONTRACTS.

The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract. The contract shall state the starting date of schooling. A notice stating that the licensing examination is given only in English shall accompany the contract copy provided to the student, parent, or guardian.

The school and a student who has enrolled for training because he or she failed the state examination and reciprocity applicants shall enter into a contract which specifies the precise nature of theory and clinical experience to be covered during the training course.

2640.8200 STUDENT RECORDS.

Student records shall be maintained as follows:

A. to C. [Unchanged.]

D. All student records shall be maintained by the school, or a custodian if the school ceases operation, for at least five years from the date of the student's termination or completion of training; or a transcript of the course work of each student may be kept, the transcript to contain the student's name, the date student enrolled, the date of termination of enrollment and the circumstances of termination, the total number of hours completed, and the school owner or manager's notarized signature verifying the contents of the transcript. When requested by a student or former student, copies must be provided at the cost of duplication.

E. The school shall ~~submit to the office~~ maintain the following reports for each student:

(1) a student registration form containing the student's full and correct name, course of training for which enrolled, and start date. The status of the student shall be stated as full-time or part-time, day or night classes~~. This information must be received by the office within ten days of the student's start date and shall be accompanied by the processing fee~~;

(2) [Unchanged.]

(3) certification of completion of preclinical courses. Documentation signed by the school owner or manager shall indicate that the student has successfully completed the required hours of preclinical work. A student shall not be allowed to perform any service or portion thereof in the school clinic on a client until this certification has been ~~sent~~ completed;

(4) [Unchanged.]

(5) certification of readiness to take the written examination. Documentation signed by school owner or manager, shall indicate that the student has successfully completed 1,350, 500, and 315 hours, for cosmetologist, esthetician, and manicurist respectively, of preclinical and clinical training, and is prepared to take the written state licensing examinations. This certification must be received by the ~~office~~ student before the student will be scheduled for the written examinations;

(6) documentation signed by school owner or manager, shall indicate that the student has successfully completed the course of training for which he or she enrolled~~. Included shall be~~, including documentation of the student's completion of the practical exercises, as required by parts 2640.6700, item D, 2640.6800, item D, subitem (1), and 2640.6900, item D, subitem (1), and documentation of the student's successful completion of the skills certification review, on a form provided by the office;

(7) a ~~statement~~ certification shall be ~~sent by the school to the office~~ written and maintained by the school if a student withdraws, is suspended, or expelled from his or her course of training. The certification shall be signed by the school owner or manager, shall indicate the last day on which the student was enrolled, the total number of hours the student has successfully completed as of that date, a transcript detailing the nature of those hours, and the reason for the withdrawal, suspension, or revocation. ~~This certification must be received by the office within ten days of the end of enrollment~~ A copy of a student's termination certification and/or completion of course of training certification must be provided to the student within ten days of the termination from or completion of the cosmetology training.

2640.8400 STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN REQUIRED TIME.

~~Individuals registering as students in a school of cosmetology must complete their training, successfully~~ A license applicant must pass the examination~~,~~ and be licensed within a period of not more than ~~five~~ three years from the date of successful completion of the required training. ~~Otherwise, records of student hours and training received will no longer be considered valid for licensure in Minnesota~~ A student who does not meet this requirement will be required to complete a reactivation course or complete the required training in addition to the skills certification, whichever is greater, before making application for examination.

2640.8500 TRANSFER STUDENTS.

~~A student shall apply to the office in writing for transfer of hours from one school to another. The office shall forward to the receiving school a certified copy of the previous school's certification of withdrawal, suspension or expulsion, or of the transcript of hours completed as indicated on that certification. No school shall give credit to a student for hours completed in another school without a certification of hours from the office or from a non Minnesota licensing authority as to the total number of hours~~ When a student has paid or made arrangement to pay all applicable tuition fees to a school, that school shall certify a student's hours to another school within ten days of the student's written request. The former school may charge a nominal fee for providing this certification and transfer of hours.

2640.8600 FULL COURSE OF INSTRUCTION.

No student~~, unless licensed under provisions of Minnesota Statutes, chapter 155A,~~ shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except ~~for~~ that a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn unregulated services, and reciprocity applicants who require additional schooling may be enrolled for these purposes.

2640.8700 DISPLAY OF LICENSES.

Current licenses of all school personnel shall be conspicuously posted in the reception area ~~at approximately eye level. A two-inch by two-inch photograph of the licensee alone taken within the past three years shall be attached to each license~~.

The school's current ~~school~~ license shall be conspicuously posted ~~with the personnel's licenses~~.

2640.8800 PRE-ENROLLMENT DISCLOSURES.

~~If the school brochure does not contain~~ The following information~~, it~~ shall be given to prospective students along with ~~the brochure and other~~ any materials designed to ~~elicit~~ solicit their enrollment: minimum requirements for licensing in the fields in which the school offers instruction, tuition and all fees, the enrollment contract, refund policy, and student regulations. Prior to enrollment, written materials regarding refund policies must be discussed with and acknowledged as being understood by anyone enrolling in a cosmetology school. All written materials used to solicit prospective students shall comply with part 2640.0600. Copies of all solicitation materials shall be retained by the school for a period of five years from the last date of use.

2640.8900 SCHOOL CLINICS.

All instruction in school clinics and all work performed by students in school clinics shall comply with the operational requirements for a cosmetology salon in part 2640.3900, items A to L. In addition:

A. to D. [Unchanged.]

E. No student shall perform clinic services until he or she has successfully completed the required hours of preclinical training ~~and the school has sent to the office a certification of that completion~~.

F. [Unchanged.]

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G. All students and instructors shall be required to wear an identification badge at all times. The badges shall be at least two inches by one inch; state the student's ~~first and last~~ name; and state that the student is either a "Cosmetologist Trainee," "Esthetician Trainee," or "Manicurist Trainee." ~~A freshman is a student who has not completed the required hours of preclinical training. A senior is a student who has completed the preclinical training. Freshman badges shall be green and senior badges shall be blue. Different shades of blue may be used to designate various degrees or levels of senior students.~~ Badges shall be furnished by the school as part of tuition costs.

H. [Unchanged.]

I. Instructors shall ensure that students and instructors maintain the clinic work area in the same manner and degree as is required for salon cleanliness under part 2640.3900, ~~items~~ item O ~~to S~~.

J. Instructors shall ensure that all students working in the school clinic and all instructors observe the same personal hygiene and safety requirements as those imposed on salon practitioners in part 2640.3900, ~~items T to W~~ item P.

K. Cosmetology services shall not knowingly be performed in a school clinic on any person who has a communicable disease~~, condition,~~ or parasite.

L. [Unchanged.]

2640.9100 FEE ADJUSTMENTS, LICENSING.

Subpart 1. **Refunds.** Refunds shall be given in the following situations: overpayment; death or permanent disability before license effective date; or an individual's ineligibility for licensure. ~~Ineligible instructor and manager~~ Applicants ~~shall be refunded the license fee only. Ineligible cosmetologist, manicurist, or esthetician applicants shall~~ determined ineligible to receive a license will be refunded the license fee minus ~~the~~ any processing fee this chapter requires.

Subp. 2. [Unchanged.]

2640.9200 FEE SCHEDULE.

The fee schedule shall be as follows:

A. Three-year license fees:

(1) Cosmetologist, manicurist, esthetician, $30;

(2) Instructor, manager, $45;

(3) Salon, ~~booth,~~ $50;

(4) School, $750.

B. Penalties:

(1) ~~Late penalty, school license renewal, $100; salon and booth license renewal, $50; individual license renewal, $10;~~

~~(2) Reinstatement, $30;~~

~~(3) Insufficient funds checks, $10;~~

~~(4)~~ Reinspection fee, variable;

~~(5)~~ (2) Manager with lapsed practitioner, $25.

C. Administrative fees:

(1) Duplicate license (includes individual name or address change), ~~$10~~ $5;

(2) Certificate of identification, $20;

(3) ~~Examination fees, written exam (cosmetologist, manicurist, esthetician), $8; written exam (manager or instructor), $12; practical exam, $18;~~

~~(4)~~ Processing fee (covers ~~student enrollment, course evaluation, verification of hours/training experience~~ licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals), $15;

~~(5) School name change, $100;~~

~~(6)~~ (4) School original application, $150.

2640.9400 REQUEST FOR WAIVER.

A written request for waiver of specific rule requirements may be granted by the commissioner in cases of hardship or medical necessity.

REPEALER. Minnesota Rules, part 2640.5100, subparts 2, 4, 5, 7, and 9 are repealed. Minnesota Rules, part 2640.5100, subparts 6 and 8 are repealed effective January 1, 1988.

Department of Human Services

Proposed Rules Relating to General Assistance Eligibility and Work Readiness

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JUNE 6, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 28, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

General Assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health." (Minnesota Statutes, section 256D.01, subdivision 1).

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.0512, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency], and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide indi-

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STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
OFFICE OF THE COMMISSIONER

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

SUPPLEMENT TO STATEMENT OF NEED AND REASONABLENESS

After the publication of the Notice of Intent to Adopt Rules Without Hearing it was brought to the attention of the Department that a number of inconsistencies still exist in the rules over the title of the Administrative Agency and the Administrative Officer overseeing the regulation of the rules. The reason for this confusion is because of the recent history of this area. Prior to 1981 an independent and separate Board of Cosmetology existed. In 1981 the board's function was transferred to the Office of Consumer Affairs which was at that time part of the Department of Commerce then functioning under a Commerce Commission. There was an independent director of the cosmetology unit. In 1983 as part of the reorganization of the Commerce Department the Office of Consumer Affairs was for the most part transferred to the Office of the Attorney General. However, the cosmetology unit did remain in the Department of Commerce under the direct authority of the new Commissioner of Commerce. Accordingly internal references in the rules to "office", when in the past meant the "Office of Consumer Affairs", to "unit" to the "board" or other similar references should all be changed to "Department" or Department of Commerce" to reflect present statutory scheme. For the same reasons the term "director" or similar references should be changed to "Commissioner" or "Commissioner of Commerce" as is appropriate. These changes are needed and reasonable to prevent any confusion as to the appropriate authority for regulation in the area of cosmetology. These references should have been corrected under the general statutory instructions to the Revisor's Office that were part of the reorganization bill for the new Department of Commerce in 1983. However, for whatever reason this was not done and it needs to be done at this time.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
OFFICE OF THE COMMISSIONER

In the Matter of the Proposed Amendment of Rules Relating to 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 the former Minnesota Board of Cosmetology Examiners to the Director of the Office of Consumer Services on July 1, 1981.

Thereafter, 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 eleven member citizen body appointed by the Commissioner pursuant to 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. During 1984, the Department amended the Cosmetology Rules as they pertain to individual practitioners and the maintenance and operation of cosmetology salons. Substantial changes were made to the rules at that time to make them more equitable and less burdensome to the individual practitioner. These changes were made without negatively impacting the regulation of the practice of cosmetology in Minnesota and resulted in an overall improvement in the Department's ability to properly regulate this industry. In the process of making these earlier amendments, it became apparent that there was a definite need to amend other cosmetology rules relating to the regulation of training schools. Also, during 1984 the Minnesota Legislature amended Chapter 155A to allow for the independent operation of salons for estheticians. These administrative and legislative changes have thus been incorporated into these proposed rules.

2. On July 1, 1985 at 10 S.R.1B, 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.

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 Cosmetologist 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 served by adoption of the changes proposed.

II. AMENDMENTS TO THE COSMETOLOGY RULES

Minnesota Rule 2640.0100. DEFINITIONS.

Subpart 22. Wet Disinfector. Under the current rules only glass receptacles may be used to hold disinfectant solution in which cosmetology tools are sterilized. Due to advances in technology, new types of plastic recepticles are now available which meet the same sanitation standards as the original glass containers but are much less susceptible to breakage should they be dropped or otherwise damaged. These new containers are, therefore, safer and at that same time as sanitary as their earlier glass counterparts. The use of appropriate plastic containers will now be allowed by the proposed amendments to the Cosmetology Rules.

Minnesota Rule 2640.1100. EXAMINATION ADMINISTRATION.

Subpart 4. Re-exam Limit. This subpart is being reworded to make it clearer that a passing exam score is valid for twelve months. It removes the negative assertion of the earlier language and presents the rule in a straight forward fashion. This amendment makes the language more grammatically correct and straight forward.

Minnesota Rule 2640.1300. COSMETOLOGISTS, MANICURISTS, AND ESTHETICIANS.

This amendment simply deletes the word obtained and replaces it with the word completed in describing the requirements that must be met prior to licensing. The amendment makes the language of the rule clear and straight forward.

Minnesota Rule 2640.1400. MANAGERS.

The Minnesota Legislature during its 1984 Session authorized the creation of a separate license for esthetician salon. This amendment to the existing rules establishes a separate class of license for these practitioners.

Minnesota Rule 2640.1500. INSTRUCTORS.

Subpart. 1. Full Instructors. Under this change the number of hours of practical experience which a cosmetologist must have before being licensed as a cosmetology instructor has been reduced from 1,800 to 1,400 hours. This change is being made in part to accomodate the need for additional cosmetology instructors within the industry. Prior to being licensed as an instructor, a cosmetologist will have to have

nearly six months of practical full time experience as a practitioner. The cosmetology staff, in consultation with representatives of the industry and schools, believe that this will provide an adequate amount of practical experience for instructors and will be useful in passing this experience along to cosmetology trainees.

It should also be noted that prior to the development of the initial cosmetology rules in 1983, junior instructors were allowed to teach in cosmetology schools without the requirement of having first practiced within the industry. Their practical experience was essentially developed through working in school related clinics. The requirement in the original rules for 1800 hours of actual practical experience before qualifying for an instructor's license was designed to assure that teachers had an understanding of the type of environment that their students would be faced with upon graduation from school. Thus, the junior instructor license was phased out in favor of a single set of requirements for all instructors. The current amendment to the rules maintains this policy of requiring first hand experience as a practitioner prior to being licensed as an instructor, yet reduces the number of hours needed before licensing to a more reasonable level.

Minnesota Rule 2640.2000. PROCEDURE FOR ACTIVATING A LAPSED LICENSE.

Subpart 1. Procedure for Lapsed Licensee. The first amendment to this subpart makes the language grammatically correct and is therefore only a technical change.

This subpart is further amended to allow an individual practitioner to renew his or her license within three years after it has lapsed without re-examination. The current one year standard works a particular hardship on some individuals who may for one reason or another be required to discontinue their practice of cosmetology for an extended period of time. Without this change, a licensee would have to incur the costs of additional schooling and take a re-examination prior to re-activating his or her license. The extension of the period for reactivation of up to three years does not jeopardize an individual's ability to practice but does remove the burden of incurring the additional costs of unnecessary training.

Minnesota Rule 2640.3100. SCOPE OF RULES.

As noted earlier, the 1984 Minnesota Legislature authorized the licensing of esthetician salons. The amendment to this rule implements that legislation.

Estheticians, however, provide only skin care services and therefore esthetician salons will not be required to maintain all the tools and accessories necessary for the operation of a full service cosmetology salon. These exemptions are noted in the new language that is added to this rule.

Minnesota Rule 2640.3200. SALON LICENSURE.

Subpart 2. Application. Again, this amendment implements the legislation enacted during 1984 to allow the the licensing of esthetician salons.

Minnesota Rule 2640.3300. MAINTAINING A SALON ~~OR BOOTH~~ LICENSE.

The requirement for a booth license is being deleted from the Minnesota Cosmetology Rules. Further explanation of this change is provided later in this statement. To make the langauge of the rules consistent the terms "and booths" is deleted from this section of the rules.

Minnesota Rule 2640.3600. SALON REQUIREMENTS.

Subpart 1. Location. The term esthetician salon is added to this section of the rules to implement the 1984 legislation authorizing establishment of these type of facilities.

Subpart 5. Change of Name. Under the current rules, when the name of a salon is changed, notification of that change must be made to the Department within 30 days. The amendment to this rule increases the number of days within which the Department must be notified from 30 to 60 days. This change allows sufficient time for a salon manager or owner to notify the Department of such a change prior to being in violation of the rules. This increase in the amount of time for notification does not in any way jeopardize salon regulation. The added time, however, will help to facilitate those situations where a change in ownership of a salon has taken place.

Minnesota Rule 2640.3700. PHYSICAL REQUIREMENTS.

Subpart 1. Space. This amendment to the rules adds a requirement of 110 square feet of working space for a one-practitioner esthetician salon. The new language is required as a result of the 1984 Legislature's authorization for the establishment of esthetician salons. This is in line with the amount of space required for a one-practitioner cosmetology salon, and takes into consideration the fact that less space is needed for an esthetician salon because of the reduced amount of facilities necessary for this practice.

Item B of this rule adds the terms "or an esthetician salon" to the existing requirement that there be 50 additional square feet of work space for each additional licensee simultaneously on duty in a salon. This amount of space is found to be the minimum requirement necessary for safe practice.

Minnesota Rule 2640.3900. OPERATIONAL REQUIREMENT FOR SALONS.

Item K(3) is amended to add the proper reference to the amount of germicidal detergent solution necessary to provide proper disinfecting of tools. The 1,600 PPM requirement is a standard within the industry and is thereby being adopted in these rules.

Item K(4) is amended to allow an alternative for disinfecting electric clippers. The change in the rule will allow the use of commercial disinfecting spray solutions in place of immersion of clippers. Again, this practice has become a standard within the industry and meets the health requirements for proper disinfecting of tools.

Minnesota Rule 2640.4000. SALON SUPERVISION.

Item B is changed to allow a single individual to be designated as a manager for more than one salon. This facilitates situations in which a person may work in more than one salon and does not limit their ability to do so. The rule, however, maintains the current standard that no manager may be concurrently responsible for more than one salon at a time.

This rule is further amended to allow for a licensed esthetician to serve as a manager in an esthetician salon and a licensed manicurist to serve as a manager in a manicurist salon. The requirement that only a cosmetologist may serve as a manager in any type of salon was overly broad and created a burden on those salons. Because a manager must understand the types of procedures which are being practiced in each particular type of salon, a person licensed in that type of practice has sufficient knowledge to carry out the duties of a manager.

Minnesota Rule 2640.4100. SPECIFIC TYPES OF SALON LICENSES.

Subpart 3. Esthetician and Manicure Services. This change implements the intent of the 1984 Legislature in authorizing the licensing of individual ethetician salons. It also limits the type of service that may be provided in each type of salon to either esthetician services or manicure services. Because the individuals performing these services need only have a limited number of hours of training in a particular field, it is inappropriate to allow other types of services to be performed within a specialized salon.

Subpart 7. ~~Booth license~~ Independent Contractor. The requirement for booth licenses is being deleted from the cosmetology rules as unnecessary and a regulatory burden. The objective of the cosmetology rules is to assure that cosmetology and related services are performed in a safe manner and under healthy conditions. The existing requirement that booth license be acquired before an individual can lease space in an existing salon and practice as in independent contractor extends far beyond the original intent of cosmetology regulation.

The amendment to this subpart, therefore, is designed to recognize a booth licensee's actual status as an independent contractor and limit the requirements of his or her activities in ways which are designed to protect the health and safety of the practitioner's clients but do not impose unnecessary or new bureaucratic administrative requirements. To operate as in independent contractor a licensee must have a current Minnesota manager's license, must meet the minimum requirements for adequate space for the provision of services, and provide evidence that there is adequate professional liability insurance coverage in place covering the lessee's activities. Finally, the owner or manager who rents space in a salon to an independent contractor is held responsible for assuring that the lessee is in compliance with the requirements of this rule during all time that the lease is in force and the independent contractor is providing services.

Minnesota Rule 2640.5100. COMPLIANCE BY PRESENT LICENSEES AND STUDENTS.

Subpart. 1. Scope. The phrase in the current cosmetology rules, "the effective date of these rules," is deleted and the date that the rules became effective is inserted in their place. This is a grammatical change which is done to reflect the actual date on which the rules became effective so outside sources do not have to be relied on for that information.

Subpart 3. Senior Instructor Licenses. The rules are amended to discontinue the license category earlier established for senior instruction licenses. Currently only one class of instructor license is issued by the Department. Existing senior instructor licenses will be phased out by January 1, 1988. Because junior instructor licenses are no longer issued, it is unnecessary to differentiate a senior instructor license class. Any individual currently holding a senior instructor license will have their license renewed as an instructor license only.

Other extraneous language in the rule is deleted as it is no longer operative.

Likewise, **Subparts. 2, 4, 5, and 9** which were originally included to facilitate the implementation of the original cosmetology rules are being repealed as unnecessary, extraneous or no longer effective.

Subpart 6. Salons and Booths, Temporary Exemptions. Item A is amended by deleting the current reference to subpart 7 of this rule. Subpart 7 is repealed and therefore the reference is inappropriate.

Subpart 7. Schools, Temporary Exemptions. This subpart is repealed because the language is outdated and no longer necessary. Its original purpose was to facilitate the implementation of the rules when they were first enacted. This language is no longer necessary.

Subpart. 8. Interpreters. The language of the original rules regarding their effective date is amended to reflect the actual date of their implementation which was April 1, 1983. Also the term "director" is replaced in favor of the term "Commissioner" which reflects the proper title for the administrative authority.

Subpart 10. Variances. The changes made to this subpart makes its language more grammatically correct and therefore easier to read and interpret. Also, this subpart also extends the authority of the Department to grant variances from the rules where there is a demonstrated physical limitation or economic hardship imposed by them. This authority allows for flexibility in the application of the rules while assuring that minimum health and safety requirements continue to be met by all salons and practitioners.

Minnesota Rule 2640.5200. SCHOOL LICENSURE.

Subpart 1. Application Contents. Item D of this rule is deleted as being unnecessary and burdensome. The Commissioner reviews the course content for all instruction conducted within cosmetology training schools. It is unnecessary, however, within this review to also review daily and weekly class schedules. An adequate review can be performed without the submission of unnecessary amounts of detailed technical information.

Item E is deleted and renumbered. This item is also amended to make it consistent with the earlier changes to the cosmetology rules which provide that facilities meet local requirements for zoning building codes fire codes and other appropriate ordinances. The Department believes that compliance with local building codes coupled with annual inspections by Department staff 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.

Item J under this subpart is amended to delete the term "preparation" and insert the term "instruction." The term instruction is more descriptive of the training that is provided by a cosmetology school and is thereby more grammatically proper. The remaining items under this subpart are renumbered according to the amendments.

Minnesota Rule 2640.5300. MAINTAINING A SCHOOL LICENSE.

Subpart 2. Notification of Changes. Item A is amended to allow additional time for schools to notify the Department of changes in managerial or instructional staff. The current three day notice period is extended to ten days to allow sufficient time for school officials to provide this information to the Department without accidentally being placed in technical violation of the rules. This change allows additional time for mailing and processing of the information without placing a school in technical violation of the rules.

Item B is deleted as being an unnecessary regulatory burden. Inspections of schools are done on an annual basis and changes in any written material or advertising used to solicit prospective students are reviewed at that time. Schools are required to keep copies of these materials for five years after any amendment which provides adequate time and opportunity for review by Department.

Item E is deleted as being unnecessary and a potential invasion of privacy by the Department into the financial matters of cosmetology training schools. Likewise, the Department has only limited ability to adequately review these financial statements. The current requirement creates an unnecessary regulatory burden and is inappropriate.

Minnesota Rule 2640.5500. DELINQUENT SCHOOL LICENSES.

Item A is amended to delete the requirement for payment of a late penalty and replaces it with the payment of a required processing fee for reinstatement of an expired license. Processing fees will be charged for certain licensing activities which are outside the scope of the Department's usual licensing activities.

Minnesota Rule 2640.5800. BASIC REQUIREMENTS FOR SCHOOLS.

Subpart. 3. Employment of Licensed Instructors. The current rules allow for instruction to be provided by guest instructors or lecturers on an occasional basis. The rule is indefinite as to the amount of time that this type of instruction may constitute within a particular curriculum. The amendment to this subpart specifically provides that no more than three percent of the total course hours may

be given over to guest instruction and extra-curricular educational activities. This change sets a specific standard for teaching activities which are outside the normal course of the approved curriculum and also recognizes that certain extra-curricular educational activities provide a valuable learning experience for students. The purpose of this change is to allow for variations from the prescribed teaching curriculum without undermining the objective of providing a sound educational experience for cosmetology students.

Subpart 5. Change of Name. This rule is being amended to allow a school owner or manager to inform the Department of a change in the name of the school within 60 days of the effective date of the change. This is consistent with the amount of time that is allowed for notification of the office of a salon name change. Other amendments to this subpart are grammatical in nature and do not effect the meaning or intent of the language.

Minnesota Rule 2640.5900. FACILITIES REQUIREMENTS FOR LICENSURE.

The amendment to this rule is made to correct a revisor's error when the MCAR system was translated to the new Minnesota Rules system. The provisions of this rule have always been included in the requirements for facilities licensure. Thus, this change is a technical amendment.

Minnesota Rule 2640.6000. PHYSICAL REQUIREMENTS.

Subpart 1. Space. Item E has been deleted as the decision to provide an instructors' lounge is one which is most properly made by the various school owners. A lounge for students, however is still required under the rules.

Subpart 2. Entrances and Exits. The physical requirement for entrance and exit points has been changed to make it consistent with applicable local building codes and ordinances. This change is in line with the earlier amendments made to the cosmetology rules and places the determination of proper building construction on the appropriate government officials. Local building inspectors are best able to determine the numbers and locations of entrance and exit points in buildings within their jurisdiction.

Minnesota Rule 2640.6100. FIXTURES, FURNITURE, EQUIPMENT.

Item C. The requirement of one chair for each six enrollees has been increased to one chair for each ten enrollees. The new requirement is less burdensome and costly to the school while still providing an adequate amount of equipment available to each enrollee. The quality of the instruction received by the student is not impaired.

Item H of this rule is amended by deleting the last sentence which states that "each student's hours shall be recorded at the beginning and end of each day and before and after lunch." This sentence does not properly fall within the category of physical requirements and it is redundant of similar language appropriately located in the rule governing teaching procedures for cosmetology schools.

Minnesota Rule 2640.6300. ADVANCED TRAINING AND DEMONSTRATIONS.

Item B has been amended to provide a more specific reference to the part of the rules which governs the definition of community education classes. This is a technical change which makes the rule easier to understand and use.

Minnesota Rule 2640.6800. ESTHETICIAN TRAINING.

Item D is amended to delete the term "approximately." The presence of this term made the rule unnecessarily vague. Its deletion clears up any ambiguity as to the total number of hours of clinical instruction and experience required.

Minnesota Rule 2640.6900. MANICURIST TRAINING.

Item D under this rule has been changed to delete the term "approximately." This change removes any ambiguity that may exist in the rule.

Minnesota Rule 2640.7000. REFRESHER COURSES.

The requirements of this rule are being reduced to make it easier for persons or organizations who provide refresher courses to have those courses approved in a timely fashion. The requirement of notifying the Department of the proposed course has been reduced from 45 days to 10 business days prior to the course date. This provides adequate time for the Department to review the proposed course and yet does not create an unnecessary burden on the course sponsors. It also allows sponsors to offer courses where there may be a limited amount of time to train those persons who are required to take the refresher course.

Consistent with other amendments to these rules, the Department will no longer be a repository for numerous unnecessary forms and filings. Course sponsors and schools will be required to provide attendees with copies of appropriate course completion certificates. The attendees will in turn be responsible for providing evidence of their course completion to the Commerce Department as necessary for licensing renewal or other certification.

Minnesota Rule 2640.7100. CREDIT TOWARDS ANOTHER LICENSE.

Item D of this rule is amended to allow 100 hours of esthetician training to be counted toward the requirements for a manicurist license. Because much of the basic training in any cosmetology related field includes overlapping instructing, where basic training is for one type of license is the same as for another credit will be allowed toward either license application. In this instance, esthetician training requires additional credit hours beyond that which is required for a manicurist license. This training will, therefore, be allowed to count toward an application for a manicurist license.

Minnesota Rule 2640.7700. MANAGER.

Item A is amended to delete the restriction that only one person may be designated as a manager for each school. Experience has shown that this is an unnecessary restriction on schools where a particular individual could otherwise be designated as manager for more than one school so long as they meet the remaining requirement that a manager be responsible for overall operations of each school at all times. The rule retains the restriction that no manager may concurrently be responsible for more than one school or salon at a particular time. However, an identified manager may work in alternative schools or salons on different days.

Item D is amended to eliminate the requirement that the manager be held responsible for recruitment and advertising materials at a cosmetology training school. Because managers often have little to do with the development of recruitment or advertising materials, it is in inappropriate to hold them responsible for the content of those materials. School owners, on the other hand, because they are generally involved in the development of these materials will be held responsible for making sure that the materials are properly prepared and correctly used. Thus, this amendment removes an inappropriate burden on the cosmetology school manager and places the burden where it should be.

Minnesota Rule 2640.7800. INSTRUCTORS.

Item A is amended to delete the term "direct" from the requirement for supervision of students by an instructor. This term has caused problems in its application in the past. Instructors are still required to supervise students at all times when they are in a classroom clinic or other area in which they are performing cosmetology services. However, the original intent of the rule was to assure that students have access to an instructor when necessary, and that person oversee student activities without necessarily being present at all times. Strictly interpreted, the rule would be impos-

sible to comply with and is thus open to arbitrary enforcement without this necessary change.

Item A(2) is amended to extend to time within which a school is required to notify the Department in writing of a failure to meet the required instructor quota. This period is extended from three to ten days to accomodate the time delays involved in processing, mailing and receipt of such notification. The change reduces the potential for technical violation of the rules, yet does not reduce the ability of the Department to properly regulate school activities.

Item D of this rule is amended to delete the requirement that instructors wear identification badges which carry their full name and title. Experience has shown there is the potential for harassment of instructors by clinic clients if they are able to learn a person's full name but then later attempt to contact that person at home or other locations. The use of a first name and the title instructor on badges is adequate for identification of these individuals should the need arise while services are being performed on a client or during a cosmetology inspection.

Minnesota Rule 2640.7900. ENROLLMENT CONTRACTS.

Additional requirements have been added to this rule to overcome difficulties that some students have experienced upon enrollment in or graduation from a cosmetology school. The enrollment contract must now state a starting date for schooling. This requirement is added to assure that the cosmetology student is included in the graduating class that he or she wants. This requirement also eliminates the possibility that a student would be "bumped" if a certain class was over-enrolled. It provides added protections for students and eliminates the possibility of a student not receiving the schooling that he or she has contracted for.

This rule also requires that the student be notified that the licensing examination is given only in English. It has been the experience of the Department that some students who do not speak English or who are not fluent in the language are allowed to train at a cosmetology school only to later find out that they are unable to take the examination test because they are unable to read it. This has resulted in a waste of tuition on the part of some students which will be eliminated by this requirement.

Minnesota Rule 2640.8200. STUDENT RECORDS.

Item D of this rule is amended to assure that student records will be available in the event that a school is closed and the student still has need for accessing his or her

records. A school, upon closing, will be required to place student records with a custodian for a period of at least five years after the student has been terminated or has completed training. This new requirement will assure access by students to their records whether or not a school continues in operation.

The amendment to this rule also requires that students and former students be provided with copies of their records at the cost of duplication. A student's records may not be withheld from him or her by school officials, nor may school officials charge excessive costs in providing those records. The records must now be provided upon request and at minimal cost.

Item E of this rule is changed to eliminate the requirement of submission of student reports to the Department. Instead, the school will be required to maintain those reports for a period of up to five years for access by the student or the Department. This is designed to eliminate a large amount of unnecessary paperwork at the Department while continuing to assure that records are on hand and accessible to students and the proper authorities.

Item E(1) is also changed to eliminate the requirement that reports for cosmetology students be submitted to the Department. This is consistent with the change that eliminates the need to submit these reports to the Department but require their maintenance at the school.

Item E(5). Consistent with the other changes in this item, the certification of readiness to take the written exam will be provided by the school to the student rather than to the Department. The student will in turn be responsible for providing evidence of readiness to the Department at the time he or she wishes to take the written examination.

Item E(6) is amended to make the language of this paragraph more grammatically appropriate. This is a technical change which does not impact the rules.

Item E(7) is amended to require the cosmetology school to provide the student, rather than the Department, with a certification of training in situations where the student is suspended, expelled or otherwise terminates their education. The school will also be required to maintain a copy of the certification but will not be required to submit it to the Department. This is consistent with the change of policy in the rules which makes the school responsible for maintenance of student records and thereby eliminates the unnecessary requirement that the Department be provided with and keep on hand this information. The policy is designed to reduce paperwork and costs within the Department while, at the same time, assuring that adequate documentation of student activities is maintained and accessible.

Minnesota Rule 2640.8400. STUDENTS TO SUCCESSFULLY COMPLETE EXAMINATION WITHIN REQUIRED TIME.

The original rules required that cosmetology students be enrolled, complete their education and successfully complete an examination within no more than five years. The object of this rule was to assure that any student who undertook cosmetology training would remain current in the skills and knowledge necessary to practice and be able to successfully complete the licensing examination after having paid for and receiving the required training. The amendment to the rule focuses more correctly on the requirement that a license applicant pass the cosmetology examination. Training may be completed within any period of time without restriction on an applicant's ability to take an examination. The certification of successful completion of training will be valid for three years from the date of graduation. After this time a student will be required to take a refresher course to assure that he or she has the necessary skills to practice competently and to pass the examination.

The change in this rule was undertaken after a good deal of discussion with both students and instructors of cosmetology. It is believed that these changes will reduce any hardship that may occur in situations where a student will be unable to complete their training within five years due to financial difficulties or personal problems or preference. However, both practitioners and instructors believe that it is necessary to refresh a student's skills in situations where an individual has not been actively practicing for a period of more than three years. This is the maximum time that a person can away from the practice of cosmetology and still keep pace with the changes in this industry.

Minnesota Rule 2640.8500. TRANSFER STUDENTS.

This rule has been completed changed to eliminate the requirement that student records be provided to and maintained by the Department. Transfer students will not be required to get a copy of their certification of hours completed from the Department. Instead, this certification will be provided directly from one school to another upon request by the transferring student. Transfer of the records will be contingent only upon the students making arrangements to any outstanding tuition fees that may be due. The rules will also allow a nominal fee to be charged by the former school for providing certification and transfer of hours. Amendment of this rule eliminates unnecessary submissions on the part of schools and paper shuffling on the part of the Department. Likewise, it therefore enhances the ability of the Department to conduct its proper regulatory activities and reduces administrative costs.

Minnesota Rule 2640.8600. FULL COURSE OF INSTRUCTION.

The changes to this rule eliminate a conflict in the language of the current rule and add terms that make the new rule grammatically correct and consistent. The terms "unless licensed under provisions of Minnesota Statute, Chapter 155A" are deleted because their positioning in the rule acts as a qualifier on the terms "no student." This is inconsistent because students are not licensed under the provisions of the cosmetology laws. Likewise, additional terms that are added are simply designed to make the language the rule more clear and understandable.

Minnesota Rule 2640.8700. DISPLAY OF LICENSES.

Currently the licenses of all school personnel must include a picture of the licensee and the license must be placed at eye level in a conspicuous location within the reception area. The amendment to this rule will require only that the current license be conspicuously posted in the reception area. The requirement that the license include a photograph of the licensee is unnecessary to accomplish adequate regulation of schools. The removal of this requirement is consistent with an earlier amendment made to the rules governing the display of licenses within cosmetology salons. Likewise, the height at which a license is displayed is simply an unnecessary and inappropriate requirement. The objective of this rule is that licenses of school personnel be posted in a public area where they can be seen and examined by clientele or cosmetology inspectors. This amendment to the rule accomplishes that objective without being unduly specific.

The second sentence of this rule is rephrased to make it more grammatically correct and easier to understand. The amendment also allows school officials to determine where they wish to display their operating license. The intent of the rule continues to be served in that the school license must still be conspicuously posted.

Minnesota Rule 2640.8800. PRE-ENROLLMENT DISCLOSURES.

The first sentence of this rule is rephrased to clarify any ambiguity as to how enrollment information will be provided to prospective students. The materials will not be required to be included in any particular form of brochure, however, several specific items of information must be disclosed to a student prior to his or her enrollment in a school. Language is also added to the rule requiring that refund policies be discussed with a student prior to enrollment. The student must also acknowledge that he or she understands the refund policy. This language is added to inform the student prior to payment of tuition. It is designed to assure that prospec-

tive students fully understand their rights and obligations under the contract they enter with the school.

Additional amendments to this rule require that all materials used to solicit students must not be fraudulent or deceptive as required under Minnesota Consumer Protection laws. The school will also be required to keep copies of all solicitation materials on hand for five years from the last date of their use so that they are available for inspection by the Department.

Minnesota Rule 2640.8900. SCHOOL CLINICS.

Item E is amended to delete the requirement that certification of pre-clinical training be submitted to the Department. This is consistent with other amendments made to the rules which eliminate unnecessary filings and administrative expense. The intent of the rule, to assure that students do not perform clinical services until they have completed their basic training, remains in tact.

Item G provides a requirement that students and instructors wear identification badges at all times while they are on school premises. The requirement that student badges include the first and last name of the student is amended to allow a student to use only a first name for identification. This change is designed to protect the student's identity from clients who may attempt to make later contact with them outside the school setting. The use of a student's first and last name on an identification badge raises the potential for harassment by clients if they are able to locate a student or attempt to contact them outside the school.

The color coding requirement for student badges has also been deleted as being unnecessary and trivial. Schools will be allowed to designate various classes according to whatever color scheme they deem most appropriate. A standard color scheme is unnecessary for effective regulation of a school.

Item I is amended to make the proper reference to the standard for sanitation within a school setting. This standard is the same as that required of salons and is set forth in Rule 2640.3900, Item O.

Item J is amended to reflect earlier changes made in the cosmetology rules relating to salon practitioners. Under this item instructors must ensure that students observe the same standards of personal hygiene and safety as are imposed on salon practitioners. This requirement is presented in Rule 2640.3900, Item P. The amendment to this item reflects the correct corrolation to the salon practitioner requirement.

Item K is amended by deleting the term "condition." This term is vague and ambiguous and its continued inclusion could lead to arbitrary enforcement of the regulations. The remaining terms achieve the objective of the item which is to assure that students are healthy and do not carry any diseases which could be passed along to clients, instructors or other students.

Minnesota Rule 2640.9100. FEE ADJUSTMENTS, LICENSING.

Subpart 1. Refunds. The language of this subpart is amended to reflect the refund policy of the Department of Commerce. Unnecessary and redundant language is removed to make the section clearer and more understandable.

Refunds will be provided in all specified instances, provided that a processing fee will be charged for ineligible applicants. Applicants should know if they are eligible or not. If the Department must expend time and effort reviewing an application that should not have been submitted the cost should be borne by the person unnecessarily generating that expenditure.

Minnesota Rule 2640.9200. FEE SCHEDULE.

Item A(3) deletes the worth "booth", one of the license categories because booth licenses have been terminated.

Item B penalties as stated in previous sections certain of the penalties for late filing and reinstatement were deemed to be inappropriate accordingly would be eliminated. Therefore, penalties pertaining to these particular sections have been deleted. The processing fee section has been amended to indicate the new items being charged for in regard to information supplied by the Department. Examination fees have been deleted as no longer being appropriate. In addition school name change fee has been deleted since a mere name change does not justify a hundred dollar fee merely for an insignificant change such as this.

Minnesota Rule 2640.9400. REQUEST FOR WAIVER.

Because persons by reason of medical necessity or other adequate reasons may from time to time find themselves unable to comply with certain specific rule requirements but may still be able to show sufficient compliance to meet the intent of the rules and statutes in regard to the cosmetology laws. Adequate provision must be given the commissioner to not impose an unduly harsh result by the rigid application of specifications of the rules. Accordingly this waiver provision is provided in the rules that would allow the commissioner to waive specific rule requirement where hardship of medical necessity is shown.

The repealer of part 2640.5100, subpart 2, 4, 5, 7, and 9 repeals rules that are no longer effective or appropriate. These were transitional provisions intended to allow for a gradual period of compliance after the original cosmetology rules were proposed several years ago. As subpart 6 and 8 are also transitional rules that are not intended to be continuing exemptions. Provisions for their repeal effective January 1, 1988 were also provided.

Small Business Consideration

Chapter 155A is applicable to licensees in the cosmetology field. These licensees are individual cosmetologists and others licensed under this chapter who work in salons, salon owners and operators and schools. By the nature of the industry virtually all of these licensees are within Minnesota Statutes § 14.115's definition of a small business. These rules were drafted with that in mind. No differing standard for small businesses is appropriate or contemplated since they are intended to apply to what are inherently small busineses.

To comply with Minnesota Statutes Section 14.115 the department did consider all of the criteria set forth in Subdivision 2 of that statute.

Item (a) of subdivision 2 requires the consideration of less stringent compliance or reporting requirements for small businesses. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (b) requires the consideration of the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (c) requires the consideration of the consolidation or simplification of compliance or reporting requirements for small businesses. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (d) requires consideration of the establishment of performance standards for small businesses to replace design or operational standards required in the rule. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (e) requires the consideration of the exemption of small businesses from any and all requiements of the rule. As noted above, these rules are presumed to apply to persons

or entities that are small businesses. This item is therefore not applicable to these rules.

The drafting of the amendments involved the participation of members of the industry. These were primarily, if not entirely, small businesses. These rules are the second half of the two part amendment of all the cosmetology rules which began several years ago.

As noted previously, the Notice to Solicit Outside Opinions also requested input on the small business impact.

Despite the fact that small businesses were not separately considered in developing these rules, the intent of § 14.115 was more than adequately satisfied. The reason for the amendments was that the department had determined that the rules contained unnecessarily burdensome and restrictive provisions. The department undertook the revision of the rules to create a regulatory structure that would impose as light a regulatory burden as possible while still meeting its statutory obligations and protecting the public interest. Since the rules impact falls almost exclusively on small businesses, the result of the change will be of benefit to small businesses as § 14.115 intends.

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, 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.

_____
Special Assistant Attorney General

Dated:

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 11

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, John L. Kirwin 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.

John L. Kirwin
Special Assistant Attorney General

Dated: August 14, 1986.

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 12

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Cosmetology

AFFIDAVIT RE 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
Department Counsel, Department of Commerce

Subscribed and sworn to before me this
25th day of July 1986.

Nancy I. Link

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

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Commerce

PHONE : 296-5689

DATE :

TO : Judith Wepruen

FROM : Richard G. Gomsrud
Department Counsel

SUBJECT : Cosmetology Rules

RECEIVED
JUL 30 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Enclosed are copies of the following materials regarding the above captioned rules (only those items with a circled number are enclosed):

~~1.~~ Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 B)

~~2.~~ Written material received as a result of Notice to Solicit Outside Opinion (2000.0400 subpart 1 B)

(3.) Mailing List Certificate (2000.0400 subpart 1 E)

(4.) Statement of Need & Reasonableness (2000.0400 subpart 1 G)

(5.) Order for Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 1 C)

(6.) Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 2)

(7.) Affidavit of Mailing Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 3)

(8.) Copy of Notice of Intent to Adopt Rule Without Public Hearing and rules as published in the State Register (2000.0400 subpart 4)

~~9.~~ Written Comments on Rule (2000.0400 subpart 1 I)

(10.) Findings of Fact (if applicable) (2000.0400 subpart 1 F)

~~11.~~ Affidavit of Mailing Notice of Submission to Attorney General (2000.0400 subpart 1 K); or

Rocco Altobelli, Inc., et al., vs. State of Minnesota, Department of Commerce
Appellate Court #C3-94-1024
ITEM NO. 13

12. Affidavit that no request for Notice of Submission to Attorney General were received

13. Original and three copies of Rule as adopted (2000.0400 subpart 5)

14. Two copies of the Order Adopting Rule (2000.0400 subpart 6)

15. Certificate of Compliance With Rulemaking Procedure (2000.0400 subpart 1 J).