



PROGRAM EVALUATION

BOARD OF BARBERING AND BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

**Research Report No. 196
Legislative Research Commission**

Frankfort, Kentucky

Program Review & Investigations Committee

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BOARD OF BARBERING AND BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

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FOREWORD

The Program Review and Investigations Committee, at its October 15, 1981, meeting, voted to study the regulation of barbers and cosmetologists in Kentucky. This study was requested by the 1980-81 Legislative Task Force on Small Business. This final report was approved by the Committee in October, 1982. The printed version contains those recommendations adopted by unanimous consent of the Committee.

Our appreciation is extended to those members of the boards, their staff and other members of the professions who provided information for this study, especially the administrators, Carol Roberts and Gene Record, whose cooperation and assistance were exemplary. Special appreciation is extended to Jeanie C. Privett and Esther Robison for their efforts in preparing this manuscript.

This study was conducted by Program Review staff Joseph F. Fiala, Linda Carroll and Randy Bacon, with legal consultation by Ethel Alston. Assistance was also provided by LRC staff Yair Riback, Ph.D., and Michael Greer, of the Business Organizations and Professions Committee, and Kathy A. Campbell, of the Task Force on Small Business.

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The Capitol
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SUMMARY

In response to a request by the 1980-82 Interim Legislative Task Force on Small Business, the Program Review and Investigations Committee authorized a study of the Board of Barbering and the Board of Hairdressers and Cosmetologists. This study involved a detailed comparison of the two boards' statutes and regulations, a review of the occupations' regulation in the seven surrounding states, interviews with board members and officers of the occupations, a state of professional associations, and a review of the boards' operations. Three main issues guided the research effort:

- justification for licensure;
- justification for and efficiency of maintaining two separate boards; and
- justification, enforcement and effects of current regulatory requirements.

These issues underline the eight specific questions contained in the Task Force's study request. This summary presents the report's findings in response to these specific questions, as well as to broader issues. Included under each grouping of questions are related recommendations arising from this study. Listed at the end of the Summary are some areas that the Committee for Program Review and Investigation might wish to consider for further study.

Two of the questions asked by the Task Force relate to the regulatory activities of the boards.

Are the regulatory policies of the boards cost-prohibitive to the small business individual? and

Are there currently abuses of regulatory authority by either the Board of Barbering or the Board of Cosmetologists?

These questions were addressed by reviewing the statutes, regulations and activities of the boards and by interviewing members of the boards and professions.

Within the confines of this study, an actual cost assessment of the regulations was not possible. In lieu of this, responses from the representatives of the professional associations and a sample of professionals were used to judge the cost-prohibitive nature of the regulations.

Persons wishing to enter either profession must incur certain costs that result from regulation. These include cost of education, examination costs, and initial and renewal licensing fees and costs. Shop owners incur costs in meeting fire, safety, electrical and plumbing codes, sanitation and equipment regulations, and licensing costs. School owners incur these same costs as well as additional costs related to the instructional training requirements of the boards. Charges for examinations and licensing are higher for cosmetologists than for barbers and, generally, the cosmetology charges are higher than

those in the surrounding states. Barbers' fees are relatively comparable to those of surrounding states.

Despite the numerous costs resulting from regulation, none of the board members or professional associations' representatives felt they were overly burdensome or cost-prohibitive.

A thorough review of the statutes and regulations failed to indicate any "abuses" related to regulatory authority. This is not to say that some regulations do not have a questionable purpose or do not appear overly restrictive. On the other hand, in the areas of fines, inspections and examinations, both boards may be underutilizing their authority.

Several regulations appear to have little substantial basis in terms of protecting the public. The high school requirement for barbers is not in line with requirements for cosmetologists or for barbers in other states. The requirement of a "soundproof partition" between practitioners in each occupation sharing a common facility seems to serve only the purposes of protecting the traditional separation of the professions and justifying separate inspection activities. Finally, the limit on the number of private schools that may operate in Kentucky seems to serve more as a protective device for schools and salons than for the public.

One the other hand, in several of their regulatory activities, it appears both boards may be lenient. Both have the power to levy fines for violations of statutes and regulations, but neither uses this power. For barbers this would not be practical, since court action would be necessary. However, the cosmetology board has the power itself to levy and collect fines. In the area of examinations, both boards, and in particular the cosmetology board, show high passing rates on most of their examinations and have liberal retesting policies. Furthermore, both boards test only the competency of new licensees; neither requires periodic retesting or continuing education for license renewal. Finally, a sample of inspections over a two-year period indicates that well over ninety percent of the shops receive the highest grade. This percentage holds for the most recent inspection as well as all inspections in the last two years. Furthermore, the grades received do not seem to be related to the frequency of inspections. Some of the most frequently inspected shops always have high grades.

Chapters II and III of this report contain several recommendations related to the current regulatory requirements and board activities. These recommendations relate only to licensing and would not apply given a regulatory change to a certification/registration approach. They would apply, however, under a dual or consolidated board approach. The following recommendations were accepted by the Committee.

- The General Assembly should modify KRS 317.590 and KRS 317.991 to give the Board of Barbering the authority to suspend licenses and to set, levy and collect fines for statutory and regulatory violations. Fines which are collected should be credited to the General Fund.

- The Board of Cosmetologists should repeal the current regulation (201 KAR 12:105) restricting the number of private schools which may operate in the state.
- Fees for licensure should apply to public and private schools and students. Therefore, the General Assembly should repeal KRS 317A.150 and amend KRS 156.010(7) to allow licensure of and a licensure fee for public schools of barbering and cosmetology. Furthermore, the Board of Cosmetologists should begin applying the statutory fee requirements uniformly to private and public students.
- The Board of Barbering and the Board of Cosmetologists should revise their inspection procedures so that:
 - the frequency of inspections is limited to twice per year unless violations warrant otherwise;
 - the schedule of inspections is determined and closely monitored by the board administrator; and
 - a fine schedule for violations is developed and implemented in place of the current grading system. (Action by the Board of Barbering on this point should await legislative authority to levy and collect.)
- The Board of Cosmetologists should revise its examination processes. A written examination not available to school owners or instructors and a less subjective practical examination procedure should be adopted.
- The Board of Barbers should review its instructors' examination to determine the cause of the high failure rates. If these rates are not due to the stringency of the examination, then the use of an apprentice instructor position or the inclusion of educational requirements should be considered.
- The Board of Barbering and the Board of Cosmetologists should work together to develop an educational program for members designed to periodically inform them of health and safety concerns and precautions, and to keep them informed of new developments related to diseases, equipment and chemicals.
- The Board of Barbering and the Board of Cosmetologists should repeal their current regulations and reissue a revised set which is:

worded in measureable or objective terms;

free of confusing, ambiguous and unnecessary sections or language;

reorganized to eliminate misleading titles and the placement of diverse regulatory requirements under a single subject area; and

a consolidation of related requirements into single or adjacent sections.

One additional recommendation which was made called for lowering the minimum education requirement for barbers. After extensive discussion, however, the Program Review and Investigations Committee voted to reject the recommendation. The recommendation read:

- The General Assembly should amend KRS 317.450(2) to lower the minimum education requirement for barbering from a high school degree or its equivalent to tenth grade or its equivalent.

Another set of the Task Force's questions impact on the current dual board approach to regulation. These questions include the following:

Is there a valid need to maintain two licensure boards to regulate barbers and cosmetologists, and are any of their current functions duplicative?

Are the boards' contentions valid that barbers and cosmetologists are two totally separate professions?

Are the boards' claims valid that they will not be able to "police" their licensees if barbers and cosmetologists are allowed to work together?

Are there alternative configurations possible of one or both of these boards that would result in more efficient and effective administration?

Are there equitable procedures to either increase or decrease barber and cosmetology fees which would provide for uniformity in the licensure system?

Three areas were studied which directly address these questions: the similarities and differences in the professions (Chapter IV); the differences between the statutes and regulations governing the professions (Chapter II); and a comparison of the boards' activities (Chapter III).

Regulation of barbers and cosmetologists began in 1932 with a single board dominated by barbers. As time progressed and cosmetologists became a stronger force, two

separate boards, served by a single staff, developed. Finally, in 1970, two separate boards with separate staffs, statutes, regulations, and offices were created. This development resulted from an inability on the part of the boards to share joint staff and resources.

Both boards engage in the same activities: licensing, examinations, inspections and complaint investigation. Despite claims by both professions that they are different, the only statutory services that differ are manicuring and facial shaving and trimming of beards. A detailed comparison of the statutes and regulations was conducted and the results can be seen in Table 1. Educational requirements and textbooks cover essentially similar areas, with the main difference being the sex of the customer served. On a practical level, the development of unisex styling shops and dual licensed shops indicates that this clientele difference is disappearing, especially among professionals in urban areas or those servicing the needs of the "modern customer." Finally, no significant differences were found within the sanitation and hygiene requirements to support the need for separate inspection staffs.

Although all board members and professional representatives acknowledged the blending of the professions at the business level, almost all felt there were significant differences in training and skills. Only three of eight board members and three of seven representatives felt that this blending indicated a need to merge the boards. Some viewed this blending only as a passing trend despite the two decades in which it has been developing. All but two of the board members and two of the representatives felt that some educational and licensing reciprocity should be established between the professions. The lack of major differences in the activities of the occupations has been corroborated by a 1982 Kentucky Attorney General's opinion. Furthermore, given the trend toward unisex businesses in which occupations cater to both sexes and provide similar services, there appears to be little practical support for the major differences contention. If there are differences, they have not been adequately identified or defined; they should be if separation between the professions is to continue under Kentucky law.

The regulations currently governing barbers and cosmetologists in the workplace and those governing shops are almost identical. One inspector could be trained to inspect both occupations. An agreement between the boards is necessary as to which will conduct the inspection.

Both boards maintain their own staffs, offices and equipment, despite the lack of any real distinctions between the professions, their regulatory requirements, and their geographic distributions. Half the states utilize the two-board approach, but most administer regulations in a more consolidated manner. Thirty states use an umbrella regulatory agency, others use a single staff serving both boards, and finally, some divide regulatory responsibilities among several existing agencies.

A cost-benefit study was not conducted to determine the differences between possible alternatives. Management principles and experience, however, suggest that a consolidation would result in savings through economies of scale, reduced duplication, and more efficient resource utilization.

To accomplish a workable merger of this sort would necessitate changing the funding approach. Rather than boards being dependent on revenues for licenses received at the beginning of the fiscal year, revenues should be credited to a single account for both boards. One option is to budget operational expenditures through a temporary general fund advance to be repaid from receipts as they accrue. This would allow a distribution of license renewal workloads across the year, remove the basis for resource disputes between the boards, allow for equalization of fees, and increase the public accountability of the boards.

Fees for examinations and licenses are the basic revenue sources supporting the operations of the boards. Fees are not based on a logical cost allocation method. Rather, the amount of revenue needed to meet operating costs is determined and subjective judgment is then used to determine the fees charged for the different examinations and licenses. As long as the operating expenses of the boards differ or their revenues continue to come directly from charges received rather than a general fund appropriation, fee discrepancies between the occupations cannot be avoided. A cost allocation method based on the combined operating costs of the two boards could be used to set equitable fees based on the costs of administration.

Based upon the conclusions of this study regarding these questions, the following recommendations were made and approved by the Committee:

- The General Assembly should amend KRS 317A.030 to require that the Board of Hairdressers and Cosmetologists be composed of:
 - one salon owner;
 - two practitioners;
 - one school representative (owner or instructor); and
 - one citizen-at-large.

The General Assembly should amend KRS 317.430 to require that the Board of Barbering be composed of:

- two shop owners (who may be practitioners) with no financial interest in a school;
 - one practitioner with no other interest in the profession;
 - one KBA member; and
 - one citizen-at-large with no interest in the profession.
- The Kentucky General Assembly should create a new section of KRS Chapters 317 and 317A which would establish educational reciprocity between the barbers and cosmetologists in all phases of licensing. Credit

toward licensure should be given for those hours of instruction which provide essentially the same or similar knowledge.

The Boards of Cosmetology and Barbering should begin to undertake a review of the educational requirements of their professions and determine the amounts and types of overlap and the number of hours of reciprocity to be granted the two licenses, and should report their findings and recommendations to the appropriate legislative committee—Business Organizations and Professions.

- The General Assembly should amend KRS 317.430(9) to increase the per diem payment to members of the Board of Barbering from \$35 per day to \$50 per day to bring this fee in line with those of the Board of Cosmetologists and other state boards. Furthermore, the statutory references in KRS Chapters 317 and 317A regarding administrators' salaries should be repealed.

The following recommendations were also based on conclusions formed in the course of this study. The Committee for Program Review and Investigation voted to reject these four recommendations, however.

- The Kentucky General Assembly should adopt a combined board administrative structure for regulation of barbering and cosmetology by repealing KRS Chapter 317A and amending KRS Chapter 317 to create one board to regulate the hair styling industry. This board should
 - be composed of eleven members, four representing each major license type in each occupation, and three consumer members;
 - employ only one set of staff to perform all its administrative activities; and
 - operate through a single-fund account.

If single boards are continued, the General Assembly should amend KRS 318.430 and KRS 317A.030 to require that the Board of Barbering and the Board of Hairdressers and Cosmetologists each be composed of:

- one salon owner who has no financial interests in a school;
- one practitioner with no other financial interest in the profession;
- one school owner who has no financial interest in a shop/salon;
- one school instructor who has no other financial interests in the profession; and
- one citizen-at-large.

- The General Assembly should create a new section of KRS Chapters 317 and 317A to equalize the licensing and examination charges for barbers and cosmetologists, and should change the present funding method of the boards to facilitate this. Receipts for the boards should be credited to one account and appropriated to the boards according to need. The combined budgets of the boards should be limited to their combined estimated receipts.

- The Board of Cosmetologists should amend 201 KAR 12:065, Section 5, requiring separation of the occupations and allow barbers and cosmetologists to practice without separation in a shop properly licensed by both professions. The board issuing the license to the shop manager should be responsible for inspections, enforcement and complaint investigation. Practitioners, regardless of their licensing board, should be responsible for complying with the laws and regulations of the profession licensing the manager of the business.

One final question asked by the Task Force relates to the overall policy question of regulation:

Is there justification for requiring licensure of barbers and cosmetologists?

Chapter V considers the need for regulation to protect the public from harm involving disease transmission and the use of chemicals in the two occupations. Information regarding these issues was obtained from the Kentucky Division of Local Health, the U. S. Food and Drug Administration and product manufacturers.

The statutes authorizing regulation indicate that its purpose is to protect the public health and to protect the public from deceit and fraud. Statutes and regulations cover sanitation and hygiene, establish minimum qualifications for licensure, and regulate the curriculum and resources available in the schools. To determine the need for regulation, this study sought information on the incidences and potential for disease related to the practice of barbering and cosmetology, the dangers related to products used in the practices, and the incidences of complaints related to service problems.

Under guidelines adopted in 1979 by the Kentucky Legislative Research Commission, new proposals for the regulation of an occupation must:

- be based solely on the need for public protection;
- be based on a clearly identifiable and provable need; and
- be the least restrictive approach to accomplishing this protection.

State health officials indicate that the physical contact involved in the professions does lend itself to the transmission of diseases not readily transmitted in public situations. These include lice, scabies, and ringworm. However, the reported incidence of these diseases is low and they are more a problem with children than with adults.

Little information could be found on the actual dangers of products used on customers. However, many of these products are available over-the-counter and according

to the FDA, the only difference between those forms and “professional use” products is the packaging. Three of four manufacturers contacted made the same observation.

Few complaints related to physical harm have been lodged either with the boards or with the state’s Consumer Protection Office.

The lack of significant and verifiable evidence regarding the potential public harm involved in the professions has led many other state oversight studies to conclude that the need for licensure is unsubstantiated. Although few have advocated total deregulation, most have recommended voluntary certification, with mandatory health inspections. The same recommendation seems appropriate for Kentucky; the burden of proof should lie with the advocates of regulation, not with the opponents. Little clearly identifiable and verifiable evidence exists to support the need for licensure, the most restrictive form of regulation. Therefore, the following recommendation was made to, but rejected unanimously by, the Committee for Program Review and Investigation.

- The General Assembly should repeal KRS Chapters 317 and 317A, and create new sections of KRS 317 which establish a less restrictive regulatory policy toward barbers and cosmetologists. An approach involving mandatory registration and voluntary certification should be substituted for licensure.

Students, apprentices, and practitioners should be required to register with the state and to periodically demonstrate knowledge of the potential health and safety concerns and precautions associated with the occupations.

Optional state certification as a barber or a cosmetologist should be available to practitioners meeting specific educational and continuing education training requirements.

All salons should be registered and periodically inspected.

Instructors should be certified in the same manner as practitioners.

Schools should be certified only upon careful annual scrutiny of their educational resources, quality of education, student attrition and placement rates, and academic achievement. No limitation on the number or location of schools should be imposed.

Three areas for further study were identified for consideration by the Committee for Program Review and Investigation:

- A study of the board operations to determine areas for improving efficiency and including the impact of distributing licensing renewals across the year.
- A study of the professions to identify differences in the training or activities of the professions at the level of actual practice.
- A cost-benefit study of using existing agencies to administer licensure or registration and certification instead of the present board/staff approach.

CHAPTER I

INTRODUCTION

In the 1980-81 interim, a legislative Task Force on Small Business was created by the Kentucky General Assembly to study the problems of small businesses in Kentucky. The Task Force's Subcommittee on Regulatory Reform heard public testimony from members of the professions concerning the regulation of barbers and cosmetologists. Several issues were raised in these hearings, but the pending regular legislative session preempted a detailed study by the Task Force. Therefore, in October, 1981, the chairman of the Task Force requested the Committee for Program Review and Investigation to conduct a study based on indications of "possible areas of duplicative and excessive regulatory policies of these boards."

The Subcommittee on Regulatory Reform identified several questions about regulation of barbers and cosmetologists which its members felt needed to be addressed.

- Are the regulatory policies of the two boards cost-prohibitive to the small business individual?
- Is there a valid need to maintain two licensure boards to regulate barbers and cosmetologists, and are any of their current functions duplicative?
- Is there justification for requiring licensure of barbers and cosmetologists?
- Are there alternative configurations possible of one or both of these boards that would result in more efficient and effective administration?
- Are there equitable procedures to either increase or decrease barber and cosmetology fees which would provide for uniformity in the licensure system?
- Are there currently abuses of regulatory authority by either the Board of Barbering or the Board of Cosmetologists?
- Are the boards' contentions valid that barbers and cosmetologists are two totally separate professions?
- Are the boards' claims valid that they will not be able to "police" their licensees if barbers and cosmetologists are allowed to work together?

In general, these questions relate to three issues:

- justification for, and efficiency of, maintaining two separate boards;
- justification and effects of current regulatory requirements; and
- justification for licensure.

Study Objectives

In response to the Task Force's request, the Committee for Program Review and Investigation authorized this study to:

- review the issues raised in the study request;
- identify problem areas requiring action by the agency, related agencies, or the General Assembly; and
- identify areas requiring further study.

Methodology

This study was conducted during the period of January to March, 1982. The research activities, in the order of their emphasis, included:

- a comparison of the Kentucky statutes and regulations governing barbering and cosmetology;
- a comparison of Kentucky's regulatory activities to those of the seven surrounding states;
- assessment of the purpose and need for regulation;
- identification of problems with the regulatory process; and
- a review of the operations and activities of the boards.

Representatives from Kentucky's border states were contacted to clarify their states' statutes pertaining to barbers and cosmetologists. In addition, they provided information on the approach to regulation used in their states.

Three professional members and the consumer members of each board, as well as their administrators, were interviewed regarding:

- the history of the boards and professions in Kentucky;
- the need and purpose of the boards;
- the rationale behind certain statutes and regulations;
- areas needing statutory or regulatory change; and
- alternatives to Kentucky's present approach.

Seven individuals active in the barbering or cosmetology profession were also contacted. Three had lodged complaints with their legislators and one had expressed support for the current system. Three others were acquainted with the project staff and informally provided information on their personal opinions and experiences with the professions.

Representatives from the state's Attorney General's Office and the Cabinet for Human Resources were contacted for information related to the professions. These representatives also provided their impressions regarding the need for regulation to protect the public. In addition, the Food and Drug Administration and four product manufacturers were contacted about the differences in professional use and over-the-counter products.

Finally, a random sample of one hundred and twenty-five barber shops (10 per-

cent) and a similar number of beauty salons (4 percent) was chosen for a detailed review of inspection activities for a two-year period. This review focused on the current grades, the frequency of inspections, the equitable distribution of inspections, and the two-year pattern of grades.

Limitations

The major limitations of this preliminary review are related to the overall policy issue of regulation. Data which directly addresses the validity of pro-regulatory arguments concerning the need to protect the public or pro-deregulation arguments claiming the public can protect itself is scarce. Information that was available included research findings from other states concerning the need for regulation, information from four chemical product manufacturers and the Federal Food and Drug Administration, and limited statistics on the incidence of diseases in Kentucky.

Report Overview

This report is divided into four chapters. Chapters II and III review the current regulatory system in Kentucky, while Chapters IV and V center on alternative administrative and regulatory approaches. Recommendations made in Chapters II and III assume the continued existence of the current regulatory method of licensure and would not necessarily be appropriate under the recommended alternatives of certification and registration. These recommendations would apply, however, to either the current two-board administrative approach or to the recommended alternative of a consolidated board. The recommendation in Chapter IV of a consolidated board would apply under the recommended certification and registration approach to regulation in Chapter V.

Chapter II focuses on a comparison of the statutes and regulations which govern licensing, schools and salons. It focuses on identifying the similarities and differences between the statutes and regulations and possible problem areas involving excessive or needed requirements, over-extensions of authority, or divergence from legislative intent. It includes a comparison of Kentucky's statutes with those of the seven surrounding states.

Chapter III presents an analysis of the regulatory activities of the boards and their staffs. It includes a description of activities and methods related to licensing and enforcement, as well as sources of revenue and expenditures.

Chapter IV provides a description of the two professions and their activities as defined under Kentucky's laws. These definitions are discussed in relation to the actual practice of the professions in Kentucky and other states, and their implications regarding the need for separate boards and regulations. Alternatives to this administrative approach are discussed.

Finally, in Chapter V, the need or justification for regulation is considered in light

of the apparent public health and safety dangers involved in the occupations. Optional, less restrictive regulatory approaches used or recommended in other states are presented and analyzed in terms of their feasibility in Kentucky.

CHAPTER II

REGULATORY REQUIREMENTS OF THE PROFESSIONS

Kentucky has regulated barbering and cosmetology since 1932. Originally both occupations were regulated under KRS Chapter 317 through a single board known as the Kentucky State Board of Barber and Beauty Examiners. This board had four members, three barbers and one beautician, who were instructed to examine all applicants to the professions. Over the years, the board increased in size and was eventually divided into two sections, one to regulate each professions.

This division took place in 1960. The two boards were served by one staff, however, (an executive director, two administrators and one staff member), who shared equipment and a common office. Gradually, the boards separated further. The position of executive director was eliminated, leaving the two administrators, one for each profession. In addition, separate trust and agency accounts were established for each board. The final "divorce" between the boards came in 1970, when they were given authority to employ separate staffs and obtain separate office space. This divorce resulted from an inability of the boards to cooperate and to share their mutual staff on an equitable basis. Today, the Kentucky Board of Barbering, with a three-person office staff, is located in Louisville, and the Kentucky Board of Cosmetologists (which maintained an office in Louisville until March, 1982) is located in Frankfort and is staffed by eight full-time office personnel.

KRS Chapters 317 (barbering) and 317A (cosmetology) contain the current statutes governing these boards and professions. The regulations relating to barbering are found in 201 KAR Chapter 14, and the regulations for cosmetology are found in 201 KAR Chapter 12. The present chapter reviews these statutes and regulations and has four main purposes:

- to present a summary;
- to identify the major similarities and differences;
- to compare Kentucky's statutes with those of surrounding states; and
- to identify problem areas within the statutes and regulations.

To determine the amount of similarity between the statutes and regulations of the two occupations, a rating system was developed. Each of three project staff independently rated the sections of the statutes and regulations. The final rating represents the agreement of at least two raters. Four rating categories were used. "Identical" implies that the intent and specific provisions of the sections compared were the same. "Similar" ratings indicate that the intent is the same but the specific provisions differ. For example, both sets of statutes require a certain educational level for licensure but the grade level specified differs. "Dissimilar" ratings were given to sections that were judged to differ in intent and specific provisions. Finally, the "Not Comparable" rating applied when one set of statutes or

regulations contained a provision not found in the other set. This rating produces a summary of the amount of similarity and difference in intent and specifics between the two occupations' statutes and regulations.

Statutes Governing the Professions

This section is a review of the definitions, requirements for licensure, fees and responsibilities of the Boards of Barbering and Cosmetologists as they are found in KRS Chapters 317 and 317A. It includes a comparison of the similarities and differences in the statutes pertaining to each profession and a comparison between Kentucky's statutes and those of the seven surrounding states. A detailed provision by provision comparison of the barbering and cosmetology statutes is contained in Appendix A.

Overview of Statutory Similarities

Given the common origin of the two sets of statutes, similarities are to be expected. However, the need to have two separate sets of statutes and two boards seems to imply the existence of differences. A detailed comparison and rating were undertaken. The results of the statutory comparison are presented in Table 1. This section by section comparison indicates that eighty-two percent of the statutory provisions are similar or identical, while only one percent are dissimilar. Furthermore, eighty-three percent of the statutory provisions are found in both sets of statutes.

The following sections review each of the statutory sections found in Table 1. The major similarities and differences are noted.

TABLE 1

SIMILARITY BETWEEN
BARBERING AND COSMETOLOGY STATUTES
BY MAJOR STATUTORY HEADINGS

Statutory Section	Identical	Similar	Dissimilar	Not Comparable	Total
Professional Definitions	3	1		1	5
Requirement for Licensure	5			1	6
Board Membership and Compensation	2	1	1	1	5
Board Personnel	1	2			3
Fees & License Qualifications		11		4	15
Board Regulations	7	1		2	10
Board Hearings	4				4
Disposition of Fees	2				2
Requirement for Schools		2		1	3
Reciprocal Licensing	2	1			3
Assistance to Board	2				2
Examinations	4				4
Sanitation Require- ments	5	1			6
Refusal to Issue or Renew License	7			4	11
Penalties	2				2
TOTAL	46	20	1	14	81
Percentage	57%	25%	1%	17%	100%

NOTE: Ratings represent the agreement of two of three independent raters. Identical sections had identical intent and specific provisions; similar sections had identical intent but different specific provisions; dissimilar sections differed in intent and provisions; not comparable sections had no counterpart sections in statutes governing the other occupation.

Power and Composition of the Boards

Currently the Board of Cosmetologists and the Board of Barbering are each composed of five members, four licensed within the profession and one citizen-at-large representative. The statutory purpose of the two boards is

to protect the health and safety of the public, to protect the public against misrepresentation, deceit or fraud in the practice or teaching of the profession.

The members of the barber board are compensated at a rate of \$35 per day; cosmetology board members receive \$50 per day for their services.

Powers. In order to accomplish these purposes, the boards are granted the authority to adopt rules and regulations to govern the operation of schools and salons. Specifically mentioned in the statutes are rules to govern

- the location and housing of schools and salons;
- the qualifications of instructors;
- the training of apprentices;
- the quantity and quality of supplies, equipment and records in schools and shops;
- licensure examinations; and
- health and sanitation.

Additionally, both boards have the powers to

- issue licenses;
- revoke or refuse to renew licenses;
- levy fines through court action;
- receive and investigate complaints concerning licensees; and
- employ inspectors and other personnel.

The Board of Cosmetologists has some powers beyond those of the Board of Barbering. These include the powers to

- govern the number of licenses for private cosmetology schools;
- govern the proper education and training of students;
- govern the course and conduct of school owners, instructors, licensed cosmetologists, manicurists, salons, and schools;
- suspend licenses; and
- levy fines for failure to comply with regulations.

Composition. The cosmetology board is required by KRS 317A.030 to have two members who own or have financial interest in salons, one cosmetology instructor, one with financial interest in a school, and one at-large member. No member is designated to serve as representative of the cosmetology practitioner, who comprises the largest percentage of the profession. Thus, the statutory composition of this board does not represent all areas of the profession.

Representation in the current membership of the cosmetology board is particular-

ly imbalanced. In Executive Order 80-1049, Governor Brown appointed one member (elected chairperson) as the representative of school owners and another to represent salon owners. Both individuals have financial interest in other aspects of the profession. The school representative also has an instructor's license and owns a salon. Likewise, the salon representative owns both a school and a salon. As a result, the board now has three members, including the instructor member, who directly or indirectly represent school interests, and three members who represent salon interests. Although members were officially appointed to represent only one professional area, this comingling of interests creates an imbalance within the board structure, particularly since the regular licensee is not represented.

In contrast to the cosmetology board, the barber board permits almost exclusive representation by the practitioner and disqualifies other phases of the profession. The barber board statutes specifically disqualify anyone who has a financial interest in a barber school, who is an instructor, or who is affiliated with a wholesale barbering supplier. The structure of the board, established in KRS 317.430, includes two licensed barbers who are to represent organized unions, one barber who is not affiliated with a union, and one at-large member. There is no stipulation for the fifth member. This representation creates another sort of imbalance in the board's structure, by ignoring the schools and instructors.

Licensure Requirements

KRS 317.420 and 317.020 require licensure to teach, operate a shop, engage in an apprenticeship or operate a school. The variations between the licensing procedures of the boards are found primarily in the education and age requirements, and the fees charged for licensing.

Qualifications. Tables 2 and 3 show the necessary qualifications for licensure as a barber or cosmetologist. The tables include the phases of the professions which are licensed in Kentucky and compare these to the requirements in Kentucky's border states. A Kentucky barber must have four years of high school and be eighteen years of age. An Attorney General's opinion, 68-47, was issued to clarify the requirement for four years of high school. In that opinion, the board was encouraged to accept anyone who has obtained a high school equivalency through reliable means. Since 1980, cosmetologists in Kentucky must have a high school diploma or equivalency and be over sixteen years of age.

The age requirement for barbers and cosmetologists in the seven surrounding states is in keeping with Kentucky's requirement. Sixteen- or seventeen-year olds are generally acceptable into either profession. Kentucky's barber board differs in the education level required, standing alone among the seven states in its requirement for a high school education or its equivalent. The cosmetology board reduced its education requirement to tenth grade during the 1982 legislative session. Four of the neighbor states require only an eighth grade education, and those remaining require only two years of high school.

High education standards and fees restrict entrants to the profession, but this does

not necessarily ensure a higher competency level within the profession. Members of the barbering board interviewed, however, did not feel that standards were too high since a GED could be easily obtained. In fact, board members advocated strengthening the educational requirements in all areas, and expressed interest in continuing education programs for practitioners and additional training for instructors. The trend for higher educational requirements for practitioners is not supported by the current board of cosmetologists. In 1980, the educational requirement was raised to a high school diploma. The current board supported legislation which passed the 1982 General Assembly to reduce the educational requirement to its previous level of tenth grade.

Differences exist between the professions in requirements for instructors. Both occupations require a high school degree. Cosmetologists are also required to serve a six-month apprenticeship, while barbers are required only to have practiced for three years. Three surrounding states require special educational training for barbers and cosmetologists. Only one state requires an apprenticeship for barber and cosmetology instructors. The remaining states require a valid license and from zero to five years experience in the profession.

TABLE 2

COMPARISON OF MAKEUP OF BOARDS AND QUALIFICATIONS FOR LICENSURE FOR
BARBER PROFESSION IN KENTUCKY AND SURROUNDING STATES
1980-81

	Kentucky	Indiana	Illinois ^a	Ohio	Missouri	Tennessee	Virginia	West Virginia ^b
<u>GENERAL MAKEUP OF THE BOARD^c</u>								
5 members	4 members	5 members	3 members	3 members	6 members	7 members	4 members (2 from each profession)	
<u>QUALIFICATIONS FOR LICENSE</u>								
<u>Apprentice Barber</u>								
16½ years old	16½ years old	17 yrs. 3 mos. old	17 years old	Not a licensed position	16½ years old	16 yrs. old	17 years old	
high school graduate	NA	8th grade	8th grade		8th grade	8th grade	8th grade	
<u>Barber</u>								
18 years old	18 years old	19½ years old	18 years old	19 years old	18 years old	16 yrs. old	18 years old	
high school graduate	NA	2 yrs high school	8th grade	NA	8th grade	8th grade	8th grade	

Table 2, continued

	Kentucky	Indiana	Illinois ^a	Ohio	Missouri	Tennessee	Virginia	West Virginia ^b
<u>Teach Barbering</u>								
High school graduate		high school graduate	high school graduate	high school graduate	no requirements	18 years old	high school	high school
36 months as barber	24 months as barber + 1 yr. barber instr. training school	5 years as barber + 1000 hrs of teacher training	18 months as barber, exam, 3-year apprentice teacher	no requirements	high school	36 months as barber	36 months as barber, 15 hrs of college credit in specified areas	

SOURCE: Data obtained from a review of the statutes or code governing each state, and telephone interviews with state board staffs

^aIllinois has a 9-member board in the Department of Registration and Education. The board serves in an advisory capacity, while duties are actually carried out by the Department.

^bWest Virginia is the only one of the seven surrounding states with a combined board serving both professions.

^cThe members of the boards in all 8 states represent various aspects of the profession such as salon owners, cosmetology teachers or school operators, and usually one member from the general public. Only unusual stipulations are noted in the chart.

TABLE 3

COMPARISON OF MAKEUP OF BOARDS AND QUALIFICATIONS FOR LICENSURE FOR
COSMETOLOGY PROFESSION IN KENTUCKY AND SURROUNDING STATES
1980-81

	Kentucky	Indiana	Illinois ^a	Ohio	Missouri	Tennessee	Virginia	West Virginia ^b
<u>GENERAL MAKEUP OF THE BOARD^c</u>								
	5 members	7 members	9 members	5 members (1 must be physician)	5 members	5 members	7 members	4 members
<u>QUALIFICATIONS FOR LICENSE</u>								
<u>Apprentice Cosmetologist</u>								
16 years old	Not a licensed position	16 years old	Not a licensed position	17 years old	16 years old	16 years old	17 years old	17 years old
10th grade		8th grade		8th grade	8th grade	2 yrs high school	8th grade	8th grade
<u>Cosmetologist</u>								
Over 16	18 years old	16 years old	16 years old	17 years old	16 years old	16 years old	17 years old	18 years old
10th grade	10th grade	8th grade	8th grade	8th grade	8th grade	2 yrs high school	8th grade	8th grade

	Kentucky	Indiana	Illinois ^a	Ohio	Missouri	Tennessee	Virginia	West Virginia ^b
<u>Manicurist</u>								
high school graduate	8th grade	Not licensed	NA	16 years old	8th grade	NA	Not licensed	8th grade
300 hours	17½ years old			150 hours	150 hours	300 hours		18 years old
<u>Apprentice Instructor</u>								
high school	NA	NA	NA	NA	NA	NA	NA	NA
1 year experience	NA	NA	NA	NA	NA	NA	NA	NA
<u>Cosmetology Instructor</u>								
high school	high school	high school	high school	high school	high school	high school	NA	high school
6 mos. apprentice instructor	18 years old	21 years old						
6 mos. additional training	6 mos. additional training	NA						
				One year practice in profession or 300 additional hrs.	20 college credit hrs. in education or 1200 teacher training in cosmetology	one year practice in profession	currently a licensed hairdresser	36 months as cosmetologist; 15 hrs of college credit in specified courses

SOURCE: Data obtained from a review of the statutes or code governing each state and telephone interviews with state board staffs. Illinois has a 9-member board in the Department of Registration and Education. The Board serves in an advisory capacity while duties are actually carried out by the Department.

^bWest Virginia is the only one of the seven surrounding states with a combined board serving both professions. ^cThe members of the boards in all 8 states represent various aspects of the profession such as salon owners, cosmetology teachers or school operators and usually one member from the general public. Only unusual stipulations are noted in the chart.

Fees

Licensing fees charged for the various phases of barbering and cosmetology, along with the median, high and low fees charged by Kentucky's seven neighboring states, are outlined in Tables 4 and 5. A more detailed representation of these figures can be found in Appendix B, where examination and entry level fees are shown for Kentucky and each of the seven surrounding states. The fees charged by the boards differ, the largest difference being in the school licensure fee. The cosmetology board charges \$1,000 initially and \$100 annually to renew a school license; the barber board charges \$100 initially and \$75 annually. If an individual sought licensure in all areas of cosmetology, the licensure cost would be \$1,222 for licensure at all levels, plus renewal fees. The amount for licensure in all areas of barbering would be approximately \$250 plus annual renewal fees.

There are only slight differences in the fees charged Kentucky barbers and those charged barbers in our border states. Only Missouri and Virginia levy lower licensing fees than Kentucky in all professional areas. The highest barber fees are found in Tennessee, where professionals may pay as much as \$865 for licensing all areas.

The cosmetologist licensed in Kentucky, on the other hand, pays a higher fee for initiation into all phases of hairdressing than in any border state. West Virginia is the second highest, with maximum fees approaching \$580. Virginia has the lowest fees, with full licensure costing \$105.

TABLE 4

INITIAL AND RENEWAL LICENSING FEES FOR BARBERS
IN KENTUCKY AND SURROUNDING STATES - 1981

INITIAL LICENSING FEE

License	Kentucky Barbers	Seven Surrounding States		
		Median	High	Low
Apprentice Regular	\$ 40	\$ 16	\$ 50 (In)	\$ 5 (M, WV)
Regular	40	32	80 (T)	25 (WV)
Shop Owner	20	25	75 (T)	15 (V)
Instructor	50	50	110 (T)	25 (O)
School	100	200	600 (T)	100 (V, K)

RENEWAL LICENSING FEE

License	Kentucky Barbers	Seven Surrounding States		
		Median	High	Low
Apprentice Regular	\$20	\$ 8	\$ 20 (K)	\$ 5 (M, WV)
Regular	20	15	30 (V)	10 (I, O, M)
Shop Owner	20	20	40 (In)	3 (O)
Instructor	20	20	50 (V)	10 (I, M)
School	75	150	300 (T)	15 (V)

SOURCE: Data obtained from statutes or code governing each state and direct interviews.

In - Indiana, I - Illinois, K - Kentucky, M - Missouri, O - Ohio, T - Tennessee, V - Virginia, WV - West Virginia

TABLE 5

INITIAL AND RENEWAL LICENSING FEES FOR COSMETOLOGISTS
IN KENTUCKY AND SURROUNDING STATES - 1981

INITIAL LICENSING FEE

License	Kentucky Cosmetologist	Seven Surrounding States		
		Median	High	Low
Apprentice Regular	\$ 37	\$ 9	\$ 37 (K)	\$ 5 (I,M)
Regular	50	25	60 (In)	15 (M)
Manicurist	32	21	32 (K)	15 (M)
Shop Owner	25	25	33 (T)	10 (I)
Apprentice Instructor	25	Kentucky alone licenses this position		
Instructor	85	32.50	85 (K)	22 (O)
School	1,000	162	1,000 (K)	25 (V)

RENEWAL LICENSING FEE

License	Kentucky Cosmetologist	Seven Surrounding States		
		Median	High	Low
Apprentice Regular	\$ 10	\$ 5	\$ 10 (K)	\$ 3 (T)
Regular	12	12.50	25 (WV)	6 (O)
Manicurist	10	10	25 (WV)	5 (T)
Shop Owner	15	15	25 (V)	8 (T)
Apprentice Instructor	15	Kentucky alone licenses this position		
Instructor	25	10	25 (K, WV)	6 (O)
School	100	100	250 (WV)	25 (V)

In - Indiana, I - Illinois, K - Kentucky, M - Missouri, O - Ohio, T - Tennessee, V - Virginia,
WV - West Virginia.

Summary

The results of this analysis indicate minor differences between the statutes regulating the two professions. A comparison of the statutes for the two occupations indicates that eighty-two percent are similar in intent and vary only in specific provisions, such as amount of fine, years of education or hours required.

Separation of the boards, which took place in 1970, does not appear to have statutory justification in the purposes, functions, or powers of the boards. The basis for separation lies in historical problems—the development of competition between the professions and their representatives on the combined board, and an inability to equitably share staff and resources.

Both boards have similar requirements as to size and length of terms, but vary in the types of professional representation and the per diem allowances paid. Neither board's composition is representative of its profession.

The Board of Cosmetologists is statutorily composed of one school owner, two salon owners, one instructor, and one consumer. Its current membership actually includes two school/salon owners, one salon owner, one public school instructor, and one citizen-at-large. The Board of Barbering, on the other hand, is statutorily prohibited from having members who are instructors or who have a financial interest in a school, salon, or supply business. Its representation requirements include two union and one non-union representative, one member of a national association, and one citizen. The result is that neither board represents a cross-section of the professions.

The two boards show considerable overlap in the areas in which they may promulgate rules and regulations, and their powers related to licensure and enforcement. In general the boards were established to regulate the schools and shops in order to protect the public against health dangers and fraudulent or deceptive practices. However, the Board of Cosmetologists may also limit the number of private schools, suspend (as well as revoke or decline to renew) licenses, levy and collect fines, and govern the "course and conduct" of schools, salons and licensed professionals.

Data comparing Kentucky's fees and licensure requirements to those of the seven surrounding states indicates marked differences. Kentucky cosmetologists pay higher fees than they would in any of the seven border states and the overall entry level requirements in Kentucky are more stringent. The fees and requirements for barbers (except for formal education required of instructors) are relatively comparable to those in surrounding states.

Regulations Governing the Professions

A review and comparison of the current regulatory requirements of the Board of Barbering and of the Board of Hairdressers and Cosmetologists reveals more similarities than differences, more parallels than divergencies. This is not unexpected or surprising, since the two professions operated under the same statutes, regulations, and board until re-

cent years. The statutory and regulatory language for cosmetologists has been rewritten only since 1974 and the new language drew heavily upon statutes and regulations the two boards previously held in common. Nevertheless, there are some significant differences in the regulations of the two boards.

This section will review and compare the regulations in the areas of administration, licensing, inspections, sanitation standards, and schools. Significant overlap and differences are highlighted. A detailed comparison of these regulations is found in Appendix C at the end of this report.

Overview of Regulation Similarities

As discussed earlier, the current statutes and regulations for both occupations sprang from one common set. As with the statutes, the regulations are compared and rated to determine the amount of their similarities. The results mirror those found with the statutes.

Table 6 presents the similarity ratings for the regulations of each board. Each major regulatory area is rated. The results indicate that eighty-nine percent of the regulations governing the professions are similar. Only seven percent of the cosmetology regulations have no corresponding provision in the barbering regulations. The section that follows will discuss the major similarities and differences found between the regulations.

TABLE 6
SIMILARITY BETWEEN
BARBERING AND COSMETOLOGY REGULATIONS
BY TOPICAL AREAS

Regulatory Areas	Identical	Similar	Dissimilar	Not Comparable	Total
Board Administrator		1			1
Licensing	1	9		1	11
Inspections	1	2			3
Sanitation	1	1			2
Schools		8	1	1	10
Total	3	21	1	2	27
Percentage	11%	78%	4%	7%	100%

SOURCE: 201 KAR Chapters 12 and 14; KRS Chapters 317 and 317A.

NOTE: Ratings represent the agreement of at least two of three independent raters. Identical regulations had identical intent and specific provisions; similar regulations had identical intent but different specific provisions; dissimilar regulations differed in intent and provisions; the non-comparable regulation was a cosmetology regulation which had no corresponding barbering provision. In some instances provisions corresponding to one occupation's regulations are found only in the statutes of the other profession. Comparison of similarity in such cases is included in this chart. (Refer to Appendix C at the end of this report for a more detailed comparison.)

Board Administration

The regulations give each board's administrator power to:

- act as the board's liaison officer and administrative coordinator;
- inspect establishments licensed by the board;
- subpoena records and materials for board hearings; and
- assist board members in giving and supervising licensing examinations.

Licensing

There are eleven subject areas which specifically deal with the licensing of cosmetologists and barbers. These areas deal with examinations, expired licenses, license for practice, license revocation or nonrenewal, posting requirements, demonstration permits, ratio of apprentices to licensed practitioners, and reciprocity. The professions have parallel regulations or statutes in all but one of these areas.

Inspections

Each profession has basically three regulations governing inspections and the process for inspection. These three regulations taken together outline in broad terms some of the major areas of consideration of each board's inspection process and criteria. The areas of grading and sanitation are dealt with in more detail in separate regulations.

Both sets of regulations have certain structural requirements for shops. All shops and schools must conform to local and state building, plumbing and electrical codes. Shops or salons located in private residences must have a separate outside entrance. The barbers also require a separate lavatory not used for residential purposes. Only the cosmetologists' regulations require that all salons and barber shops be separated by a soundproof partition extending to the ceiling with an individual entrance to each salon or shop. Until 1981 this regulation was interpreted as including separate entrances, waiting areas and pay windows. In 1981, the Attorney General issued an informal opinion limiting the separation only to the actual work space.

Both boards are authorized to conduct inspections. The cosmetology board's regulations specify a point and letter grading system for inspections but omit details regarding violations. This detail is found on the inspection forms which contain the violation and points associated with it. Cosmetology regulations specify that a grade less than "A" (90%) indicates a failure to meet the statutory and regulatory requirements. The barbering board's regulations, on the other hand, do not contain any reference to grades or the grade necessary to be in statutory and regulatory compliance. Their inspection forms do, however, contain this information.

Sanitation

For each profession there are two extensive regulations which deal with sanitation standards. The regulations for the cosmetologists apply to both schools and salons. One of

the barbering regulations applies to both schools and shops, and the other to schools only. The standards in these regulations are often vague and frequently repetitive.

Each set of regulations contains broad, general language on requiring clean and sanitary furniture, ceilings, walls, floors, and restrooms. There is extensive language on DHR-approved sterilization methods; however, the amount of time required for sterilizing with boiling water is ten minutes in the barbering statutes, but fifteen minutes in the regulations. These sterilization standards and methods are required for a specified list of instruments, implements and tools, such as combs, brushes, scissors and razors.

The barbering and cosmetology statutes prohibit practitioners from working when they have an infectious or contagious disease. The barbering board's and the cosmetology board's regulations also expressly forbid serving persons with infectious diseases. The barbering board's regulations specifically list diseases, while the cosmetology statutes use only broad language. The barber board regulations include diseases such as tuberculosis, gonorrhea and syphilis, as well as a variety of skin conditions and viral infections.

Schools

There are more regulations relating to schools than any other single area. There are ten for each profession. These regulations cover requirements in the areas of licensing, school districts, faculty, equipment, curriculum, admission, advertising, fees, student regulations, and records.

Licensing. Any person, establishment, firm or corporation which teaches barbering or cosmetology for a fee shall constitute a school and be subject to all the laws and regulations which apply to such schools. Before licensing a school, both sets of regulations require an application, evidence of the owner's good character and financial responsibility, and a scale drawing of the proposed school's floor plan.

School Districts. KRS 317A.060(1a) permits the cosmetology board to govern the number of licenses for cosmetology schools. No similar statutory authority exists for the barber board. Likewise, none of the seven surrounding states have a restriction on the number of schools permitted to operate. The cosmetology board's regulations restrict the number of licenses for schools of cosmetology to eight per congressional district. (Table 7 shows the number of licensed schools by congressional district before and after the 1982 redistricting.) This restriction does not apply to, or include, public schools, which are exempted from all licensing requirements by KRS 156.010 governing state-operated occupational programs. Schools are further restricted from transferring between congressional districts without permission from the board, if the transfer would result in there being more than eight private schools in a congressional district. Language in the regulations does state, however, that nothing in the regulations would prevent the reissuance of a license to an existing school. This provision offers protection to existing schools following any congressional redistricting.

TABLE 7

LICENSED SCHOOLS OF COSMETOLOGY IN KENTUCKY
 PRE- AND POST-1982 CONGRESSIONAL REDISTRICTING

<u>CONGRESSIONAL DISTRICT</u>	<u>MARCH 1982</u>	<u>JUNE 1982</u>
1	8	8
2	6	6
3	7	7*
4	8	9
5	5	4
6	8	9
7	5	4
TOTAL	47	47

SOURCE: ADMINISTRATOR, BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

NOTE: *ONE ADDITIONAL SCHOOL LICENSE APPLICATION APPROVED,
 PENDING OPENING BY JULY 1982.

Faculty. Both sets of regulations require all faculty instructors to be licensed, to be solely involved in teaching and supervising students (incidental services excepted), and to wear identification of instructor status. Also, all changes in faculty must be forwarded to the cosmetology board within five days of a change (e.g., termination and employment).

Equipment. The regulations on school equipment specify the kinds to be used. Quantities are expressed in non-measurable terms of “sufficient” or complete amounts. Recommended books, resource materials and teaching aids are specified in the barbering statutes but similar regulations were repealed by the cosmetology board in 1981.

Barber and cosmetology schools are required to get a certificate showing proper installation and safety of electrical equipment, plus evidence of compliance with various building and safety codes and zoning requirements.

Curriculum. The cosmetology curriculum clearly identifies the number of hours of training required in each major area, as well as the number of theoretical and practical hours. The barbering regulations do not specify the number of hours in each area or the number of hours of theory versus practical instruction. In addition, both require instruction on supplies and equipment; the use of anatomy charts on the neck, face and nails; and instruction of at least one hour per week in Kentucky cosmetology or barbering law.

Both curriculums similarly require shampooing, anatomy, hygiene, sanitation, professional history, and ethics. The cosmetology curriculum, as detailed in the regulations, gives extensive treatment to areas such as coloring and waving hair, facial treatment, and manicuring. These first two practices receive less extensive treatment in the barbers’ curriculum regulations. Manicuring, while mentioned in other barbering regulations, is not found in their curriculum. The barbers’ curriculum places primary emphasis on hair cutting and facial shaving skills. The cosmetologists’ curriculum covers hair cutting in the subsections on “hair designing or sculpturing” but does not include facial shaving skills as a covered item in the required curriculum. However, instruction in shaving of hair is required by KRS 317A.090(2).

Hours of Training

The curriculum for beginning cosmetology students is set at three hundred hours—one hundred in theory and two hundred in clinical experience. Second and third year students are required to have five hundred hours of theory and one thousand hours in clinical classes. Some limited substitutes are allowed, such as manufacturers’ demonstrations and two eight-hour, out-of-school educational programs. The total hours required for a person to be licensed is eighteen hundred: 450 lecture hours in science and theory, 1,305 in clinical practice, and 45 hours on Kentucky statutes and regulations.

For the student pursuing only a manicurist license, the following curriculum is specified: one hundred hours of science and theory related to equipment, sanitation, manicuring techniques, massage, and professional ethics; and two hundred hours of clinical work in manicuring techniques, massage, repair work, buffing, and artificial nails.

The course of study for an apprentice cosmetology instructor is set at one thousand hours, with minimum hours specified in fifteen subject areas, including orientation, lesson planning and teaching skills.

The barbering regulations specify that students shall receive not less than fifteen hundred hours in practice work and scientific lectures (i.e., practice and theory). All students must receive at least one hour of lectures and demonstration each school day and one hour per week should be devoted to an explanation of the Kentucky barbering statutes. There are no specific hour requirements attached to the separate sections of the curriculum as are found with the cosmetologists' curriculum.

Crossover licensing is becoming an accepted practice in several states. Definitionally, it means that either profession will recognize all or part of the formal training received in the other profession and consequently make reciprocal licensure more easily attainable. Kentucky does not currently offer crossover licensing in any form to barbers or cosmetologists; however, the barber board has expressed interest in establishing some level of reciprocity. A survey of other states shows that barbers who wish to become cosmetologists may receive credit for 23% to 75% of their formal training in eight states.¹ Similarly, 20% to 73% of a cosmetologist's studies are recognized by the barbering profession in thirteen states. West Virginia and Ohio are the only border states which allow crossover licensing, but Virginia has approved the concept and is now negotiating the actual number of hours for reciprocal licensing.

Admission Standards. Applicants for admission to barber schools are required to submit proof of having completed high school or its equivalent, while cosmetologists must show completion of two years of high school or its equivalent. Barber applicants must complete a health certificate, as furnished by the board and signed by a physician, showing the applicant to be free of any communicable or infectious diseases, including syphilis and tuberculosis. There is no similar requirement for cosmetologists. Each barber student's application and medical certificate must be mailed to the board ten days following enrollment. Similarly, the cosmetology board requires receipt of the application, plus proof of education, within ten working days following a student's enrollment.

Advertising. In the area of school advertising, barber and cosmetology schools' advertisements cannot:

- deceive, mislead or make false promises to entice students;
- guarantee student work to the public or represent such work as professional; or
- guarantee future employment to prospective students.

Barbering schools must also advertise what books and equipment are to be supplied by the student. Barbering schools and cosmetology schools must display a sign in the reception room and clinic rooms which reads to the effect "School of Barbering (or Cosmetology)—Work Done Exclusively by Students."

Fees. Fees charged the public for student work must be posted in the work rooms

and readable from ten feet. Fees charged must be submitted to the boards and, in the case of barbers, fees must cover only the costs of materials. Schools must cover only the costs of materials. Schools may not charge students additional fees for special demonstrations.

Student Regulations. The Board of Cosmetologists has a full page of regulations governing student behavior, including dress, attendance and professional practice. Students are expressly forbidden to receive any kind of pay or salary for services rendered as students. The regulations also spell out various student rights and obligations, as well as a school's responsibilities in such areas as reporting to the board a change in a student's status and hours accumulated. Credit for hours completed toward graduation are valid for a five-year period only.

Records. Schools must keep monthly and daily attendance records and detailed records on practice work performed on patrons. All records must be available to the board or its employees at all times. Some records must be mailed to the board monthly, some upon completion of study or upon graduation. The cosmetology board is also to be notified of all student withdrawals and dismissals.

Summary

The regulations governing the work of the Board of Hairdressers and Cosmetologists and the Board of Barbering were reviewed and compared in the areas of administration, licensing, inspections, sanitation standards, and schools. Although each board's regulations contain provisions unique to its profession, the primary impression left by this analysis was the commonality of these regulations. Except in the area of curriculum, both sets of regulations could be used interchangeably. Approximately eighty-nine percent of these regulations were found to be similar in intent, varying only in specific provisions, such as square footage requirements, number of waste receptacles, and total hours of instruction required.

Problem Areas in the Statutes and Regulations

The statutes and regulations are designed to be a set of rules governing the operation of the barbering and cosmetology professions. Although the intent of various statutory provisions is not specified, it can be assumed that they should relate to the purpose for which the regulatory boards were created—to protect the public from harm, deceit and fraud in the practice of the occupations. The statutes establish certain broad policies related to this purpose and the regulations attempt to provide specificity.

Within this framework there were three considerations which served as evaluation criteria of the barber and cosmetology statutes and regulations:

- Are the regulations and statutes consistent with their purpose and set at reasonable and justifiable levels?

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School Licenses. According to 201 KAR 12:105, the number of private cosmetology schools which may operate in a congressional district is limited to eight. Table 7 shows the number of schools licensed by congressional district before and after the 1982 redistricting. The reason given for this regulation is to protect the public against misrepresentation, deceit and fraud in the teaching of beauty culture. According to cosmetology board members and the administrator, a limit is needed to maintain high quality schools. A secondary purpose is to limit the competition between schools, providing cut-rate services, and private salons, providing full-cost services. A byproduct of this limit, however, is reduced competition between schools and an increased value for existing school licenses.

The first rationale—maintaining quality—seems insufficient, given the extensive regulations regarding courses and methods of instruction, required facilities and equipment, license application requirements, and board oversight authority. If these regulations cannot ensure quality, limiting the number of schools would seem only to compound the problem, by reducing the incentives for quality provided by competition. The second rationale—reducing competition—is not a valid use of regulation. Furthermore, the competitive threat itself may be overrated. By regulation school charges are limited, since only students can perform the services, and the public must be given notice that the work is being performed by students for instructional purposes. Therefore, it would seem that safeguards against intentionally using a school as a cut-rate salon are in effect.

Occupational Separation. Under Kentucky law each occupation can be practiced only within a facility licensed by that occupation's board. To have both occupations in the same building requires two licenses. Furthermore, under the cosmetology regulation, 201 KAR 12:065, Section 5, the occupations must be separated by a soundproof wall and each section must have a separate entrance. The dual license is more than sufficient as a public protection device. The wall and entrance requirements do not seem to contribute further to the protection of the public. Rather, they serve more to protect the traditional approach to the professions.

Both boards claim the regulation is necessary to adequately perform inspections. However, according to the comparisons of this study, the inspection requirements, with minor exceptions, are identical. Therefore, an inspector from either board could inspect both types of professionals. What is necessary is an agreement between the boards as to which will perform the inspection of a dual-licensed shop and an authorization for employees of one board to act on behalf of the other. Since both boards require the manager to be licensed, the board issuing the manager's license would appear the most appropriate board to monitor the shop's compliance. Likewise, all employees, regardless of license, should be responsible for complying with this same board's statutes and regulations.

Equity Between the Regulatory Systems

Both boards provide identical services and serve identical purposes. Despite this, board members and administrators are compensated for their time at different rates and members of the two occupations are charged different fees for the same type of license.

Board Compensation. Members of the Board of Cosmetologists receive \$50 per diem for days they meet, give exams or perform inspections or hearings. Members of the Board of Barbering are compensated only \$35 per diem for the same services. The apparent reason for this discrepancy is the failure of the Board of Barbering to initiate a statutory increase. Similarly, the salaries of the board administrators, although both are set low, are at unequal levels. The fact that they are set at all by statute is unusual.

Fee Schedules. The Board of Cosmetologists has an initial fee charge which is considerably higher than the fees charged by the Board of Barbering. Licensing in all areas of barbering would mean an initial cost of \$250 for individuals. The cost for licensure in comparable areas of cosmetology is \$1,222. The difference between renewal fees is slight, however. If licensed in all major areas (regular practitioner, instructor, shop and school owner), barbers could incur annual renewal costs of \$135, while cosmetologists could pay \$152.

There is no justification for any discrepancy between the fees charged by the Board of Barbering and the Board of Cosmetologists. The services provided by both boards to their licensees are essentially identical. The cosmetology board is granted some extended power by statute but those powers appear to only further specify their authority. As Chapter III points out, the operations of the boards are financed solely by the professions they regulate. The discrepancy in fees between the professions is the result of the differences in expenditures between the boards and is not related to any regulatory difference.

Regulatory Language and Organization

In several places the language used in the regulations is duplicative, unnecessary, unclear or deals with areas in which measurement is difficult. A reorganization and general rewrite of each set of regulations seems in order, to simplify, clarify, and shorten them.

Immeasurable Standards and Unclear Regulations. There are several places in the regulations where vague and immeasurable standards are established. For example, the sanitation standards for shop, salon, and school cleanliness are often vague. "Spotless" (201 KAR 14:155, Section 1) and "clean and sanitary" (201 KAR 12:100, Section 1 and 14:085, Section 2) are highly subjective expressions and lack specificity. Similarly, "any reasonable hour" (201 KAR 14:040 and 12:060), "good moral character and temperate habits" (201 KAR 14:060), "as frequently as necessary" (201 KAR 14:085, Section 3), "well lighted and ventilated" (201 KAR 14:155, Section 5), "a sufficient number" (201 KAR 12:100, Section 4), "thoroughly sterilized" (201 KAR 12:101, Section 11), and "soundproof" (201 KAR 12:065, Section 5) are examples of words and phrases which need measurable alternatives.

The syntax and sentence structure of some regulations are unclear. 201 KAR 12:010, Section 2, is poorly worded: “. . . . any premise reported as an illegal practice,” should properly be “any premise reported as housing or containing an illegal practice.” Section 3 which follows (and also 201 KAR 14:010, Section 3) contains the wording, “. . . subpoenas for licenses, . . .” meaning, no doubt, subpoenas for the production of licenses, since it is not the licenses which are subpoenaed. 201 KAR 14:090, Section 5(21) says, “Give suggestions as to how the proper contour can be brought out through the medium of a haircut . . .” The contour being referenced is not identified. 201 KAR 12:020, Section 2, speaks of “. . . hours from the state board where the hours were obtained.” Were the hours obtained from a state board?

Another example of an unclear or immeasurable regulation is 201 KAR 14:090, which does not specify the hours of instruction required in each subject area in the barbering curriculum. This requirement needs to be standardized in order to ensure that each school shall be teaching a comparable number of hours in each curriculum area, and, therefore, that students shall graduate similarly trained and qualified for practice.

Additionally, the definitions of “haircutting,” “hair styling,” “hair sculpturing,” and “hair designing” need to be specifically defined wherever they appear in either set of regulations, in order to establish concrete comparability between the professional skills and standards required of each profession.

Finally, the 1982 General Assembly amended the barbering statutes [KRS 317.450(1)] to specify reciprocity with other states regarding barbering licenses. However, unlike the cosmetologists, the barbers do not have any regulatory standards for out-of-state instructor applicants. The Board of Barbering could issue a regulation on out-of-state instructor applicants which would formalize their current unwritten policy. The regulation could be issued pursuant to KRS 317.440.

Disjointed and Redundant Standards. The organization of the regulations is usually a function of the statute’s organization. Over the years, as statutes are amended, a logical sequence in the regulations may be upset. A general rewording and reorganization of the regulations could, we feel, improve their clarity and logical sequence.

Many regulations in both sets refer to the applicability of city, county, and state zoning, building, fire and plumbing laws. It would seem that a consolidation of those references could be made under one heading in each set.

Another example of a disjointed regulation is 201 KAR 12:031, which is headed “Posting of License” and has only one section. That section deals only with issuing a duplicate license if the original is lost or stolen. However, the “Necessity and Function” heading of this section, which supposedly summarizes the regulation, mentions posting but not reissuing a license. Finally, the sequence of some sections of current regulations is illogical. For example, 201 KAR 12:082, Section 6, on brush-up courses, should follow, not precede, a description of the regular curriculum in Section 7.

Both sets of regulations also contain a fair amount of redundancy. For example,

in the area of sanitation, each profession has two regulations on sanitation standards (201 KAR 14:085, 14:155, and 12:100, 12:101). The regulations for the cosmetologists apply to both schools and salons, while one of the barbering regulations applies to both schools and shops and the other to schools only. Some of the sections within these regulations overlap and repeat standards stated in the others. Another example of redundancy is 201 KAR 12:010, Section 1, which, for graduates of Kentucky licensed schools, establishes a minimum period of registration with the cosmetology board prior to taking an apprenticeship exam. 201 KAR 12:125, Section 20 (which also overlaps 201 KAR 12:110, Section 12) guarantees the same results. The reader is thus forced to make comparisons between two regulations in order to find all applicable standards for a particular subject area. This is unnecessarily confusing.

Unnecessary Language. Some regulations seem unnecessary or wordy. For example, 201 KAR 12:025 states that applicants failing the state cosmetology board examination “may complete a further course of study . . . on the subjects failed.” Such students must submit a “re-enrollment application” with the board and “a certification of additional hours completed” This is confusing. If the intent is to make sure the board has a record of all hours completed by a student in a licensed school, then that should be the focus of the regulation. The language “. . . may complete a further course of study” is superfluous. If the board wants to require additional study, then it should say so.

A further example of unnecessary language is in 201 KAR 12:040, regarding the ratio of apprentices to cosmetologists in salons. Subsection (2) of Section 1 of that regulation could be shortened by simply requiring a one-to-one ratio of apprentices to cosmetologists in salons with more than four apprentices. This change would eliminate thirty-two lines in the regulations.

Conclusions

The discussion in this chapter has centered on a comparison of the statutory and regulatory provisions governing the barbering and cosmetology professions. The fact that eighty-nine percent of the regulations and eighty-two percent of the statutes governing cosmetologists closely mirror the barbering laws illustrates that these professions are more similar than different. Except for the fee schedule and aspects of the curriculum requirements, the statutes and regulations are virtually interchangeable.

The rationale for any regulation should have its basis in the statutes. The purpose of a regulation is to give additional form, within the boundaries of legislative intent, to its statutory base. Generally the rationale for the barbering and cosmetology regulations are appropriately found in their respective statutes and, with few exceptions, the regulations logically flow from the law. However, problem areas do exist in the statutory and regulatory requirements.

Several areas of the statutes and regulations appear questionable, given the purpose of the boards—to protect the public from harm, deceit or fraud. First, the statutory and actual membership of the boards does not seem to reflect a concern for broad representation in the regulation of the professions. Furthermore, limitations on the number of private schools, the requirement for a wall between cosmetologists and barbers, and the exemption of public schools and students from fees appear to have only a superficial connection to protecting the public.

Another questionable area is that of age and education requirements for entrance to the occupations. These requirements are statutorily established upon the advice of the boards. In most cases these requirements have little objective data to support them. Certain levels, however, seem to have common acceptance, as is evidenced by requirements in other states. This is especially true of educational and age requirements. Caution must be exercised in setting these requirements, since they necessarily restrict entrance into the occupations. The cosmetology board has reduced education requirements this past legislative session.

Although both boards are authorized to, and do, perform identical functions, discrepancies exist both in the per diem reimbursement to board members and the fees charged the professions. Cosmetology board members receive \$50 per diem, while barbering board members, receive only \$35. The median per diem paid other board members in Kentucky is \$50. The cosmetology board has higher fees and more types of fees than the barbering board and boards of many surrounding states. These fee schedule differences result from the fact that the funding for board operations and fees is determined by the operating expenses of the boards.

Finally, on the user level, both sets of regulations have problems of organization, clarity and measurability. These regulations should be simplified and clarified. Furthermore, in many areas the regulatory requirements are vague and immeasurable, resulting in highly subjective standards for enforcement.

Arguments were made at the September 7 meeting of the Program Review and Investigations Committee against adding instructors and school owners to the board. It was the feeling of the barber board chairman that school representatives may be biased if administering an exam to a former student. The original recommendation called for both boards to be composed of:

- one salon owner who has no financial interest in a school;
- one practitioner who has no other financial interest in the profession;
- one school owner who has no financial interest in a shop/salon;
- one school instructor who has no other financial interest in the profession; and
- one citizen-at-large.

Recommendations 1 and 2 now reflect the compromise reached during the meeting between the Committee and the board members.

Recommendations

1. The General Assembly should amend KRS 317A.030 to require that the Board of Hairdressers and Cosmetologists be composed of:

- (1) one salon operator;
- (2) two practitioners;
- (3) one school representative (owner or instructor); and
- (4) one citizen-at-large

2. The General Assembly should amend KRS 317.430 to require that the Board of Barbering be composed of:

- (1) two shop owners, who may be practitioners, with no financial interest in a school;
- (2) one practitioner with no other interest in the profession;
- (3) one KBA member; and
- (4) one citizen-at-large with no interest in the profession.

3. The General Assembly should amend KRS 317.430(9) to increase the per diem payment to members of the Board of Barbering from \$35 per day to \$50 per day, in order to bring this fee in line with those of the Board of Cosmetologists and other state boards. Furthermore, the statutory references in KRS Chapters 317 and 317A regarding administrators' salaries should be repealed.

4. Fees for licensure should apply to public and private schools and students. Therefore, the General Assembly should repeal KRS 317A.150 and amend KRS 156.010(7) to allow licensure of, and a licensure fee for, public schools of barbering and cosmetology. Furthermore, the Board of Cosmetologists should begin applying the statutory fee requirements uniformly to the private and public students.

5. The Board of Cosmetologists should repeal the current regulation (201 KAR 12:105) restricting the number of private schools which may operate in the state.

6. The Board of Barbering and the Board of Cosmetologists should repeal their current regulations and reissue a revised set which is:

- worded in measurable or objective terms;
- free of confusing, ambiguous, and unnecessary sections or language;
- reorganized to eliminate misleading titles and the placement of diverse regulatory requirements under a single subject area; and
- a consolidation of related requirements into single or adjacent sections.

Several other recommendations were made in the report but were rejected by the Committee for various reasons.

The first recommendation pertained to combining the receipts of the two boards into one account and equalizing the fees charged by each board. The recommendation read:

The General Assembly should create a new section of KRS Chapter 317 and KRS Chapter 317A to equalize the licensing and examination

charges for barbers and cosmetologists and should change the present funding method of the boards to facilitate this. Receipts for the boards should be credited to one account and appropriated to the boards according to need. The combined budgets of the boards should be limited to their combined estimated receipts.

Committee members also rejected a recommendation which would have lowered the educational requirement for barbers to completion of the tenth grade. That recommendation read:

The General Assembly should amend KRS 317.450(2) to lower the minimum education requirement for barbering from a high school degree or its equivalent to tenth grade or its equivalent.

Finally, pertinent to this chapter, the Committee rejected a recommendation which called for a repeal of the regulation which disallowed barbers and cosmetologists from practicing in common areas of shops properly licensed by both professions. Research showed that this was an acceptable practice in three of the seven surrounding states. A number of board members and professionals in the audience opposed the recommendation, citing protection of the public from deceit and fraud as the primary purpose of the regulation. The recommendation reads as follows:

The Board of Cosmetologists should repeal 201 KAR 12:065, requiring separation of the occupations, and allow barbers and cosmetologists to practice in common areas of shops properly licensed by both professions. The board issuing the license to the shop manager should be responsible for inspections, enforcement and complaint investigation. Practitioners, regardless of their licensing board, should be responsible for complying with the laws and regulations of the profession licensing the manager of the business.

CHAPTER III

BOARD OPERATIONS AND REGULATORY ACTIVITIES

The Board of Barbering and the Board of Cosmetologists are responsible for examining applicants to the professions, issuing licenses and enforcing the laws and regulations. Each board is permitted to hire those employees necessary to carry out its functions. To finance their activities the boards are authorized to levy fees and charges, the revenue from which accumulates in trust and agency funds for each board.

This chapter reviews the administrative and regulatory operations of the boards. Beginning with an analysis of the revenues and expenditures of each board, it proceeds with a review of the three major areas of regulatory activity—examinations, licensing, and enforcement. The chapter ends with a discussion of cost-containment actions recently implemented by the boards, and additional areas of improvement recommended by this study.

Revenues and Expenditures

The operations of the boards are financed solely by the professions which they regulate. According to statute, both boards levy licensing fees and examination charges which are used to fund the board operations.

Both boards may use fines for enforcement, but the revenue is accrued to the state's general fund, not to the board's trust and agency fund. The barbering board may impose and collect fines only through court action. The time and cost this involves makes fines an impractical enforcement method for the barbers. The cosmetology board, however, has the authority to set, levy and collect fines itself, but its members are divided on the desirability of this approach. Therefore, fines have never been used by the cosmetologists either.

Both boards have similar responsibilities and expenditure needs. Board members for the cosmetologists are paid \$50 per diem, whereas barbers are paid \$35, but both receive travel reimbursement for actual expenditures. Each board maintains its own office, administrative staff, and field inspectors, and members are responsible for administering the examination, licensing and enforcement activities of the boards.

Revenues

The major source of receipts for both boards is license fees (see Table 8). These supply approximately seventy-five percent of the cosmetologists' receipts and ninety-four percent of the barbers'. Examinations constitute the only other form of receipts for barbers. The cosmetology board, however, charges a "school enrollment" fee of five dollars per student enrolled in a private cosmetology school. (No fee is charged public

TABLE 8
 LICENSE AND EXAMINATION RECEIPTS
 FOR THE BARBERING AND COSMETOLOGY BOARDS
 FY 1981

	<u>RECEIPTS</u>	
	<u>Barbering</u>	<u>Cosmetology</u>
Examination		
Apprentice	\$ 2,340	\$ 22,350
Regular	2,700	36,085
Manicurist	NA	340
Instructor	<u>175</u>	<u>1,000</u>
Sub-total	\$ 5,215	\$ 59,775
Licenses		
Apprentice	\$ 6,435	\$ 17,286
Regular	68,105	139,654
Manicurist	NA	802
Salon/Shop	26,460	51,250
Apprentice Instructor	NA	1,360
Instructor	515	5,275
School	<u>300</u>	<u>7,500</u>
Sub-total	\$101,815 ^b	\$223,127 ^a
TOTAL	\$107,030	\$282,904

SOURCE: Data provided by administrators of the Board of Barbering and the Board of Cosmetologists, January, 1982.

^aDoes not include \$4,485 for duplicate licenses, certificates, or demonstration fees.

^bDoes not include \$75 receipts for demonstrations.

NA: Not applicable.

school students.) The licensing and examination fees for a regular practitioner's license constitute the largest portion of fees for the boards.

The two boards have had an increase in their fees in the last few years. The legislature increased the barbering board fees in 1976 and the cosmetology board fees in 1980. The increase for the barbering board has resulted in a \$42,000 surplus in FY 1981 and an estimated \$37,000 surplus in FY 1982. The Board of Cosmetologists was facing a deficit at the time its fees were increased. This deficit amounted to \$46,000 in FY 81 (approximately \$15,000-\$20,000 of this deficit is the result of using FY 81 receipts received in FY 80 to meet FY 80 expenditures).

Expenditures

The expenditures reported by each board, as indicated in Table 9, comprise only two categories—personnel and operating. Neither board spent any funds for capital outlay.

The expenditures of the boards differ significantly in several areas. The Board of Cosmetologists employs a much larger number of office and field staff than the Board of Barbering. The Board of Barbering expended over \$70,000 for its personnel, while the Board of Cosmetologists expended almost \$193,000. Per diem fees paid to board members also differed, with gross pay for the Board of Cosmetologists being \$11,000 (average of forty-four days per member), while for the barbering board it was \$5,565 (average of 31.8 days per member) for FY 1981.

Some major differences exist between the boards in the area of operating expenses also. The Board of Cosmetologists expended almost \$26,000 for rent, while the Board of Barbering expended approximately \$5,000. In the area of travel, the Board of Barbering expended \$20,000 for in-state and \$2,200 for out-of-state. The Board of Cosmetologists expended \$56,000 on in-state and \$1,200 for out-of-state. In total the Board of Barbering expended \$36,000 in operating expenditures, compared to \$100,000 expended by the Board of Cosmetologists.

TABLE 9
 MAJOR CATEGORIES OF
 RECEIPTS AND EXPENDITURES
 BOARD OF BARBERING AND BOARD OF COSMETOLOGISTS
 FY 1981

RECEIPTS	<u>Barbering</u>	<u>Cosmetologists</u>
School Enrollment Examinations	\$ NA	\$ 7,666
Licenses	5,215	56,301
Miscellaneous	101,890	193,872
Carryover	89	NA
	<u>42,870</u>	<u>0</u>
TOTAL	\$150,064	\$257,839
EXPENDITURES		
Salaries	\$ 76,510	\$198,235
Miscellaneous Personnel	NA	7,194
Operating	<u>35,768</u>	<u>100,181</u>
TOTAL	\$112,278	\$305,610
CARRYOVER (DEFICIT)	\$ 37,786	(\$47,771)

SOURCE: Compiled from information provided by the administrators of the Board of Barbering and the Board of Cosmetologists.

NA: Not applicable.

TABLE 10
PERSONNEL SALARY COMPARISONS
BOARD OF BARBERING AND BOARD OF COSMETOLOGISTS
FY 1981

<u>POSITION</u>	<u>SALARY</u>			
	<u>Barbering (#)</u>		<u>Cosmetologists (#)</u>	
<u>Office Full-time</u>				
Administrator	\$16,860	(1)	\$19,512	(1)
Accountant	13,200	(1)		
Administrative Secretary	14,556	(1)		
Account Clerk			6,996	(1)
Principal Clerk			11,976	(1)
Chief Clerk			11,412	(1)
Clerk			6,672	(1)
Principal Clerk Typist			10,872	(1)
Senior Clerk Typist			7,344	(1)
Clerk Stenographer			7,344	(1)
TOTAL	\$44,616		\$82,128	
 <u>Office Part-time</u>				
Principal Clerk			\$3.78/hr.	(1)*
Office Clerk Stenographer			3.78/hr.	(1)*
 <u>Field Full-time</u>				
Inspectors	\$18,391	(2)	\$77,844	(11)**
Average Salary	\$9,196		\$7,784	
Range	\$8,695-9,696		\$6,672-9,384	
 <u>Field Part-time</u>				
Inspector (Rank III)			\$3.97/hr.	(3)
 <u>Board Members</u>				
	\$ 6,179	(5)	\$11,000	(5)
Per Diem	\$35		\$50	

SOURCE: Compiled from information submitted by the administrators of the Board of Barbering and the Board of Cosmetologists, January, 1982.

- * Positions were converted to full-time in April, 1982.
- ** All field inspectors have been reclassified part-time as of April, 1982.

Personnel

The Board of Barbering operates with a smaller complement of personnel than the Board of Cosmetologists (see Table 10). The barbering board's office staff, which handles the collection of fees and issuance of licenses, is composed of only three persons, including the administrator. During FY 1981, this staff issued 4,783 licenses (approximately 1,594 licenses per person). Field staff, composed of two full-time and three part-time inspectors, performed 5,526 inspections, with full-time inspectors averaging 2,196 inspections and part-time inspectors averaging 376 inspections.

The staff for the Board of Cosmetologists is composed of eight full-time and two part-time office persons. In full-time equivalency, this staff issued in FY 1981 an average of 1,600 licenses per person. Field inspectors consisted of eleven full-time persons averaging 2,207 inspections per person (one inspector was employed for only half a year; therefore, this average is based on 10.5 persons).

Activities

The expenditures of the boards are related to the three main areas of activities—examination, licensing and enforcement. Both boards administer monthly written and practical examinations for licensing of apprentices, regular practitioners and instructors. Licenses are renewed annually in July. Renewal requires only the payment of the renewal fee. There are no renewal requirements regarding testing, health certification or continuing education. To ensure proper adherence to the boards' statutes and regulations, both boards employ licensees in their profession to inspect schools and salons on an unannounced basis.

Activities of the boards related to issuance of licenses, collection of fees, complaint investigation and salon inspections are performed by the staff. Board members engage in the following activities:

- administration of written and practical exams;
- suspension or revocation of licenses;
- appeal hearings related to board actions, complaints or inspection reports;
- regulation exception appeals; and
- school licensing and inspections.

To accomplish these activities each board meets separately for two days or more each month. The first day is dedicated to board business, review of complaints and actions, appeals hearings and licensing hearings. The second and subsequent days are used for administering the written and practical examinations. Periodically, one or two board members will conduct an inspection of the licensed schools for compliance with board regulations. Additionally, one or two members conduct the pre-opening inspections of new barber or cosmetology schools. Recently, the Board of Cosmetologists decided to assign its field inspectors the responsibility for routine school inspections.

Licensing

During FY 1981, the boards, through their staffs, issued 4,783 barbering licenses and 14,407 cosmetology licenses. The breakdown of types of licenses is displayed in Table 11. Both boards license apprentice practitioners, regular practitioners, instructors, schools and salons. The cosmetology board also licenses manicurists and apprentice instructors.

Renewal of licenses is on an annual basis. It is dependent upon the licensee to seek renewal. Each license issued has a perforated renewal form attached. To renew a license, the licensee sends this renewal form with the appropriate fee to the board. Upon receipt the board issues the new license.

Examinations

Both boards use written and practical examinations, administered in the presence of a professional board member, to determine the competency of applicant licensees. Apprentices, manicurists and instructors must pass both a written and practical exam before licensure. Regular practitioners with a valid Kentucky apprentice license take only a practical exam. Out-of-state applicants for a regular license must take both a written and a practical examination. If, however, the state of licensure has reciprocity with Kentucky, no examination is required and only the practical is required of licensed applicants with two years experience.

Number of Examinees. The number of exams administered and the number of applicants failing in FY 1981 are shown in Table 12. The Board of Cosmetologists administered a total of 960 written and 1,745 practical exams. The Board of Barbering administered 170 written and 288 practical exams. The failure rates for different exams and between the professions varies.

Generally, the cosmetology examinations show a higher passing rate than the barber examinations. Almost twenty-five percent of those applying for a barbering apprenticeship fail, while only three percent fail with the cosmetologists. Forty-three percent of barbers licensed in another state who apply for a Kentucky license fail the written examination. Six percent of the regular barbering license applicants fail the practical exam, while no applicants failed the practical exam for cosmetology. Both occupations show high failure rates with their instructor's exams. Cosmetologists have failed almost half the applicants in FY 1981. Only one percent has passed both parts of the barber instructor's exam since 1980.

Procedures. The examination procedures followed by both boards were identical until 1977, when the Board of Barbering developed a new practical exam procedure to help reduce the subjectivity and increase the validity of its examination process. In 1981 the board furthered its effort to increase objectivity with the adoption of a nationally developed written examination.

The Board of Cosmetologists and, until recently, the Board of Barbering, has us-

Number of Licensed Barbers and Cosmetologists

July, 1981

	Barbers	Cosmetologists
Student	NA	125
Apprentice	311	671
Regular	3,121	15,396
Manicurist	NA	86
Apprentice Instructor	NA	23
Instructor	24	310
School	4	54
Salon	1,323	3,652
TOTAL	4,783	20,192

SOURCE: ADMINISTRATORS, BOARD OF BARBERING AND BOARD OF COSMETOLOGISTS, JANUARY 1982.

NOTE: NA: NOT APPLICABLE - NO LICENSE REQUIRED.

TABLE 12

NUMBER OF EXAMINATIONS AND NUMBER OF FAILURES
BY EXAMINATION TYPE AND BOARD
FY 1981

	APPRENTICE		REGULAR		MANICURIST		INSTRUCTOR	
	Exam	Fail (%) ^a	Exam	Fail (%)	Exam	Fail (%)	Exam	Fail (%)
Barbering								
Written Exam	147	25 (17.0)	21	9 (42.9) ^b		NA	2	1 (50.0)
Practical Exam	136	10 (7.4)	143	9 (6.3) ^c		NA	9	9 (100.0)
Cosmetologists								
Written Exam	907	24 (2.6)	0	0 (0) ^b	15	0 (0)	38	17 (44.7)
Practical Exam	905	8 (.8)	793	0 (0) ^c	15	0 (0)	32	14 (43.8)

SOURCE: Compiled from data supplied by administrators of Boards of Cosmetologists and Barbering, April 2, 1982.

NOTE: NA = Not Applicable.

a = Percent Failure.

b = Only out-of-state licensees from non-reciprocal states are required to take written.

c = All apprentices must take practical before obtaining regular license.

ed tests based upon items developed by textbook manufacturers. These were used for the apprentice, regular, manicurist and instructor's licenses. The Board of Barbering now uses written tests developed by the National Association of Barbers for apprentice, regular and instructor's exams.

Both boards have developed their own practical examinations, but since 1977 the method of administration has differed. Both boards maintain practical examination rooms with the basic, professional equipment. Examinees must take their examination at the board offices and provide their own live model for the practical exam.

The practical examination for apprentice and regular licensees in both occupations involves the demonstration of particular skills related to cutting hair, shaping or styling, and caring for equipment. The Board of Cosmetologists uses a rating form containing the general and specific skills area and the points applied to each. One board member is responsible for observing and rating the performance of an examinee on each skills area. Therefore, the final score of an examinee is dependent upon the judgment of a single examiner. The examination used by the barbering board is much less subjective.

The practical exam rating form used by the barbers for apprentice and regular licenses contains both general and specific skill areas. The number of points for each skill is identified on the rating form, ensuring that each examiner applies the same weight to each skill. Most importantly, though, each examinee is rated by two or three board members, whose ratings are averaged in determining the examinee's final score. This method controls individual biases and helps to ensure a more reliable testing procedure.

Practical examinations for instructors are developed by each board. Practical examinations are generally performed in the presence of more than one board member, with the final score representing a composite score of the members. Both boards use a highly subjective technique. The examinee is requested to role-play a classroom situation and present a lecture on one or more techniques. A rating form with skills and points is used by the cosmetologists, and the final score is an average. No rating form is used by the barbering board; rather, members write a critique of the person's style and an assessment of whether the examinee should pass or fail. The consensus of the board members determines whether the licensee passes or fails.

Enforcement

Both boards have broad statutory powers to govern the health and sanitation of shops and schools, as well as their location, housing, and the training, qualifications and examinations required of the professionals they employ. To assure that owners and operators comply with the regulations, periodic, unannounced inspection visits are conducted by field inspectors. These inspectors are concerned with compliance with all regulations, but particularly those related to health and sanitation, practicing with and displaying a license, and separation between barbers and cosmetologists. No other state agency routinely inspects these shops or schools, although plumbing, electrical and fire inspections are conducted, at least upon initial opening, by the appropriate agency.

Method of Enforcement. The Board of Cosmetologists divides the state into ten inspection regions, while the Board of Barbering has five regions. These regions are determined partially by the number of licensed shops and partially by the geographic distribution of shops. Inspectors live, work, and may own a shop in, the region they inspect.

Both boards encourage their inspectors to inspect a shop at least once per quarter. Which shops are inspected and when is determined by the inspector. Verification of an inspection is via a completed inspection form submitted to the boards.

Inspection forms are primarily concerned with cleanliness and sanitation. They relate to the overall shop, not to particular operators. Inspections produce a grade based upon one hundred minus the number of points lost. The scale used for cosmetologists is: 90-100 = A; 80-89 = B; 70-79 = C. According to the regulations of the Board of Cosmetologists, any rating below an "A" is considered a failure to comply with the Board's rules and regulations. The Board of Barbering has not established in its regulations a scale or a grade which indicates failure to comply. The Board's inspection forms do, however, indicate the following scale: Grade 90-100 = "good;" 80-89 = "satisfactory;" and under 79 = "unsatisfactory."

Enforcement Powers. The powers of each board in the event a licensee fails to comply with the board's statutes and regulations vary, as a result of updates to the cosmetologists' statutes. The Board of Cosmetologists has the power to refuse to issue or renew, to revoke or to suspend a license on the following grounds:

- conviction of a felony;
- gross malpractice or incompetence;
- dangerous mental or physical health;
- false, deceptive or misleading advertisement;
- practicing in an unlicensed shop;
- practicing outside a licensed shop;
- immoral or unprofessional conduct;
- teaching in an unlicensed school; and
- failure to comply with the rules and regulations of the board.

The Board of Barbering appears to have only the powers to refuse to issue or renew and to revoke. The same grounds as above apply except conviction of a felony. According to a Kentucky assistant attorney general, the barbering statute does not explicitly give this board the power to suspend.² In the case of both boards, decisions may be appealed to the Franklin Circuit Court.

Statutes for both boards provide penalties for violation. These are a fine of \$50 to \$500 or imprisonment of ten days to six months for violation of a board's statutes, and a fine of \$25 to \$200 or imprisonment of ten days to three months for violation of a board's regulations. However, the Board of Barbering has no explicit statutory authority to levy or collect these fines; therefore, court action would be required to apply these penalties. The power to levy and collect fines is granted to nineteen of twenty-five Kentucky boards, in-

cluding the Board of Cosmetologists. The Board of Cosmetologists' statutes were modified to permit that board to levy a fine in lieu of suspension at a rate of \$25 per day up to a maximum of \$500. The amounts are supposed to be set by regulation, but no such regulation currently exists.

Inspection Activities. During FY 1981, the Board of Barbering performed 5,526 inspections, while the Board of Cosmetologists performed 23,171. To determine the frequency of inspections, the grades, and the consistency of these grades, a random sample of shop inspections was reviewed in this study. The sample size was limited to approximately one hundred and thirty shops from each profession. This limit resulted in a ten percent sample for barbers and a four percent sample for cosmetologists. The results of this sample review, covering two years from January, 1980 to December, 1981, are displayed in summary form in Table 13. A more detailed explanation of the data collected is in appendix D.

The majority of shops in the sample (68 percent for barbers and 76 percent for cosmetologists) were inspected within the last three months, as the boards' policies recommend. One-fourth of the sample had not been inspected for four to twelve months, with two to five percent not having an inspection in the last year.

The current grades for the last recorded inspection are also listed in Table 13. In the case of barbers, ninety-three percent of the sample have a grade of ninety percent or above. For cosmetologists, one hundred percent have ninety percent or above. Furthermore, an inspection of the grades received over the last two years indicates a high degree of consistency in grades. Ninety percent of the barber shops sampled had all "A" grades, four percent had all "B's," and three percent had a mixture of "A's" and "B's." The results for cosmetology shops are even more extreme, with ninety-nine percent receiving all "A's" in the last two years and only one shop receiving a mixture of "A's" and "B's."

The final category of information presented in Table 13 provides descriptive statistics on the frequency of inspections in the last two years. The average number of inspections and the median number both approximate a quarterly inspection schedule (eight inspections in two years). However, the range of inspections per shop indicates a wide discrepancy in shop inspections especially for the cosmetologists. The range for barbers is 0 to 18; the actual distribution of inspections indicates that fifty-four percent of the shops were inspected from five to ten times in two years. In some cases the shops most frequently inspected were those with "B" grades or a mixture of "A's" and "B's." However, some of the shops inspected fifteen to eighteen times had consistent "A" grades. The pattern for cosmetologists indicates that some shops were inspected as many as twenty-five times. The distribution of inspections indicates that nine cosmetology shops were inspected twenty or more times in two years. This number of inspections seems unwarranted, given that all nine shops received "A" ratings for each inspection. The only shop to receive a "B" in the two-year period was inspected only twice in the two years, receiving an "A" on its last rating.

The information presented in Table 13 indicates three conclusions about inspections. First, grades are almost uniformly in the "A" or "good" range, defined, at least by

TABLE 13
 FREQUENCY OF INSPECTIONS
 CURRENT GRADE AND CONSISTENCY OF GRADE
 SAMPLE OF COSMETOLOGY SALONS AND BARBER SHOPS

January, 1980—December, 1981

<u>Barbers</u>		<u>Cosmetologists</u>
126	Shops in Sample	136
93%	Shops with "A" Grade	100%
90%	Shops With All "A" Grades In Last 2 Years	99%
10%	Shops With Less Than "A" Grade In Last 2 Years	1%
0-18	Frequency Of Inspections Per Shop Over A 2 Year Period	2-25
8	Number Required By Board Policy For 2 Years	8

SOURCE: OBTAINED FROM INSPECTION OF AGENCY RECORDS FOR A RANDOM SAMPLE OF SHOPS.

the Board of Cosmetologists, as being in compliance. Secondly, although overall a quarterly inspection rate is indicated, there is a wide discrepancy in the number of times shops are inspected. Finally, the frequency of inspections does not appear to be associated with the grade. This conclusion applies more in the case of the cosmetologists than the barbers, but in both the most frequently inspected were consistently "A" ratings.

Complaint Investigation and Disciplinary Actions. Enforcement of rules and regulations occurs through two primary mechanisms. One is the inspection of shops and schools. The other is through the investigation of complaints lodged by professionals or the general public. Problems identified by inspectors which constitute a major violation (e.g., practicing without a license or in an unlicensed shop), or which constitute a consistent violation are brought before the boards for review and action.

Complaints against shops and operators can be filed with the boards by consumers or other professionals, as well as by inspectors. Staff of the boards investigate the complaints to determine their validity. Cases involving a verified regulatory or statutory violation regarding licensing are submitted to the board for action. Cases of suspected health or sanitation violations are discussed with the violator and more frequent inspections may be implemented. Complaints involving customer dissatisfaction with services received are resolved by negotiation mediated by the board or its administrator.

Table 14 indicates the types of complaints lodged with the Board of Barbering and the methods of resolution for a two-year time period from January, 1980, through December, 1981. During this period, only thirty-seven complaints were lodged, six of which could not be substantiated. Of twenty-four complaints involving licensing or improper supervision, twenty resulted in license suspension and one in a board warning. In six cases involving consumer service complaints, all verified complaints resulted in a settlement negotiated to the customer's satisfaction.

Table 15 indicates the complaints received by the Board of Cosmetologists. The number of complaints (263) exceeds those lodged with the Board of Barbering, but they represent similar categories. The majority involve licenses (55%) and service complaints (26%). Of the 263 complaints filed, thirty-eight were unsubstantiated. Of the 155 violations involving improper licensing, fifty-eight resulted in obtaining a license and eight in ceasing practice. Fifteen complaints went before the board. Four were for licensing violations, three resulted in disciplinary action, and one was dropped. Two cases of failure to pay fees resulted in one license being revoked, and in the other case, fees being paid. Seven cases involving malpractice or improper conduct resulted in five being unsubstantiated and two receiving board warnings.

TABLE 14
COMPLAINTS RECEIVED AND
METHOD OF RESOLUTION

BOARD OF BARBERING
January 1980 - December 1981

<u>COMPLAINT</u>	<u>NUMBER</u>
Practicing without a license	12
Unlicensed Shop	11
Unsanitary Conditions	4
Unsupervised apprentice	1
Overcharge	2
Dissatisfied with service	3
Misleading advertisement	1
Improper conduct	2
Injury inflicted	<u>1</u>
TOTAL	37

<u>RESOLUTION</u>	<u>NUMBER</u>
Visit - unsubstantiated	6
Visit - corrected by owner	2
Visit - refund or adjustment	4
Visit - no action, kept on file	6
License suspended	18
Board appearance with warning	1
Shop/School closed	2
Dropped - complaint not finalized by complainant	1

SOURCE: Review of complaint files, Committee for Program Review staff, January, 1982

TABLE 15

COMPLAINTS RECEIVED AND
METHOD OF RESOLUTION

BOARD OF COSMETOLOGISTS

July 1980 - December 1981

<u>COMPLAINT</u>	<u>NUMBER</u>
Practicing without a license	71
Working in unlicensed salon	26
Unlicensed salon	58
Demonstration without permit	1
Unsanitary conditions	15
Unsupervised apprentice	8
Misleading or improper advertisement	1
Dissatisfied with service	58
Student complaints	12
Beauty salon/barber shop combinations	6
Complaints against inspectors	1
Other ^a	6
TOTAL	263

<u>RESOLUTION</u>	<u>NUMBER</u>
Unsubstantiated	38
Warning from inspector	11
Notification of violation	90
Obtained license	58
Ceased operation	8
Corrected by owner	33
Board appearance - no action	8
Board appearance - warning	4
Board appearance - suspension or probation	2
Board appearance - revocation	1
Investigations continuing	3
Referred to other agency	9

SOURCE: Compiled for study by Carroll Roberts, Administrator,
Board of Cosmetologists, March 3, 1982.

^aRepresents complaints not within the Board's jurisdiction.

Conclusions

Both the Board of Barbering and the Board of Cosmetologists perform the same regulatory functions—licensing, examinations and enforcement. Both employ their own staffs and, maintain their own offices and support their operations through licensing and examination receipts. The ratio of staff to work load (number of licenses issued and number of inspections conducted) is comparable between the boards. Both boards have had their fees increased (barbers in 1976 and cosmetologists in 1980) to meet expenditures. Currently the barbering board is operating with a surplus, while the cosmetology board is attempting to overcome a deficit. Each board has taken some actions to reduce costs. Both are moving toward the use of part-time inspectors. The cosmetologists have also taken action to lower their rental costs, which were five times that of the barbers. Expenditure differences are also apparent in travel, total salaries, and board member per diem, with cosmetologists having the greatest expenses.

Recommendations

Examinations. Both boards utilize written and practical examinations to determine the competency of license applicants. Barbers use a written examination developed by the National Association of Barbers, which shows a seventeen percent failure rate for apprentices. Cosmetologists use tests developed by textbook publishers (and therefore available to instructors and schools), which show less than a one percent failure rate for apprentices. Practical exams for apprentices and regular licensees are developed and administered by the boards. The barbers' grading system reduces the subjectivity by using the ratings of two or more board members, while cosmetologists rely on the opinion of only one board member in grading an examinee. Both boards show very high failure rates on both the written and practical instructor's exams. The basis of the practical portion of this exam is the board members' ratings of the instructor applicant's ability to instruct, even though instructor licensees are not required to have any additional educational training to qualify.

7. The Board of Cosmetologists should revise its examination processes. A written examination not available to school owners or instructors and a less subjective practical examination procedure should be adopted.

8. The Board of Barbers should review its instructor's examination to determine the cause of the high failure rates. If these rates are not due to the stringency of the examination, then the use of an apprentice instructor position or the inclusion of educational requirements should be considered.

Inspections and Enforcement. The boards each employ inspectors to conduct unannounced inspections of shops and salons. Inspectors determine their own inspection schedules. Each board has a similar inspection form, containing specific aspects to be grad-

ed. Each form has a rating scale, but only the cosmetology board's indicates a minimum score for compliance. Neither board uses fines as a method of ensuring compliance. The barbering board would need to take legal action through the courts to levy fines. The cosmetology board has the authority itself, but has not developed a fine schedule. A review of inspections and grades indicates that, on the average, shops are inspected quarterly by each board; however, some shops have been inspected monthly, despite a two-year record of "A" or "Good" ratings.

The two boards differ in their powers related to enforcing compliance. The Board of Barbering lacks the authority to suspend licenses, leaving revocation and refusal to renew as their only powers. The use of fines would give both boards added flexibility in ensuring regulatory compliance. The power to suspend would likewise add flexibility.

9. The General Assembly should modify KRS 317.590 and KRS 317.991 to give the Board of Barbering the authority to suspend licenses and to set, levy and collect fines for statutory and regulatory violations, Fines should be credited to the Commonwealth's general fund and not the board's operating funds.

10. The Board of Barbering and the Board of Cosmetologists should revise their inspection procedures so that:

- the frequency of inspections is limited to twice per year unless violators warrant otherwise;
- the schedule of inspections is determined and closely monitored by the board administrator; and
- a fine schedule for violations is developed and implemented in place of the current grading system. (Action by the Board of Barbering on this point should await legislative authority to levy and collect.)

Professional Services. The purpose of both boards is to protect the public from harm. Activities of both boards related to this goal are primarily control related. From time to time the boards do get involved in sending information to members or putting on training classes. Neither board maintains any form of periodic newsletter or educational program to provide members with current information related to health and safety concerns. A positive approach to protecting the public through improving the knowledge of the state's professional barbers and cosmetologists would help to ensure that licensees remain aware of recent developments, problems and precautions. Since most of the information related to health and safety would apply to both professions, a cooperative venture between the boards would seem to be the most efficient approach.

11. The Board of Barbering and the Board of Cosmetologists should work together to develop an educational program for members designed to periodically inform them of health and safety concerns and precautions, and to keep them informed of new developments related to diseases, equipment and chemicals.

Areas for Further Study

The number of personnel employed and the total operating expenditures of the Board of Cosmetologists seem high, considering the apparent comparability in workloads between the boards. Some actions to reduce expenditures have been taken by both boards and those efforts should be encouraged. Currently, the majority of license renewals are conducted in July of each year, owing to the dependence of the boards on receipts for operating funds. Dispersing renewals across the year by the use of issuance date or license name could more evenly distribute the workload and perhaps reduce personnel needs. This action may necessitate a funding change to ensure a balance between expenditures and available revenues.

Determining the effect on personnel expenses of distributing renewals across the year will require a study of the workload under various distribution schemes. The costs of these schedules can then be compared to the current approach to determine the most efficient method. Part of this study should include a review of current staffing and workload to determine cost savings available under the present system.

CHAPTER IV

NEED FOR SEPARATE REGULATION AND BOARDS

Barbering and cosmetology in Kentucky are regulated by separate boards, statutes and regulations. Each profession is restricted to practicing only within businesses licensed by its own board. The purpose of this chapter is to determine if this separate treatment is justified, given the activities of the occupations. This chapter begins with a brief description of the traditional and recent national trends in the activities of barbers and cosmetologists. Following this is a description of the activities and training of the barbering and cosmetology professions as defined by Kentucky's statutes and regulations and a discussion of the effects these definitions have on the practice of the professions. The chapter concludes with a description of alternatives to the present separate board regulatory approach.

Traditional and Recent Trends

Barbering and cosmetology, traditionally, have been viewed as different approaches to cosmetic art. Barbers primarily have served men and their skills have been in the areas of precise hair cutting and facial shaving. Cosmetologists, on the other hand, have catered to a predominantly female clientele and provided services pertaining to hairstyling, manicuring, makeup, and other beauty treatments.

The modern practices of cosmetology and barbering show few clear distinctions between the professions. The 1960's and 70's were periods of challenge for the traditional American view of males and females. The unisex concept has affected a great number of areas. This is especially prevalent in the fashion and cosmetic industries. These effects on barbering and cosmetology were felt at both the professional and the consumer levels. At the professional level, the traditional male field of barbering is licensing more female barbers and the traditionally female cosmetology profession is demonstrating a trend toward licensing more males.

More pronounced is the change at the consumer level, where males and females, particularly in urban areas, patronize either barber or cosmetology shops. Many shops in both professions advertise services for males and females. The result is two trends: the establishment of dual licensed facilities, and the use of the term "hairstylist" (rather than barber or cosmetologist) in the shop or salon advertisement.

Legal Definition of the Professions

The practice of barbering and cosmetology are defined by both their statutory ac-

tivities and their required training. Kentucky's statutes outline the major activities that each profession engages in and the general areas of training required for licensure. The Boards of Barbering and of Cosmetologists are given the authority to regulate training and courses of instruction related to licensure. The regulations identify the hours of training and specific curriculum. Together these statutes and regulations formalize a particular concept of the professions. The following section is a description of the legal activities and training requirements which define these professions.

Activities

The statutory definitions of barbering and cosmetology in Kentucky reflect the traditional differences between the professions. Under Kentucky's statutes both barbering and cosmetology are considered practices primarily upon the human head and neck. However, the cosmetology statute indicates this practice is principally upon the human female and involves "cutting hair, permanent waving, hairdressing, marcelling" Barbering, on the other hand, is defined as principally involving "shaving or trimming the beard or cutting the hair." According to a 1969 Attorney General's opinion, barbers and cosmetologists can provide their authorized services to either males or females.

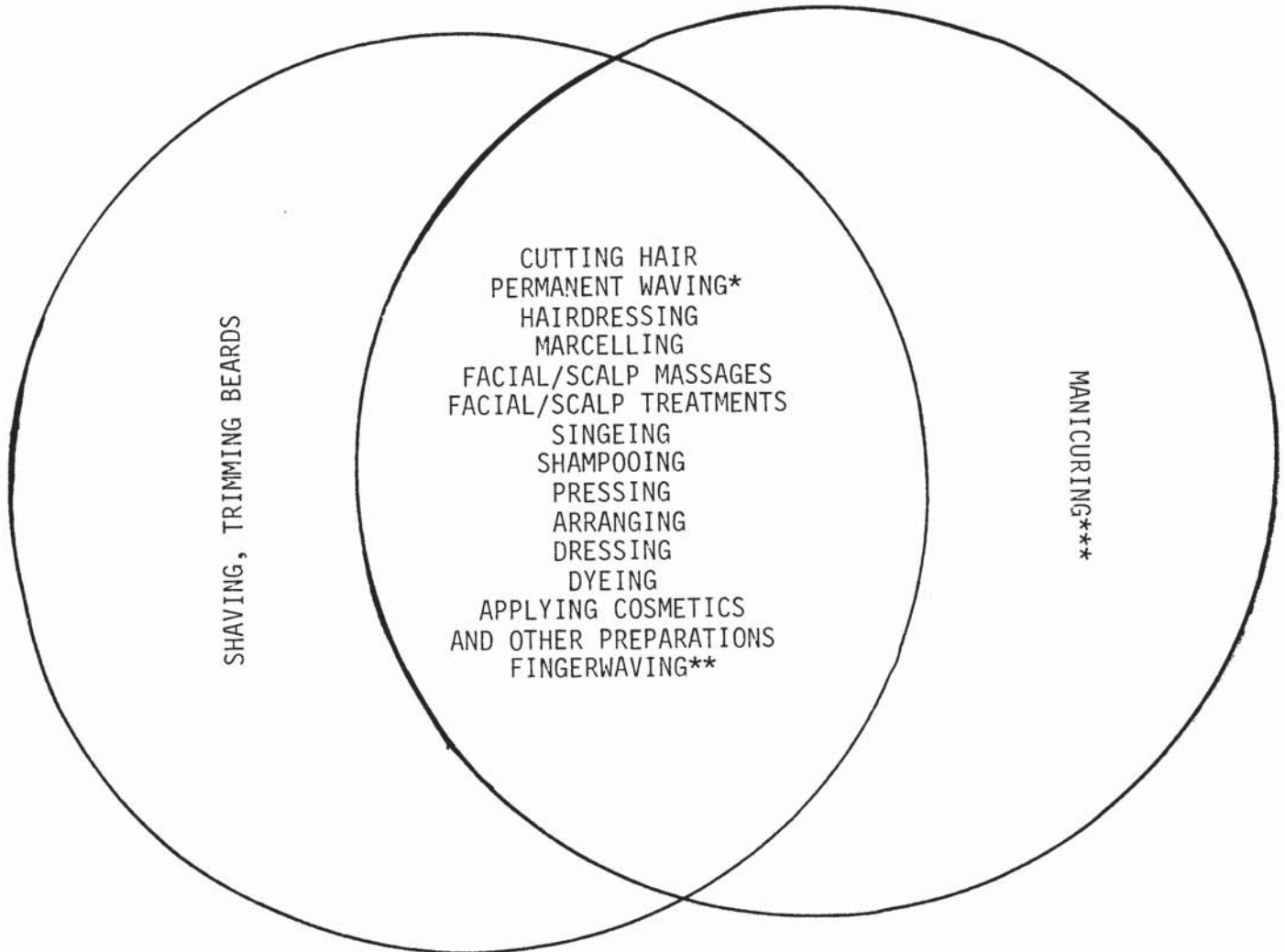
Both professions are permitted by statute to engage in several "additional activities," as indicated in Table 16. The only significant differences between the professions in the additional activities is the practice of manicuring and finger waving, which are included under cosmetology. (It should be noted that a barber may obtain a separate manicuring license from the Board of Cosmetologists upon completion of three hundred hours of manicuring instruction.)

Permanent waving has been an area of legal dispute between the barber and cosmetology boards for some time. Barbers contend that the definition of barbering encompasses all the acts related to the application of permanent waves. The barbering board, prior to 1975, issued regulations referring to permanent waving among the activities of a barber. However, in 1975 a Kentucky Assistant Attorney General, in OAG 75-629, stated his opinion that:

Nowhere in the definition of barbering (KRS 317.410(2)) does the word 'wave' or the words 'permanent waving,' 'marcelling,' or 'finger waving' appear. Hence, it is apparent that the legislature did not intend to *include* 'permanent waving,' 'marcelling' or 'finger waving' in the definition of barbering. The regulations are clearly an effort to extend, strengthen and augment the statute defining 'barbering' through regulatory action by the State Barbering Board. We are therefore of the further opinion that the adopted 1975 regulations which include 'permanent waving' is an attempt to extend KRS 317.410(2) beyond its statutory boundaries and are void insofar as they relate to 'permanent waving'.

TABLE 16

OVERLAP AND DIFFERENCES IN BARBERING AND COSMETOLOGY PRACTICES
AS DEFINED BY KENTUCKY STATUTES



SOURCE: Compiled by Program Review and Investigations Committee staff from KRS 317A.010 and KRS 317.410.

NOTES: * OAG 82-158 identifies permanent waving as a legitimate activity of barbers.

** Could fit under the practices of pressing, arranging, dressing, and applying tonics.

*** A separate manicuring license may be obtained from the Board of Cosmetologists with 300 hours of instruction.

In protest of this opinion, several barbers filed a class action suit in 1976 to prohibit the barber board from restricting the practice of permanent waving. The restraining order issued by the court was in effect until June 17, 1980, when it expired. Neither side in the dispute followed through with the legal challenge; therefore, no court decision was rendered.

On March 9, 1982, the barber board requested a second attorney general's opinion on the issue of permanent waving. The resulting opinion (OAG 82-158) contradicts the 1975 opinion by stating that "a licensed barber may administer a permanent wave to customers." According to this 1982 opinion,

the term *barbering* is defined in KRS 317.410(2) as the practice upon the human neck and head, ". . . principally of shaving or trimming the beard or cutting the hair . . . (emphasis added).

Principally does not mean exclusively. Further, the statutory definition of barbering continues to list specific practices which are included within that broad definition. Nothing in that statutory language indicates that the listing was intended to be all inclusive and to thereby exclude any practice which was not specifically mentioned. The definition is inclusive in nature, not exclusive. Permanent waving of a customer's hair constitutes a practice upon the human neck and head as those terms are used in KRS 317.410(2).

Further, permanent waving of hair involves: the giving of *treatment* with chemical preparations, a procedure specifically included in KRS 317.410(2)(a) and (c), and the use of rods and chemical preparations to *arrange* hair, a procedure specifically included in KRS 317.410(b).

In the closing statements of this opinion, the assistant attorney general further concludes that a "plain reading" of the statutory definitions reveals very little difference in the activities constituting the statutory definitions of the two occupations.

Only two of the seven states surrounding Kentucky restrict the practice of permanent waving to cosmetologist. Manicuring, although included in cosmetology in four border states, is becoming open to barbers as well as cosmetologist. Board representatives in these four states indicate that permanent waving and manicuring restrictions are being eliminated to accommodate those professionals who are following the recent trends toward unisex practices in the hair care business.

Given the comparisons presented in this study and the recent Attorney General's opinion, it appears there are no substantive statutory differences in the activities of the professions except for manicuring and shaving and trimming the beard. The 1975 Attorney

General's Opinion restricting finger waving and marcelling to cosmetologists is questionable, given the rationale used in OAG 82-158.

Training

The general areas of instruction outlined in the original 1932 statutes are identical to the coursework prescribed for barber and cosmetology schools today in KRS 317.540 and 317A.090. Both types of schools under the 1932 statutes were to offer

courses of instruction in histology of the hair, skin, nails, muscles and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics; disease of the skin, hair and glands; massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching and tinting the hair and such other courses as may be prescribed by regulation of the board.

Only the last phrase, "other courses as may be prescribed by regulation of the board," has changed in the past fifty years. The original version allowed for change in the coursework as "scientific research and progress in the future may render desirable." In addition, the barbers and cosmetologists of 1932 could receive their course of instructions in 700 hours. Today, according to Kentucky statutes, a cosmetology school must provide an 1800-hour course load and barber schools a 1500-hour course load.

The current differences in professional training are found in the regulations. The regulations on curriculum were treated extensively in the previous chapter. Table 17 summarizes the major coursework areas required of the barber and cosmetology schools. Even though the separate boards' curriculums are different in language and organization, there are many common subject areas in both. These include shampooing, anatomy, hygiene, sanitation, professional history and ethics, coloring and waving hair, facials and hair cutting. As one might expect the barbering curriculum emphasizes such traditional areas as tools, haircutting and shaving. The cosmetologists concentrate more on hair coloring, shaping, styling, manicuring and facials.

This pattern of similarities and differences is further reflected in Table 18, which presents a content analysis of two textbooks used in Kentucky. The areas covered in the texts are identical except for the hair shaping, manicuring, makeup and tools. A review of these texts indicates that the barbers are being taught certain skills which demand precise cutting with scissors and razors; for example, haircuts (such as crew cuts, razor cuts and the pompadour) and shaving and styling beards. Cosmetologists, although taught the use of scissors, razors and clippers, do not concentrate on their precise use, but their use in styling and shaping the hair. Furthermore, the texts differed in terms of the sex of the patron served. Although each text contained reference to males and females, the cosmetology text used female models and descriptions, and the models used in the barbering text were male.

TABLE 17

CURRICULUM REQUIREMENTS FOR
BARBERS AND COSMETOLOGISTS

<u>PROFESSIONAL PRACTICES</u>	<u>BARBERS</u>	<u>COSMETOLOGISTS</u>
Professional History	X	X
Professional Ethics	X	X
Business Management	X	X
Personality Development	X	X
<u>SCIENCES</u>		
Anatomy	X	X
Dermatology	X	X
Bacteriology	X	X
Trichology	X	X
Neurology	X	X
Osteology	X	X
Myology	X	X
Chemistry	X	X
<u>BASIC COURSEWORK</u>		
Shampooing	X	X
Hair coloring	X	X
Hair lightening	X	X
Facials	X	X
Permanent waving	X	X
Massaging	X	X
Shaving	X	
Haircutting	X	
Hair shaping		X
Manicuring		X
Finger waves		X
Wiggery		X
<u>TOOLS</u>		
Razors	X	X
Shears	X	X
Combs and brushes	X	X
Hones and strops	X	
Hot irons		X
Curlers		X
Clippers	X	
Electrical equipment used in shops	X	X

SOURCE: Compiled by Program Review staff using key terms selected from 201 KAR 12 and 201 KAR 14.

NOTES: Although identical terms may not appear in each set of regulations, the definitional value was found to be consistent in most areas. For example, the terms "haircutting" and "hair shaping" are used by both professions, but the barber regulations predominantly use the term "haircutting" while the cosmetology regulations use "hair shaping" or "design."

TABLE 18

CONTENT ANALYSIS OF TWO TEXTBOOKS
USED IN BARBERING AND COSMETOLOGY

	BARBERS	COSMETOLOGISTS
Hygiene & Good Grooming	X	X
Visual Poise	X	X
Personality Development	X	X
Professional Ethics	X	X
Bacteriology	X	X
Sterilization/Sanitation	X	X
Draping		X
Shampooing/Rinsing	X	X
Scalp/Hair Care	X	X
Hair Shaping		X
Finger Waving	X	X
Hairstyling		X
Care/Styling of Wigs	X	X
Permanent Waving	X	X
Hair Coloring	X	X
Chemical Hair Relaxing/ Chemical Blowout	X	X
Thermal Hair Straightening		X
Thermal Waving, Curling/ Blow Dry Styling	X	X
Manicuring		X
Nail Disorders	X	X
Massage	X	X
Facials	X	X
Facial Makeup		X
False Eyelashes		X
Superfluous Hair Removal		X
Cells		X
The Skin and Disorders	X	X
The Hair and Disorders/ Hair and Scalp	X	X
Anatomy/Physiology	X	X
Electricity/Light Therapy	X	X
Chemistry	X	X
Barber/Styling Shop Management/ Selling	X	X
Implements	X	
Honing/Stropping	X	
Shaving	X	
Men's Haircutting	X	
Cutting/Styling Curly and Overcurly Hair	X	
Mustaches/Beards	X	
Men's Razor Haircutting	X	
Women's Shears/Razor Haircutting	X	

SOURCE: Standard Textbook of Cosmetology, Constance V. Kilebe, Milady Publishing Corporation, Bronx, New York, 1981;
Standard Textbook of Professional Barber Styling, Jacob Y. Yahm, ed., Milady Publishing Corporation, Bronx, New York, 1977.

Summary

There are no significant differences between the statutory definitions and activities of barbers and cosmetologists in Kentucky. There seem to be only two differences between the professions.

- manicuring is listed under the activities of cosmetologists; and
- facial shaving and trimming beards are listed under the activities of barbers.

A historical pattern of differences is found in the curriculum requirements of the boards. However, a review of texts used in each field indicates that areas of permanent waving and shaving are included in both. Only manicuring, facials, specific haircuts, and the proper care and honing of razors and scissors stand out as training differences.

Despite the existing overlap in the majority of areas of professional practice and training, some members of both boards maintain that the professions are different and should remain separate. The boards reinforce this separation through statutes and regulations which

- restrict licensees to practicing only in shops licensed by their profession;
- require dual licensed shops to separate the professions by a sound-proof, floor-to-ceiling wall; and
- do not allow for a person trained in one profession to receive educational credit toward licensure in the other.

Administrative Alternatives

Regulation in any form requires administration to issue licenses or certificates, to oversee compliance, and to conduct inspections. Kentucky's present system of using boards of professionals is common to the other states. Twenty-seven of the states currently use a single board to regulate both occupations, while twenty-four states use separate boards for each occupation.³ Not all states have staff assigned solely to these boards. Some states use a consolidated administrative agency serving all regulatory boards. Other states divide licensing and inspection activities between the occupational board, state education boards, and health inspection agencies.

This section discusses the administrative options that seem feasible for Kentucky. It begins with a brief discussion of the major administrative approaches used in other states and concludes with a description of the approach indicated by this study.

Approaches in Other States

During the course of reviewing statutes and studies from other states, several different approaches were noted. Although the approaches discussed do not represent all possibilities, they do indicate some of the major alternatives used.

Umbrella Regulatory Agencies. Using individual boards and commissions to administer professional regulation creates an unnecessary duplication. Each board employs its own director, office staff and enforcement personnel, and maintains office space. An alternative to this duplication is to use an umbrella administrative agency to handle the licensing and regulation of several professions. Currently thirty states use a central administrative unit to serve some or all of their boards.⁴

The Illinois Department of Registration handles the licensing of thirty-one professions. Under this arrangement the boards are attached to the department and do not function as autonomous units. Employees are trained to carry out regulations related to several professions instead of just one. The department is divided into six sections, representing the various aspects of regulation:

- enforcement;
- testing;
- licensing;
- fiscal issues;
- personnel; and
- committee staff liaison.

Boards of professionals are established and assigned to the regulatory agency in an advisory capacity. These boards are responsible for developing and monitoring written examinations, conducting practical exams, establishing and reviewing qualification requirements, and serving as an appeals and complaint review panel.

This approach appears to have three major benefits. First, it reduces administrative duplication and increases efficiency in the use of personnel and equipment. Second, it maintains the boards in the policy advisory and administrative oversight postures. Finally, it prevents conflicts of interest which may arise when professionals monitor the behavior of other professionals.

Use of Existing Agencies. Several states use, or have recommended using, existing agencies, such as the Department of Education and the health department, to carry out certain regulatory functions. The Department of Education or a related agency is viewed as the most appropriate agency to oversee the curriculum, operations, inspections and approval of private schools and instructors. Health departments already responsible for health inspections, are viewed as the appropriate agencies to establish and enforce compliance with health and sanitation requirements. Licensing or certification and examinations may be conducted by the board or by such an administrative agency as a department for public protection or a department for professional licensure. Professional boards serve in an advisory capacity to these existing agencies in all matters related to the occupation regulated.

License fees and inspection fees collected under this system either go directly to the particular administering agency or into the state's general fund. This system allows for consolidation of like activities.

Single and Dual Boards. As mentioned earlier, twenty-four states use separate regulatory boards, with the remaining states using single board approach. The two approaches have different implications for professional representation and administrative costs.

The dual board approach is justified by claiming that the two occupations are different in their regulatory requirements and needs. This is the justification most often given by members of the boards and occupational associations in Kentucky. This dual approach serves to reinforce the attitude of separation between the professions. It does avoid those disputes within a single board that result from the competing interests of the occupations, the sharing of revenues and the equitable distribution of staff and supplies. This competition is what contributed to the separation of the Kentucky boards in 1970.

The single board concept, originally used in Kentucky, is subject to competition for dominance between the occupations. If equal board representation is mandated by statute, competition can occur at the resource utilization level. However, it is at this level that the benefits of a single board appear. A single board does not require separate administrative staffs or facilities and should provide for more efficient use of resources.

Table 19 presents the results of several oversight studies from other states. In six of the studies cited, the recommendation was made to consolidate the boards. The rationale given was the lack of significant differences in the occupations and regulatory requirements. In view of the lack of significant differences found in the statutory and regulatory requirements of the professions in Kentucky and the almost identical activities and areas of training defined by Kentucky law, a similar conclusion seems appropriate.

Single boards do not imply a single license or occupation designation. Although the statutes, regulations and training texts of the occupations reveal few readily apparent differences, members of both professions maintain they are there. Furthermore, despite the movement toward merger of the occupations at the practical level, some consumers and professionals find the separate occupational designations meaningful. Creation of a single board, equitably representing each occupation, could represent a policy approach which acknowledges the overlap and commonality between the occupations while continuing to recognize the existence of the different occupational titles. A combined board would still permit the use of separate occupational designations based on the aforementioned differences in the occupations' training and practices.

TABLE 19

RESULTS OF A SAMPLE OF REVIEWS CONDUCTED IN OTHER STATES
PERTAINING TO BOARDS OF HAIRDRESSERS AND BARBERS

STATE	DATE	TYPE OF REVIEW	RECOMMENDATION	RATIONALE
Colorado	1980	Sunset Audit	1. Eliminate, establish certification.	1. No need; curriculum can be reviewed and approved by the Department of Education. Public can regulate cleanliness. Use certification to identify competence.
Connecticut	1980	Sunset Review (Board of Hairdressers)	1. Maintain licensure of certain areas. 2. Transfer school licensure to Department of Education. 3. Maintain health inspections within Department of Health Services	1. Protection of public served only by professional and operators licenses. 2. Instructors and schools better regulated by education agency. 3. Health Services is best agency for health regulation.
Georgia	1979	Performance Audit (Board of Cosmetologists)	1. Implement numerous operational changes.	1. Is performing its function of protecting the public against incompetent practices. Survey of professionals indicated support for continuation of the board.
Hawaii	1980	Sunset Evaluation	1. Eliminate.	1. There is little evidence of danger to the public health, safety or welfare. Sanitation is regulated by the Department of Health. Consumer action could guard against incompetence. Schools receiving federal aid must comply with federal standards as well as accreditation association standards.

TABLE 19, continued

STATE	DATE	TYPE OF REVIEW	RECOMMENDATION	RATIONALE
Kansas	1980	Sunset Audit	1. Eliminate or	1. Appears to be no potential for significant harm to the public.
			2. Consolidate	2. Both have obvious similarities in regulatory activities and types of services--27 other states do.
Maryland	1979	Sunset Review	1. Consider need to continue regulation.	1. Licensure has little effect on threat of disease. Chemicals are readily available over-the-counter.
			2. Consider need for maintaining separate boards.	2. Professions are quite similar in functions performed.
Oregon	1980	Sunset Review	1. Eliminate	1. Little need for protection of public
			2. Merge	2. Significant overlap in functions of boards and activities of professions
South Carolina	1980	Sunset Audit	1. Eliminate	1. Protection of public health is no longer necessary. Public can be protected from incompetency by the Department of Consumer Affairs. Consumers can judge the merits of a professional. Testing does not ensure competency.
Tennessee	1978	Sunset Review	1. Combine	1. Boards offer some limited protection to the public. Both perform relatively identical regulatory functions. Both professions perform relatively identical services.
Texas	1978	Sunset Review	1. Merge	1. Two boards duplicate functions of licensing, regulation, and enforcement. Two professions perform relatively identical activities.

TABLE 19, continued

STATE	DATE	TYPE OF REVIEW	RECOMMENDATION	RATIONALE
Utah	1980	Sunset Audit	<ol style="list-style-type: none"> 1. Eliminate separate regulation. 2. Change from licensure to certification. 3. Transfer health inspection to the Department of Health. 4. Transfer regulation of schools and instructors to Division of Vocational Education. 	<ol style="list-style-type: none"> 1. Little significant differences in scope of practice, licensing and regulatory requirements. 2. Threats to public health are not severe. Certification would identify competence. 3. Many health departments currently inspect shops. Use of inspection fee could fund this activity. 4. No basis for exempting barbers and cosmetologists from Department of Education regulation.

SOURCE: Compiled by Program Review staff from unsolicited reports received by the Committee for Program Review and Investigation and the Committee for Business Organizations and Professions.

Administrative Alternatives for Kentucky

Several options exist for administering regulation of barbers and cosmetologists in Kentucky. Three options used in other states have been discussed. One option, the use of an umbrella agency to administer all aspects of regulation, currently is not feasible since such an agency does not exist in Kentucky. However, a Division of Occupations and Professions does exist; it handles the administrative affairs of several smaller boards.

Redirecting the boards' regulatory activities to existing agencies having similar current powers does appear feasible. The state's Board of Proprietary Education has regulatory power over most proprietary schools operating in the state. This board could assume administrative responsibility for regulating barber and cosmetology schools, with the boards serving in a policy-making capacity. Health and sanitation inspection and enforcement could be conducted by the local health departments and paid for by an inspection fee, as is the practice with other businesses currently inspected by these agencies. Finally, the Division of Occupations and Professions could administer the issuance of licenses or certificates and the collection of fees.

The use of a single board to regulate barbers and cosmetologists in Kentucky seems appropriate in light of:

- the lack of statutory differences between the occupations;
- the similarities between the statutes and regulations governing the licensing requirements, sanitation and inspections; and
- the trend of the occupations toward a single designation of hair stylist, practicing on males and females.

Furthermore, this approach would be a less drastic change than the use of existing agencies or the creation of an umbrella agency.

Although the boards and staff were unable to cooperate as a single board in the past, this difficulty was due, in part, to the desire for separation expressed by professionals at the time and the funding source of the boards. The feeling of rivalry between the occupations continues, but there is a developing recognition that the professions are more similar than dissimilar and that a regulatory policy that does not promote separation would permit both occupations greater flexibility in adapting to consumer demands.

Members of the boards interviewed were mixed in their reactions to the suggestion of merger. All three licensed barbers on the barber board favored extending permanent waving to the barbers, while members of the cosmetology board were mixed on this point. Responses from the sixteen board members, professional association representatives, and board administrators interviewed indicate that six support a reduction in the separation of the professions while ten do not. The attitudes are very different on the issue of educational reciprocity, with eleven interviewees favoring reciprocity and only two opposing it. Members opposing reduced separation expressed the attitude that this would hurt the traditional professionals by forcing them to adopt the modern unisex approach. Furthermore, it was alleged that reducing the separation could complicate the licensing and enforcement processes.

Competition between the boards over staff and financial resources when they were separate but served by one staff was due, in part, to the differential contribution of revenues from each occupation. As long as one board feels its profession contributes more revenue, it may be difficult to avoid the desire to utilize resources according to the proportion of revenues generated. Changing the funding source for the board may eliminate the basis for this resource rivalry. Rather than fees and charges being the basis, these revenues could be credited to a single account for both boards. One option is to budget operational expenditures through a temporary general fund advance to be repaid from receipts as they accrue. This funding approach would have the added advantages of allowing equalization of fees and greater public accountability.

Conclusions

Barbering and cosmetology have evolved in the last two decades into highly similar professions. The disappearance of the attitudes that barbering is a profession of men for men and cosmetology is a profession of women for women has meant a loss in practical differentiations. Today, especially among urban consumers, styling, waving, curling and dyeing are services sought by males as well as females. This trend has led to the development of "hairstyling" business, catering to styles for men and women.

For barbers and cosmetologists wishing to adapt to modern trends and demands, provision of all services is important. The restriction of certain traditional functions (e.g., permanent waving) to one profession has ignored demands of the modern practitioner. The barber school curriculum as well as textbooks on modern barber-styling, covers, the use of chemicals, including permanent waving. Therefore, the training is being given, or at least is available. According to members of the barbering board, many barbers have been practicing permanent waving in order to satisfy their customers' needs, despite the 1975 Attorney General's interpretation. A recent Attorney General's opinion has reversed the 1975 stand and interpreted permanent waving as a service barbers should be permitted to offer.

Limiting the practice of the professions does not appear to have been the statutory intent of the 1932 General Assembly. Those statutes specifically allowed for changing the prescribed coursework for each profession as "scientific research or progress in the future may render desirable." This stipulation is absent from today's statutes, leaving such change up to the discretion of the boards. No major changes in the professions' curriculums has occurred in fifty years. The failure to change curriculum in some areas of hairstyling techniques, to reflect changing times and practices, maintains separation by reinforcing the traditional sexual boundaries between the professions.

Maintaining such separatism also causes problems for shops desiring to serve both males and females. According to the Board of Cosmetologists, there were forty-eight dual licensed shops located in Kentucky. This forced separation between professions results in these shops paying dual license fees, undergoing dual inspections, and incurring renovation costs of erecting walls and related facility changes.

From a regulatory standpoint, the purpose of these boards is to protect the public. Maintaining the traditional separation of the professions does not appear to serve this purpose. Separatism primarily protects the traditional professions from change and from competition. This separation could be construed as actually harming the public by reducing competition and unnecessarily increasing the cost of those wishing to adapt to the modern customer.

Enforcement and licensing problems are not sufficient reasons to maintain separation. As pointed out in previous chapters, the activities of the boards and the statutes and regulations governing the professions are virtually identical. A merged board could employ a single set of staff trained to enforce regulations and statutes governing both occupations. Board members for each profession could maintain the current licensing and examination responsibilities of the separate boards. This merger should result in:

- a regulatory scheme which will accommodate the traditional as well as modern practices;
- equalization of licensing requirements and fees;
- reduction of costs to the professions and the consumers; and
- lower administrative costs resulting from elimination of duplicative activities.

To avoid the competition for resources that served as a stumbling block in the past, a change in funding mechanism for the board seems advisable. This change would also permit operational changes to increase efficiency and would strengthen the public accountability of the board.

Recommendation

12. The Kentucky General Assembly should create a new section of KRS Chapter 317 and 317A which would establish educational reciprocity between the barbers and cosmetologists in all phases of licensing. Credit toward licensure should be given for those hours of instruction which provide essentially the same or similar knowledge. The Boards of Cosmetology and Barbering should begin to undertake a review of the educational requirements of their professions and determine the amounts and types of overlap and the number of hours of reciprocity to be granted the two licenses, and should report their findings and recommendations to the appropriate legislative committee—Business Organizations and Professions.

A recommendation was made in the draft proposal of this report that the Kentucky General Assembly adopt a combined board structure for regulation of barbers and cosmetologists. This recommendation proposed that the single board be composed of eleven members, four representing each major license type in each occupation, the other three being consumer members. Having one staff perform all administrative activities for both professions was suggested, as was the combining of accounting activities. This recom-

mendation, however, was rejected by the Committee. The recommendation read as follows:

The Kentucky General Assembly should adopt a combined board structure for regulation of barbering and cosmetology by repealing KRS Chapter 317A and amending KRS Chapter 317 to create one board to regulate the hair styling industry. This board should:

- be composed of eleven members, four representing each major license type in each occupation, and three consumer members;
- employ only one set of staff to perform all its administrative activities; and
- operate through a single fund account.

Areas for Further Study

Professional Distinctions

The review of the statutory and regulatory activities, training and curriculum of the two professions indicates little or no difference in the professions other than the sex of their clientele. Nevertheless, members of both professions maintain there are actual training and practical differences. Determining what these are is an area requiring further study. A detailed survey of the professions, the practices and the training could identify these differences. Three optional approaches to this study are feasible.

Option 1. A study conducted by the boards.

Option 2. A study conducted by the Business Organizations and Professions Committee.

Option 3. A study conducted by the Program Review and Investigations Committee.

Administration by Existing Agencies

The costs and benefits of using existing agencies to perform the administrative functions of the boards is a feasible area for further study. It would require contacting existing agencies about their interest in, and the feasibility of, their performing these functions. Administrative cost estimates would have to be developed and compared to the current costs, as well as the costs expected, given other possible administrative changes in the current approach.

CHAPTER V

ALTERNATIVES TO LICENSURE

Regulation is a common method used in the United States to allow government oversight and control of private business practices. Generally it is used to protect the public from deceit or fraud, harm from incompetent practitioners, or health hazards. As a Council of State Governments publication points out, however, regulation has its costs.⁵ These include:

- a decrease in the availability of practitioners;
- higher costs for regulated goods and services; and
- restrictions on the optimum use of personnel.

Two of these costs, decreased availability of practitioners and higher costs, have a negative impact on the consumer. However, these same factors often have a positive impact on the occupation regulated, by reducing competition and by bolstering higher service charges. Since the benefits and costs to the consumer and the professional may be at odds, it is important to ensure that regulation primarily serves the need for protecting the public rather than protecting the profession.

In 1979, the Kentucky Legislative Research Commission adopted a set of "Guidelines for [the Legislative Research Commission in] Reviewing Proposals for Occupational Regulation."⁶ According to these guidelines:

It is the intent of the General Assembly of the Commonwealth of Kentucky that no regulation shall be imposed upon any occupation except for the exclusive purpose of protecting the public interest. An occupation shall be regulated only when it can be clearly demonstrated that unregulated practice poses a substantial threat to the public health or safety and the threat is supported by verified evidence and not by tenuous argument.

In regard to future regulatory legislation, these guidelines state

- no legislation shall be enacted the purpose of which is to enhance the status of, or promote the interests of, the occupation to be regulated;
- when occupational regulation is deemed necessary, the least restrictive form of regulation which adequately protects the public shall be enacted;
- no legislation which unnecessarily or unreasonably restricts entry into, or the practice of, an occupation shall be enacted;
- unless there is sufficient evidence to the contrary, occupational regulation shall be administered by a state agency and not by an entity composed of members of the profession; and
- the burden of proof (as to the need for regulation) shall reside with proponents of regulation.

Although these guidelines were developed for, and apply only to, occupations not regulated at the time of adoption, they are appropriate guidelines for reviewing existing regulatory systems.

Kentucky's current regulatory system treats barbering and cosmetology as separate professions requiring licensure to protect the public. The method chosen to administer regulation is the maintaining of separate professional boards to oversee the licensing, inspection and enforcement aspects of regulation. This chapter considers arguments for maintaining this approach and examines alternative approaches.

It addresses three questions:

- What is the current need and effectiveness of regulation?
- What type of regulation seems necessary?
- What method of administration is appropriate?

Need and Effectiveness of Regulation

According to Kentucky's statutes, regulation of barbering and cosmetology is authorized in order

to protect the health and safety of the public, to protect the public against misrepresentation, deceit or fraud in the practice or teaching of the profession.

Public health is a potential concern because barbering and cosmetology involve direct physical contact and therefore a potential environment for disease transmission. Public safety is a potential concern because the professions use sharp instruments and chemical solutions on the human head and face.

This section briefly reviews what appear to be the possible health and safety dangers related to the professions, and presents information on the incidence of relevant communicable diseases and the safety of chemicals used by the professions. This chapter concludes with a review of some of the alternatives to licensure which provide less restrictive regulatory approaches.

Health and Safety Dangers

Barbering and cosmetology regulations are designed to ensure that professionals are properly trained in the identification of diseases, proper shop hygiene, and the use of sterilization techniques. This training, coupled with restrictions against practicing while infected with certain diseases, or on customers infected with certain diseases, is aimed at limiting the transmission of infectious diseases. Hygiene and sanitation requirements, combined with periodic inspections, are designed to reduce the possibility of disease transmission. Curriculum and training requirements related to tools, chemicals and applications have been established to ensure that professionals have theoretical and practical training in these areas and are aware of the dangers and safety precautions that must be taken. The need for such regulations is the subject of this section.

Disease Transmission. Officials in the Division of Local Health in the Cabinet for Human Resources have no statistics on the number of diseases which were actually transmitted through the practice of barbering or cosmetology. Officials of the department do confirm, however, that the barbering and cosmetology professions could provide the environment necessary for this transmission.

Some diseases are transmitted through the air. Examples of these include pulmonary tuberculosis, septic sore throat, influenza and the common cold. Other diseases are caused by parasites living on or under the surface of the skin. These include lice, ringworm, scabies and infectious dandruff. These parasites require some degree of contact for transmission. The public is protected from contracting these diseases and parasites in barber and beauty shops by the use of effective sterilization procedures, and by not allowing services to be rendered by operators, or to customers, with a potentially infectious disease.

Table 20 is a list of communicable diseases which the Division of Local Health of the Department of Health Services indicates may be of potential concern to barbers and cosmetologists. According to officials of the Division, scabies, head lice and ringworm are most commonly found in children, and more rarely among adults.

In general, these reported figures indicate relatively low incidences except in the cases of the airborne diseases of septic sore throat and influenza. According to the data from the Division of Local Health, the most prevalent diseases are those airborne illnesses contractable in almost any public situation. The most prevalent disease communicable through direct physical contact is gonorrhea. However, communication of this disease usually requires direct genital contact, because the organisms causing gonorrhea do not live outside the body for more than a few seconds. That type of contact is not a necessary part of the barbering or cosmetology practices.

Unfortunately, the reliability of these reported incidences is unknown. Officials of the Division indicate that all reporting is required by law but done on a voluntary basis, and often treatment is given and no report made. Given the unknown reliability of these figures, conclusions about the dangers of disease transmission in the hair care industry could be characterized as tenuous. Data that is available, however, indicates that the need for licensure to protect the public against disease seems relatively weak, although some amount of justification does exist.

Safety Dangers. Another rationale for regulation relates to the use of chemical hair treatments. A portion of the school curriculum for the occupations is devoted to the proper use of chemicals. To guard against damage to customers, professionals are trained to test scalps and hair before applying certain chemical processes. Barbers and cosmetologists are required to demonstrate their skills in these areas before receiving a license. After licensing, professionals who demonstrate incompetence by damaging a client's hair can be brought before their respective boards and have their licenses suspended or revoked.

TABLE 20
 REPORTED CASES OF FIFTEEN COMMUNICABLE DISEASES
 IN KENTUCKY
 1981

<u>DISEASE</u>	<u>INCIDENCE</u>
Scabies	398
Lice	892
Ringworm	21
Chicken Pox	2,724
Measles	2
Favus	no record
Tinea	no record
Pemphigus	no record
Pulmonary Tuberculosis	541
Whooping Cough	25
Septic Sore Throat	29,017
Influenza	40,225
Gonorrhoea ^a	10,336
Syphilis ^a	107

SOURCE: Division of Local Health, Kentucky Department for Human Resources.

NOTE: Data obtained from reports by local health departments and practicing physicians. Although reporting is required, it does not necessarily occur; therefore, figures may not represent true incidence levels.

^aOnly primary and secondary syphilis are considered communicable.

The need to protect the public safety is a standard argument used by advocates of regulation of the occupations. This need is seen as arising from the use of chemicals and sharp instruments on the human head and face. However, advocates of deregulation often counter this argument by citing Federal Food and Drug Administration approval of chemical products and the over-the-counter availability of hair care chemicals and tools.

According to an FDA spokesperson, the Director of the Division of Cosmetic Technology, the decision to label products "for professional use" is generally left up to the manufacturer. According to this spokesperson, the contents of all cosmetic products are studied and approved for their safety by the FDA before they are ever marketed. The labeling "professional use," found on packages, has no special meaning in the context of FDA safety approval. This label affects only the packaging requirements and the marketing approach. The FDA recognizes the label "professional use" only as it applies to the Fair Packaging Labeling Law. This law states that manufacturers do not have to declare the ingredients in "professional use" products. However, if the ingredients are not written on the item, that item cannot be marketed for consumer use. Manufacturers apparently declare the contents on their products so that the sale of these products will not be limited to one type of market. According to the FDA spokesperson, "professional use" products are sold to the public through beauty supply houses. Generally they are packaged less attractively, have a lower cost, and are sold in a concentrated form. The only extra step in the use of professional products, as opposed to "over-the-counter" products, may be the need to dilute professional products with water or some other substance.

Two other sources confirm the FDA spokesperson's assessment of the differences between "professional use" and "over-the-counter" products. In South Carolina, one of the states that has sought deregulation, an experiment was conducted before the South Carolina Sunset Review Committee. In that experiment a local chemist compared the ingredients in permanent wave and hair dye solutions sold "over-the-counter" with those labeled "for professional use only." The chemist found no significant differences in their chemical compositions.

Further confirmation of these similarities was provided by two of three product manufacturers contacted by Program Review staff. Clairol and Johnson, Inc., reported that there were no essential chemical differences between their "over-the-counter products" and their products "for professional use only." These manufacturers cited only two differences: professional use products do not have detailed, step by step instructions, and they are not measured for a one application use.

Redken, the third manufacturer contacted, claimed, however, that there were significant differences. An attorney for Redken stated that their professional use products require application by persons with some chemical knowledge. Patch tests for sensitivity are recommended, and proper interpretation to determine how a customer's hair will respond to that treatment requires a knowledge of the chemicals, their interactions and their effects. Although the spokesman declined to provide information as to the actual chemical

differences between his company's professional use products and retail items, he did maintain that differences do exist.

Summary. It seems that available information on health and safety dangers is only suggestive. In the areas of disease transmission, dangers do exist if proper sterilization techniques are not followed, but most prevalent diseases are contractable in any public situation. Safety dangers related to chemicals do exist; however, many of these chemicals are apparently readily available to the public for private use. Furthermore, all chemicals and equipment used are regulated by federal inspection and safety standards.

Effectiveness of Current Regulatory Activities

Chapter II of this report presented detailed information on the licensing, examination, inspection and complaint activities of the boards. This section briefly reviews these findings as they related to the continued need for and effectiveness of regulation.

Examinations. One of the primary tasks of the boards is to examine applicants to ensure their competency. As indicated in Chapter II, both boards have well over a ninety percent passing rate on all exams except instructors' exams. Such high passing rates indicate at least three possible conclusions about the effectiveness and function of the examination process. First, examinations may be too easy and therefore, not distinguish between competent and incompetent applicants. Second, the schools in Kentucky may be doing an excellent job of training. Or, Kentucky applicants may be exceptionally well qualified.

Members of the boards feel the exams are fair, that Kentucky applicants are not exceptionally qualified, and that examinations are necessary to ensure that the schools continue to provide adequate training and that graduates are competent. However, the barber board does not use the examination scores of graduates as a means of monitoring the quality of schools. The cosmetology board administrator does review exam grades on a quarterly basis, and brings negative patterns to the attention of the board.

As a method of ensuring competency, examinations are effective. However, as used in Kentucky, they only ensure competency upon entrance to the profession. Neither board required continuing education or re-examination for renewal. Thus, a licensee of thirty years may engage in all the new techniques without ever having demonstrated training in their proper use.

As a method of controlling the quality of schools, the validity of examinations is not as apparent. Closer oversight and review of school programs and publication of graduation and job placement rates for schools might better serve this function by providing students with comparative information on the effectiveness of the schools.

Inspections. Inspections are used by both boards to ensure that shops and schools comply with the statutes and regulations of the boards. The primary concerns are to ensure that practitioners are properly licensed and are maintaining habits which will prevent disease transmission.

Once again, the findings of Chapter II raise concerns regarding effectiveness.

With over ninety-five percent of the shops receiving “A” grades, there are three possible implications. One is the inspections are highly effective in ensuring compliance. A second alternative is that the majority of professionals maintain their own high standards of compliance. The third possibility is that the inspection process is ineffective in detecting violations.

It is likely that all three explanations are partially correct. That is, the fear of inspection serves as a motivator for those professionals who are not concerned about contracting or spreading disease, or whose clientele are not concerned with the cleanliness of the shop. The threat of inspection is diminished, however, by the fact that professionals often warn each other when an inspector appears, thus eliminating the element of surprise. Furthermore, the inspection is effective only in detecting obvious sanitary violations. For example, an inspector can ensure that a shop has proper sanitation equipment and fresh solutions, but he cannot ensure that the practitioners actually utilize this equipment when he is not present.

Consumer Complaints. In addition to examinations and inspections, the boards investigate complaints. As explained in Chapter II, however, the majority of complaints investigated and acted upon are related to licensing. Few consumer complaints regarding health or safety violations have been lodged with the boards.

Not only do the boards’ records show a scarcity of consumer complaints, so do the records of the Consumer Protection Division of the Kentucky Attorney General’s Office. In 1980, this office received only two complaints related to the professions of barbering and cosmetology.⁷ Such an infrequency of consumer complaints indicates that few problems exist, or that problems exist but are handled by the provider or the consumer, or that there is a lack of knowledge or interest on the part of consumers regarding use of the complaint process.

Summary

Few definitive conclusions can be drawn relative to the need for and effectiveness of licensure. The contention that barbering and cosmetology involve potential health hazards is verified by health authorities. However, there is no data to support the effectiveness of regulation in reducing the incidence of disease transmission.

The evidence regarding public safety threats from the use of chemicals is even less supportive of the need for regulation. The chemicals labeled “for professionals only” and those sold over-the-counter are equally approved for public sale by the FDA. According to the FDA and some manufacturers, these products are basically the same except for packaging. Given this, the rationale for licensure as necessary to ensure that professionals are trained in using chemicals seems weak. Apparently these chemicals are approved for use without training by a nonprofessional. Furthermore, if training were necessary, the present licensure system, applying to first-time licensees, would be inadequate. Once licensed, a professional does not need to demonstrate continuing competence in the use of new chemicals and techniques.

The high passing rates on examinations and inspections raise questions regarding the usefulness of these procedures. These rates can be construed as supporting either the effectiveness or the ineffectiveness of these processes. Finally, the scarcity of complaints lodged with the boards and the Attorney General's Office indicate little need for consumer protection. Of those complaints filed, the majority are related to licensing violations, not service or sanitation problems.

Lack of a clearly identifiable need for and effectiveness of regulation raises concerns about the costs imposed on the practitioner and consumer, and the restrictions imposed in free enterprise. Perpetuation of regulation assumes that the benefits of public protection outweigh the costs imposed on the industry and its customers.

Licensing Alternatives

Regulation is a commonly used means employed by state and federal governments to protect the public from possible deceit, fraud or harm related to the practice of an occupation. Regulation can take several forms. Licensure, the most common form of regulating barbers and cosmetologists, is used in Kentucky. This section discusses the pros and cons of various alternative methods of regulation and the feasibility of their use in Kentucky.

Regulatory Alternatives

Regulation is an intrusion on the free enterprise rights of the service provider for the sake of protecting the consumer. Therefore, care must be taken to strike a balance between these often competing sets of rights. The Council of State Governments suggests that regulation should be used only when:

- the unlicensed practice poses a serious risk to the consumer's life, health, safety or economic well-being;
- the consumer cannot be expected to possess the knowledge to evaluate the qualifications of the provider; and
- the benefits to the public clearly outweigh the harmful effects of regulation.⁸

If regulation does seem necessary, several degrees of regulation are available, including licensure, certification and registration. In deciding on regulation, the following guidelines for selection are proposed by the Council.⁹

- Regulation should meet a public need.
- Only the minimum level of regulation should be used.
- The scope of practice of the occupation should be coordinated with other existing statutes.
 - Regulatory laws should be fair and should operate to protect practitioners and consumers alike.

- The regulatory structure and board composition should promote accountability and public confidence.

Deregulation. Currently there is a strong trend toward deregulation of American business. Regulation is found primarily in such areas as health services, food services, insurance, common carriers, and utilities. Barbers and cosmetologists, because of the physical contact involved with customers, are regulated in every state. This process of regulation began in the 1930's as a means of reducing the incidence of head and scalp diseases.

Kentucky's statutes include protection from deceit and fraud as a basis for regulation of schools and salons, the assumption apparently being that consumers and students are not able to judge the quality and types of services or education they are receiving. Relatedly, the statutes indicate that in order to practice these occupations for a fee, a person must possess certain skills or knowledge. This aspect of regulation serves both to reduce potential harm from incompetent practitioners and to provide the public with a means of knowing that a practitioner has professional training. It also has the effect of reducing entrants into the occupation, and thus reducing competition, which has potential impact on controlling the cost, quantity and quality of services.

Deregulation of barbering and cosmetology would allow the two occupations to develop freely in response to consumer demands. Deregulation assumes that:

- health and safety hazards are minimal or such that it is in the best interests of the practitioner to take the necessary precautions to avoid contagion and to avoid consumer lawsuits;
- consumers are able to determine the quality of services received; and therefore,
- restriction of entrants into the occupations or official approval of their skills is not necessary.

Deregulation of those aspects of the occupations related to health and safety protection would be a major change in an area that is traditionally approached with caution. Without more thorough research on the health and safety aspects of the occupations, complete deregulation would not be advisable. In areas other than health and safety, such as those related to deceit and fraud, it seems reasonable to assume that most consumers can judge the service received. Therefore, deregulation would seem appropriate. Unfortunately, it is difficult to clearly classify the statutes and regulations according to these categories. Because of this difficulty, a reduction in regulation seems more feasible, from the protection standpoint, than deregulation.

From the occupations' perspective, deregulation would have mixed effects. Positively, it could reduce costs and legal burdens, increase the ease of entry into the business, and permit free enterprise to operate. Negatively, it could decrease charges and profits, increase competition, and eliminate the basis for licensing reciprocity in other states.

Licensing. Licensure is the regulation method currently used in Kentucky. It is a process for granting permission to engage in an occupation upon completion of minimum qualifications necessary to ensure the public's protection. According to the Council, licensure is the most restrictive method of regulation. It should be used only when the seriousness of harm warrants it. Furthermore, it requires safeguards against the tendency for licensure to benefit the occupational group more than the public.

Licensure is directly aimed at reducing deceit and fraud by ensuring that practitioners have proper qualifications and that consumers have a means of being assured of these qualifications. It indirectly affects health and safety protection by requiring certain types of training and abilities and by requiring certain practices, facilities and equipment. As practiced in Kentucky, however, licensure is initially granted upon the demonstration of certain training and skills. Renewal thereafter requires only payment of an annual fee; no demonstration of competency is required. A license may be revoked or cancelled by the licensing boards only for violations of licensing statutes and regulations.

Licensure assumes that the dangers posed by untrained practitioners are a serious threat to the consumer. Members of the professions cite the use of sharp instruments, electrical instruments, and harsh chemicals as the basis for need. However, all of these instruments and at least some of the chemicals are used frequently by the public and can be purchased openly. Although physical damage from improper use of these tools is possible, the incidence of serious, irrevocable, or life-threatening harm is low.

Furthermore, the long-range effect of licensure as a protective device is questionable. There is no requirement for continual demonstration of competency. Thus, licensure ensures the competency only of new licensees, not old. In addition, the protective benefits of requirements regarding age and education, criminal record, and moral character are unclear.

Continuation of separate licensure is important to some members of the profession because of the reduced competition and legal standing afforded. These effects have already been discussed under deregulation.

Removal of licensure requirements would allow anyone to practice the occupation. Consumers would be responsible for determining the quality of service received and in the case of dissatisfaction or damage from services received would have several alternatives:

- Consumers could choose another provider.
- Consumers could lodge complaints with appropriate business and professional associations.
- Consumers could file complaints with the Attorney General's Office for investigation.
- Consumers could seek legal redress in the courts.

Certification. Certification affords a compromise between restricting entrants and assuring the public of competence. Entrants to the occupation are not required to demonstrate competency and training to the state before establishing a practice. However,

those who do are afforded an official acknowledgement (certificate) of these qualifications. In this manner the public is afforded a means of identifying those practitioners who have demonstrated competency.

Under a certification approach the state establishes minimal qualifications that indicate knowledge and training in the major aspects of the occupation. Any individual meeting these qualifications may obtain a certificate from the state and refer to himself as a certified practitioner. Consumers who choose a certified practitioner are afforded a certain amount of protection, since they are assured of this person's minimal competencies.

Professionals gain from certification because it represents an official stamp of approval which sets them apart from non-certified practitioners. Certification can also serve to establish a legal standing in the eyes of licensing boards in other states. Certification would provide for freer operation of competition in the occupations. This change could lead to a lowering of costs, charges and profits of currently licensed and future practitioners. On the other hand, it could lead to lower cost, higher quality and more variety in services being available to the consumer.

Registration. Registration is the weakest form of regulation. It involves the practitioner listing his name with the regulatory agency. No minimum qualification requirements need be met. Usually it is used as a means of identifying the names and practice locations of those in the occupation.

Generally registration seems appropriate when there is no need to protect the public from unqualified practitioners, but there is a need to know these practitioners for public health reasons. Registration provides the mechanism for identifying practitioners in order to conduct sanitation and hygiene inspections. It also provides a means of contacting practitioners regarding health related matters.

Implications for Kentucky

The basis for regulation, protection of the public from disease or injury, is of questionable seriousness in the 1980's. The incidence of reported disease is relatively low and treatment methods greatly improved. Chemicals and equipment have been refined and their safety and danger levels are controlled by federal agencies. Finally, consumers are much more conscious of their rights and legal recourses in the event of mispractice.

Continuing licensure of these occupations, given the lack of a clearly identifiable need, is not justified, particularly when considered in comparison with certain unregulated industries. Three examples will serve as an illustration. Cooks and food handlers are in the position to transmit and contract diseases and to cause physical harm to the public. These persons are certified and their establishments inspected, but no licensing of individuals is required. Masseuses and masseurs have direct physical contact and use chemicals and electric equipment on customers. These occupations have no government control in Kentucky. A final example is the spa industry and exercise instructors. Again, an occupation with potential disease transmission and safety dangers, but no government regulation.

Table 19, in Chapter IV, presented the results of several legislative oversight studies of barbering and cosmetology. (These studies were not chosen by random sampling, but represented those readily available to the Legislative Research Commission at the time of this study.) The overwhelming conclusions of these studies are:

- potential health and safety dangers appear too slight to justify licensure.
- licensure in some or all areas should be eliminated or replaced by certification.

Similar conclusions seem indicated for Kentucky.

Conclusions

There is little evidence to clearly support or refute the claims regarding health and safety hazards within these occupations. The threat of such problems is hard to see today, despite claims to the contrary by the boards and other professionals. Furthermore, the effectiveness of the boards in screening and policing the practice of the occupations is debatable. Finally, the need for consumers to be protected from deceitful or incompetent practices seems slight, given the generally increased awareness of consumers and the availability of several legal and paralegal recourses.

However, there appears to be a certain degree of legitimacy regarding potential health hazards, to the extent that continuing sanitation inspections seem warranted. Furthermore, it is valid for a consumer to expect practitioners to have a certain degree of training in the use of chemicals and tools. Therefore, some means of providing consumers with assurance that the practitioner has this training could be a legitimate regulatory activity. Finally, some form of state approval of training and qualifications is advisable to avoid hindering members of the occupations in Kentucky from being accepted for practice in other states.

Under the guidelines for occupational regulation adopted in 1979 by the Kentucky Legislative Research Commission, regulation should:

- serve only to protect the public from a substantial threat;
- be based upon verifiable information; and
- be the least restrictive approach possible.

Regulation by licensure as now practiced in Kentucky does not meet these three criteria. Adoption of a less restrictive approach could ensure sufficient public protection without unduly protecting professional self-interests or imposing unnecessary constraints on the operation of free enterprise in these occupations.

Based on the conclusions of this chapter, a less restrictive regulatory policy for barbers and cosmetologists was recommended. The recommendation called for mandatory registration of professionals and voluntary certification instead of licensure. The recommendation also proposed that:

The General Assembly should repeal KRS Chapters 317 and 317A, and create new sections of KRS Chapter 317 which establish a less restrictive regulatory policy toward barbers and cosmetologists. An approach involving mandatory registration and voluntary certification should be substituted for licensure.

- Students, apprentices, and practitioners should be required to register with the state and to periodically demonstrate knowledge of the potential health and safety concerns and precautions associated with the occupations.
- Optional state certification as a barber or a cosmetologist should be available to practitioners meeting specific educational and continuing education training.
- All salons should be registered and periodically inspected.
- Instructors should be certified in the same manner as practitioners.
- Schools should be certified only upon careful annual scrutiny of their educational resources, quality of education, student attrition and placement rates, and academic achievement. No limitation on the number or location of schools should be imposed.

FOOTNOTES

1. Yahm, Jacob J. *Milady Cosmetology State Board Guide*. Milady Publishing Co., Bronx, New York, 1980.
2. Telephone conversation, Richard Wyatt, Assistant Attorney General, Commonwealth of Kentucky, March 2, 1982.
3. Legislative Division of Post Audit, State of Kansas. *Sunset Audit Report: Board of Barber Examiners, Board of Cosmetology*. September 26, 1980, Topeka.
4. Berry, Frances S. "The States' Occupational Licensing Debate: Sunset Review Means a Closer Look at the Need for State Regulation." *State Government News*, May, 1982, Council of State Governments: Lexington, Kentucky.
5. Shimberg, Benjamin and Doug Roederer. *Occupational Licensing: Questions a Legislator Should Ask*. Council of State Governments, Lexington, Kentucky, 1978.
6. "Rules of Procedure for the Committees of the Legislative Research Commission," revised October 5, 1979. Kentucky General Assembly.
7. *State of Consumer Affairs in Kentucky, 1980*. Office of the Attorney General, Commonwealth of Kentucky, Frankfort, Kentucky, 1980.
8. Shimberg.
9. Ibid.

APPENDIX A

COMPARISON OF STATUTES GOVERNING THE
BOARD OF HAIRDRESSERS AND COSMETOLOGISTS
AND THE BOARD OF BARBERING

COSMETOLOGIST

317A.010 Definitions

1. Cosmetologist - One who practices cosmetology.
2. Cosmetology - practice on head and neck, principally of human female, of cutting hair, permanent waving, hair-dressing, marcelling, and
 - a. manicuring, finger waving;
 - b. facial and scalp massage and treatments with oils;
 - c. singeing, shampooing, pressing, arranging, dressing or dyeing the hair; and
 - d. applying to neck or head lotions, powders, oils or clays.
3. Salon - place where the practice of cosmetology is conducted.
4. Manicurist - person who cuts, trims, polishes, etc., the nails of any human.
5. Cosmetology School - operation where persons are trained in the practice of cosmetology.

BARBER

317.410 Definitions

1. Barber - One who practices barbering.
2. Barbering - practice on head and neck of shaving or trimming the beard or cutting the hair and
 - a. facial and scalp massage and treatments with oils;
 - b. singeing, shampooing, pressing, arranging, dressing or dyeing the hair, or applying hair tonics; and
 - c. applying to the neck or head lotions, powders, oils or clays.
3. Barber Shop - establishment where the practice of barbering is conducted.
4. Barber School - operation where persons are trained in the practice of barbering.

Appendix A, continued

COSMETOLOGIST

317A.020 Requirement that a license be obtained

1. No person shall practice cosmetology for other than cosmetic purposes.
2. No person shall practice cosmetology for the public without an appropriate license.
3. No person unless properly licensed shall
 - a. teach cosmetology;
 - b. operate a beauty salon;
 - c. engage in cosmetology apprenticeship;
 - d. act as a manicurist; or
 - e. conduct or operate a school for cosmetologists.
4. No person shall employ any person for the practice of cosmetology unless the person holds and displays the appropriate license.
5. Clinics may only be sponsored by recognized cosmetology groups.
6. A person shall procure a separate license for each of the provisions of this chapter.

BARBER

317.420 Requirement that a license be obtained

1. No person shall practice barbering for other than cosmetic purposes.
2. No person shall practice barbering for the public without an appropriate license.
3. No person unless properly licensed shall
 - a. teach barbering;
 - b. operate a barber shop;
 - c. engage in a barber apprenticeship; or
 - d. conduct or operate a school for barbers.
4. No person shall employ any person for the practice of barbering unless the person holds and displays the appropriate license.
5. Clinics may only be sponsored by recognized cosmetology groups.

COSMETOLOGIST

317A.030 Cosmetologist Board - Membership - Compensation

1. The cosmetologist board has complete supervision of the administration of cosmetology, cosmetologists, schools of cosmetology, students enrolled in cosmetology, apprentice cosmetologists, manicurists, teachers of cosmetology and cosmetology salons.
2. The cosmetology board shall be composed of five (5) members appointed by the governor.
 - a. Four of the members shall have been cosmetologists for five years prior to appointment and residents of Kentucky.
 - b. Two shall be cosmetology salon owners.
 - c. One shall be a cosmetology teacher.
 - d. One shall own or have financial interest in a licensed cosmetology school and be a member of a recognized association of cosmetologists.
 - e. One member shall be a citizen at large.
 - f. None shall have an interest in wholesale cosmetic supply.
3. All terms are for two years.
4. Members are compensated at a rate of \$50.00 per day.

BARBER

317.430 Barber Board - Membership - Compensation

1. The barber board has complete supervision over the administration of barbers, barber shops, barbering, barber schools, teaching of barbering and barber apprenticeship.
2. The barber board shall be composed of five members appointed by the governor.
 - a. One shall be a master barber licensed in Kentucky and a member of a nationally recognized professional organization.
 - b. One shall be licensed in Kentucky and a member of an organized labor union of barbers.
 - c. One shall not be a member of a labor union.
 - d. One shall be a citizen at large.
3. All terms are for two years.
4. Barber board members must be at least 23 years of age and have practiced barbering for five years.
5. Members are compensated at a rate of \$35.00 per day.

Appendix A, continued

COSMETOLOGIST

317A.040 Board personnel - administration

1. The board may employ inspectors and such other personnel needed to carry out the provisions of this chapter.
2. The board shall appoint an administrator who is a licensed cosmetologist.
3. The administrator shall receive a salary of \$7,500 annually.

BARBER

317.470 Board personnel - administration

1. The board may employ personnel as needed by this chapter.
2. The board shall appoint an administrator.
3. The administrator shall receive a salary of \$12,000 annually.

COSMETOLOGIST

317A.050 Fees and Qualifications for Licenses

1. Apprentice cosmetologist
 - a. 16 years of age
 - b. 2 years of high school or equivalent
 - c. graduate of licensed school of cosmetology
 - d. passed an examination
 - e. \$12.00 fee
2. Cosmetologist
 - a. 2 years of high school or equivalent
 - b. practiced as licensed cosmetology apprentice for six months
 - c. passed an examination
 - d. \$15.00 fee
3. Manicurist
 - a. is of good moral character
 - b. completed 300 hour manicuring course
 - c. passed an examination
 - d. 2 years high school education or equivalent
 - e. \$12.00 fee
4. Operation of beauty salon
 - a. licensed cosmetologist
 - b. \$25.00 fee

BARBER

317.450 Fees and Qualifications for Licenses

1. Apprentice barber
 - a. 16 1/2 years of age
 - b. 4 years of high school education
 - c. graduate of licensed school of barbering
 - d. passed an examination
 - e. \$20.00 fee
2. Barber
 - a. 18 years of age
 - b. acted as a licensed apprentice for at least eighteen months
 - c. passed an examination
 - d. \$20.00 fee
3. Only cosmetologists can be licensed as manicurists.
4. Operation of a barber shop
 - a. licensed barber
 - b. \$20.00 fee
5. An apprentice barber instructor license does not exist.

Appendix A, continued

COSMETOLOGIST

BARBER

317A.050 (cont'd)

5. Apprentice license to teach cosmetology
- a. \$25.00 fee
 - b. high school education and one year experience as a licensed cosmetologist
 - c. submit application
 - d. school owners must certify completion of 1,000 hours at the end of instruction
6. Teach cosmetology
- a. high school education
 - b. held apprentice instructor license for six months
 - c. passed an examination
 - d. paid \$35.00 fee
7. School of Cosmetology
- a. compliance with board rules regarding equipment
 - b. furnished proof of qualifications to operate a school to the board
 - c. licensee will have a manager present at all times and manager shall be approved by the board
 - d. complies with the rules and regulations of the board regarding courses
 - e. has paid fee of \$1,000.00
 - f. licensee must be a resident of Kentucky for at least five years or corporation must have existed for at least five years
 - g. students enrolling in schools shall pay a fee of \$5.00

317.450 (cont'd)

6. Teach barbering
- a. high school education
 - b. practicing barber for at least thirty-six months
 - c. passed an examination
 - d. \$25.00 fee
7. School of barbering
- a. applies therefor upon forms furnished by the board
 - b. has the equipment and facilities required by the board
 - c. furnished proof of qualifications to operate a school
 - d. at least twenty-four months' experience teaching in a barber school
 - e. \$100.00 fee
8. Licenses expire on the first day of July next following the date of their issuance but the board shall renew any license at no increased renewal fee if the license fee is paid within thirty-one days after the expiration.

Appendix A, continued

COSMETOLOGIST

317A.050 (cont'd)

7. h. the transfer of any license requires the approval of the board and a new application filed with the board and a fee of \$1,000.00
8. Licenses are renewed between July 1 and July 31 annually. Any applications dated later than July 31 are considered expired and a restoration fee shall be applicable.
9. Annual renewal license fees
 - a. Apprentice cosmetologist - \$10.00
 - b. Cosmetologist - \$12.00
 - c. Manicurist - \$20.00
 - d. Beauty salon - \$15.00
 - e. Apprentice instructor of cosmetology - \$15.00
 - f. Instructor of cosmetology - \$25.00
 - g. Cosmetology school - \$100.00
10. Examination fee
 - a. Apprentice cosmetologist - \$25.00
 - b. Cosmetologist - \$35.00
 - c. Manicurist - \$20.00
 - d. Instructor of cosmetology - \$50.00
 - e. Cosmetologist out-of-state - \$75.00
 - f. Instructor out-of-state - \$150.00
 - g. Where examination is not required by the board, the fee shall be \$50.00

BARBER

317.450 (cont'd)

9. Annual renewal license fees
 - a. Barber - \$20.00
 - b. Apprentice to barber - \$20.00
 - c. Teacher of barbering - \$20.00
 - d. Barber shop - \$20.00
 - e. Barber school - \$75.00
10. Examining Fee
 - a. Barber - \$20.00
 - b. Apprentice to barber - \$20.00
 - c. Teaching barbering - \$25.00
11. The fee for the renewal of an expired license, where the period of expiration does not exceed five years, shall be as follows:
 - a. Barber - \$15.00 plus lapse fees;
 - b. Apprentice - \$15.00 plus lapse fees;
 - c. Barber shop - \$20.00;
 - d. Barber school - \$75.00; and
 - e. Teacher of barbering - \$15.00 plus lapse fees.

COSMETOLOGIST

BARBER

317A.050 (cont'd)

11. Fee for the restoration of an expired license where the period of expiration does not exceed five years from the date of expiration shall be as follows:

- a. Apprentice cosmetologist - \$50.00;
- b. Cosmetologist - \$50.00;
- c. Manicurist - \$50.00;
- d. Beauty salon - \$50.00;
- e. Cosmetology school - \$500.00;
- f. Instructor - \$75.00; and
- g. Apprentice instructor - \$50.00

12. The requirements for a new license for any person whose license has expired for a period exceeding five years shall be as follows:

- a. Cosmetologists shall retake and pass examination in practical only;
- b. Apprentice cosmetologist shall complete one hundred and fifty (150) additional hours training in a licensed school of cosmetology and pass prescribed examination;
- c. Instructor of cosmetology shall retake and pass both the practical and science examination;
- d. Manicurist shall retake and pass examination, practical only; and
- e. The appropriate restoration fee as set forth in subsection (11) shall be required.

Appendix A, continued

BARBER

COSMETOLOGIST

317A.050 (cont'd)

13. Guest artists demonstrating before persons other than licensed hairdressers and cosmetologists shall pay a fee of \$35.00 for a permit for ten days; but this fee is not required to be paid by guest artists performing before a nonprofit hairdressers and cosmetologists group.
14. Certification fee - \$15.00
15. Duplicate license fee - \$5.00
16. Instructors of cosmetology must present proof of continuing education for renewal of instructors license.

COSMETOLOGIST

317A.060 Board Regulations

1. The board shall provide rules and regulations governing schools and salons including rules to protect the health and safety of the public and students. Also, to guard against misrepresentation, deceit or fraud in the practice or teaching of beauty culture.
2. Govern the location and housing of shops and schools.
3. Govern the quantity and quality of equipment and supplies.
4. Govern the training and supervision of apprentices.
5. Govern the qualifications of teachers.
6. Govern the examinations of applicants.
7. Govern the hours and courses of instruction.
8. Govern the proper education and training of students.
9. Govern the course and conduct of school owners.
10. Regulations pertaining to health and sanitation must be approved by DHR.

BARBER

317.440 Board Regulations

1. The board shall provide rules and regulations to protect the health and safety of the public and protect the public against misrepresentation, deceit or fraud.
2. Govern the location and housing of shops and schools.
3. Govern the quantity and quality of equipment and supplies.
4. Govern the training and supervision of apprentices.
5. Govern the qualifications of teachers.
6. Govern the examinations of applicants.
7. Govern the hours and courses of instruction.
8. Regulations pertaining to health and sanitation must be approved by DHR.

Appendix A, continued

COSMETOLOGIST

317A.070 Hearings

1. The board shall hold hearings for any person directly affected by a decision of the board.
2. Complainant shall have reasonable opportunity to be present and represented by counsel.
3. Rulings may be appealed to Franklin Circuit Court within thirty days.
4. The board may issue subpoenas to insure the attendance of witnesses.

BARBER

317.460 Hearings

1. The board shall hold hearings for any person directly affected by a decision of the board.
2. Complainant shall have reasonable opportunity to be present and represented by counsel.
3. Rulings may be appealed to Franklin Circuit Court within thirty days.
4. The board may issue subpoenas to insure the attendance of witnesses.

Appendix A, continued

COSMETOLOGIST

317A.080 Disposition of Fees

1. All fees collected shall be paid into the state treasury and credited to a separate trust and agency account.
2. All collected fees shall be available for the administration of the provisions of this chapter.

BARBER

317.530 Disposition of Fees

1. All fees collected shall be paid into the state treasury and credited to a separate trust and agency account.
2. All collected fees shall be available for the administration of the provisions of this chapter.

Appendix A, continued

COSMETOLOGIST

317A.090 Requirements for cosmetology schools

1. A prerequisite of graduation is 1,800 hours of course-work in the cosmetology school to be given in an un-interrupted period of not more than eight hours or less than four hours per day, exclusive of Sunday and vocational school class schedules.
2. Schools shall have no fewer than one licensed instructor per twenty students.
3. New cosmetology schools may not serve the public until 300 hours are first taught.

BARBER

317.540 Requirements for barber schools

1. A prerequisite of graduation is 1,500 hours in the barber school to be completed in a reasonable time with not more than eight hours or less than four hours per day.
2. Schools shall have no fewer than one licensed instructor per fifteen students or more than two students per chair.

Appendix A, continued

COSMETOLOGIST

BARBER

317A.100 Reciprocal licensing

1. The board may prescribe reasonable rules to any person holding a comparable license issued by another state.
2. The above may be denied if the other state does not extend the same consideration to a Kentucky license holder.
3. Fee established by the board.

1. The board may prescribe reasonable rules to any person holding a comparable license issued by another state.
3. \$50 fee

NOTES: Under KRS 317A.140 and 317.590 - Grounds for refusal to issue or revoke license - the two professions list identical points, except convicted felons are not permitted to be cosmetologists. No such stipulation is found under the barbering laws.

Appendix A, continued

COSMETOLOGIST

317A.110 Assistance to Board

1. Board offices will be convenient to the division of occupations and professions.
2. The division of occupations and professions shall give cooperation and advice to the board.

BARBER

KRS 317.560 Assistance to Board

No specifications.

Appendix A, continued

COSMETOLOGIST

317A.120 Examinations

1. Exams cannot be given unless quorum of the board is present.
2. Exams must cover all phases of applicant's skills.
3. Exams must be given at regular intervals.
4. Exams shall be given at board offices.

317A.130 Sanitation Requirements

1. No instructor student, cosmetologist, apprentice or manicurist shall:
 - a. continue to practice with a known communicable disease.
 - b. fail to provide each headrest with a clean covering for each person.
 - c. fail to insure that the haircloth does not come in contact with patron's nude neck skin.
 - d. use a towel twice or more without relaundering.
 - e. use any professional tool twice or more without sterilizing.

BARBER

317.570 Examinations

1. Exams cannot be given unless quorum of the board is present
2. Exams must cover all phases of applicant's skills.
3. Exams must be given at regular intervals.
4. Exams shall be given at board offices.

317.580 Sanitation Requirements

1. No student barber or apprentice shall:
 - a. continue to practice with a known communicable disease.
 - b. fail to provide each headrest with a clean covering for each person.
 - c. fail to insure that the haircloth does not come in contact with patron's nude neck skin.
 - d. use a towel twice or more without relaundering.
 - e. use any professional tool twice or more without sterilizing.

Appendix A, continued

COSMETOLOGIST

317A.140 Refusal to Issue or Renew License

1. Gross malpractice.
2. Mental or physical health that would endanger the public.
3. Failure to comply with board rules.
4. False advertising.
5. Practicing in an unlicensed shop.
6. Unprofessional conduct.
7. Teaching in an unlicensed school.
8. Conviction of a felony.
9. Licensee may pay a fine in lieu of suspension.
10. Payment shall be deposited in the state treasury and credited to the general fund.
11. Board may require retesting for those guilty of gross malpractice.

BARBER

317.590 Refusal to Issue or Renew License

1. Gross malpractice.
2. Mental or physical health that would endanger the public.
3. Failure to comply with board rules.
4. False advertising.
5. Practicing in an unlicensed shop.
6. Unprofessional conduct.
7. Teaching in an unlicensed school.

Appendix A, continued

COSMETOLOGIST

317A.990 Penalties

1. Violators of this chapter shall be fined not less than \$50 or more than \$500, or imprisoned for not less than 10 days or more than 6 months.
2. Violators of board rules shall be fined not less than \$25 or more than \$200, or imprisoned for not less than 10 days or more than 3 months.

BARBER

317.991 Penalties

1. Violators of this chapter shall be fined not less than \$50 or more than \$500, or imprisoned for not less than 10 days or more than 6 months.
2. Violators of board rules shall be fined not less than \$25 or more than \$200, or imprisoned for not less than 10 days or more than 3 months.

APPENDIX B

BARBERING AND COSMETOLOGY LICENSING FEES

KENTUCKY AND SURROUNDING STATES
1981

	Kentucky	Indiana	Illinois	Ohio	Missouri	Tennessee	West Virginia	Virginia
APPRENTICE BARBER								
Exam	\$20	\$30-50	\$10	\$25	\$	\$	\$	\$10 ^a
License	20	10	6	5	5		5	
Total	\$40	\$40-60	\$16	\$30	\$5	\$	\$5	\$10
Renewal	\$20	\$10	\$6	\$10	\$5		\$5	\$
BARBER								
Exam	\$20	\$30-50	\$20	\$25	\$25	\$60	\$	\$30 ^a
License	20	10	10	5	10	20	25	
Total	\$40	\$40-60	\$30	\$30	\$35	\$80	\$25	\$30
Renewal	\$20	\$10	\$10	\$10	\$10	\$20	\$25	\$30
BARBER INSTRUCTOR								
Exam	\$25	\$50	\$20	\$	\$25	\$75	\$	\$50
License	25	20	10	25	10	35		
Total	\$50	\$70	\$30	\$25	\$35	\$110	\$	\$50
Renewal	\$20	\$20	\$10	\$20	\$10	\$15		\$50
BARBER SCHOOL								
License	\$100	\$150	\$250	\$150	\$150	\$600	\$500	\$100
Inspection				250				
Total	\$100	\$150	\$250	\$400	\$150	\$600	\$500	\$100
Renewal	\$75	\$150	\$100	\$150	\$150	\$300	\$250	\$15
BARBER SHOP								
License	\$20	\$40	\$	\$25	\$	\$25	\$	\$15
Inspection						35	25	
Approval						15		
Total	\$20	\$40	\$	\$25	\$	\$75	\$25	\$15
Renewal	\$20	\$40	\$	\$3	\$	\$25	\$	\$15

APPENDIX B

(cont'd)

	Kentucky	Indiana	Illinois	Ohio	Missouri	Tennessee	W. Virginia	Virginia
APPRENTICE COSMETOLOGIST								
Exam	\$25	\$	\$ 5	\$	\$ 5	\$10	\$ 5	\$25 d
License	12		5		5	3	5	5
Total	37		5		5	13	5	30
Renewal	10		6		5	3	5	
COSMETOLOGIST								
Exam	\$35	\$20	\$20	\$16	\$	\$10	\$	\$25 d
License	15	40	10	6	15	10	25	
Total	50	60	30	22	15	20	25	25
Renewal	12	10	10	6	15	10	25	15
MANICURIST								
Exam	\$20	\$10	\$16	\$	\$	\$10	\$	\$
License	12	10	6	6	15	8	25	
Total	32	20	22	22	15	18	25	
Renewal	10	10	6	6	15	5	25	
SHOP OWNER								
Inspection					\$ b	\$25	\$25 c	\$
License	\$25	\$20	\$10	\$25	\$12/above	8	25	25
Total	25	20	10	25	\$12/above	33	25	25
Renewal	15	20	20	10	\$12/above	8		25
APPRENTICE COSMETOLOGY INSTRUCTOR								
Exam	\$							
License	25							
Total	25							
Renewal	15							

APPENDIX B

(cont'd)

	Kentucky	Indiana	Illinois	Ohio	Missouri	Tennessee	W. Virginia	Virginia
COSMETOLOGY INSTRUCTOR								
Exam	\$50	\$ 25	\$ 20	\$ 16	\$	\$ 10		
License	35	10	10	6	25	25		
Total	85	35	30	22	25	35		
Renewal	25	10	10	6	10	8	25	
SCHOOL								
License	\$1000	\$100	\$100	\$175	\$150	\$250	\$500	\$25
Total	1000	100	100	175	150	250	500	25
Renewal	100	100	100	175	150	60	250	25

SOURCE: Data obtained from statutes or code governing each state and direct interviews.

NOTE: Blank columns indicate the fee is not applicable; all fees represent the initial charge. The renewal rate is not included in this chart.

^aFee includes charge for exam and license.

^b\$12 for first three chairs; \$5 per each additional chair.

^cone-time charge.

^dFee includes charge for exam and license.

APPENDIX C

COMPARISON OF REGULATIONS GOVERNING THE
BOARD OF HAIRDRESSERS AND COSMETOLOGISTS
AND THE BOARD OF BARBERING

BARBERS

COSMETOLOGISTS

A. BOARD ADMINISTRATION

1. 201 KAR 12:010 Board Administrator's Duties and Powers
 - a. Board's liaison officer and administrative coordinator.
 - b. Powers to inspect establishments licensed by the board or the reported site of illegal practice.
 - c. Subpoena power for licenses, witnesses, records and materials as necessary for board hearings.
 - d. Assists board members in giving and supervising licensing examination.
 - e. Board's personnel agent for board staff.

B. LICENSING

1. 201 KAR 12:020 Examination for licensing; eligibility for examination, general contents of examination, passing grades, application process, etc.
 - a. Graduates of cosmetology schools licensed by the board must register with the board at least ten (10) months and two (2) weeks before taking apprentice examination. Graduate manicurists must register thirty-seven and one-half (37½) days prior to examination.

A. BOARD ADMINISTRATION

1. 201 KAR 14:010 Board Administrator's Duties and Powers
 - a. Board's liaison officer and administrative coordinator.
 - b. Powers to inspect establishments licensed by the board.
 - c. Subpoena power for licenses, witnesses, records and materials as necessary for board hearings.
 - d. Assists board members in giving and supervising examinations.
 - e. No comparable provision.

B. LICENSING

1. 201 KAR 14:115 Examination for licensing, etc.
 - a. No comparable provision.

Appendix C, continued

COSMETOLOGISTS

- b. Out-of-state graduates must have their hours certified by the out-of-state board.
- c. An application to take the apprentice cosmetologist examination must be received and completed in full at least ten (10) working days prior to the examination.
- d. Examinations are only given to students who are notified by the board to appear and who are properly dressed and equipped.
- e. Examinations consist of a written test and a practical demonstration on a live female model.
- f. A grade of seventy (70) must be scored in each subject area to pass the apprentice examination. Eighty (80) percent on the written and eighty-five (85) percent on the practical is required to pass the instructor's examination. No license will be issued until a passing score is made by re-examination in a deficient area.
- g. Students who practice cosmetology in a beauty salon prior to the apprentice examination are not eligible to take the examination.
- h. The state examination schedule must be conspicuously posted on a bulletin board at schools of cosmetology.

BARBERS

- b. No comparable provision.
- c. Similar provision requires an application to be received seven (7) days prior to the examination.
- d. Almost identical provision.
- e. Examination is both written and oral, plus a practical demonstration on a live model.
- f. Similar provisions in 201 KAR 11:115 Sections 4 and 5. An average grade of seventy-five (75) percent in theory and practice is required and a minimum of sixty (60) percent is required in any one subject area for a barber or apprentice. Instructors must average eighty-five (85) percent and no grade below seventy-five (75) in any one subject.
- g. Identical provision.
- h. Identical provision.

Appendix C, continued

COSMETOLOGISTS	BARBERS
<p>i. Applicants who pass the state exam must buy their license within thirty (30) days or be required to pay the restoration fee required by statute.</p> <p>j. Fees accompanying an application will not be refunded unless the application is rejected.</p> <p>k. Failing applicants may be rescheduled during any examination period.</p> <p>l. Any failing applicant must retake the examination within ninety (90) days or file another application.</p> <p>m. No comparable provision.</p>	<p>i. No comparable provision.</p> <p>j. No comparable provision.</p> <p>k. No comparable provision.</p> <p>l. No comparable provision.</p> <p>m. Written and oral tests must be given periodically by schools to determine status. Examination must include theory.</p>
<p>2. 201 KAR 12:025 Additional study after failing examination for apprentice or instructor's license</p> <p>a. Applicants for the apprentice or instructor's license who fail may take additional study in a licensed school. A re-enrollment application with a certification of additional hours completed must accompany the re-enrollment application.</p> <p>b. Failing applicants may retake the exam three (3) times, within twelve (12) months without paying an additional fee.</p>	<p>2. 201 KAR 14:015 Additional study after failing exam, etc.</p> <p>a. No comparable provision.</p> <p>b. Failing applicants may retake examination three (3) times within twelve (12) months without additional fees.</p>

Appendix C, continued

COSMETOLOGISTS	BARBERS
<p>3. <u>201 KAR 12:030 License required for practice</u></p> <p>a. Every licensee shall practice in a licensed establishment.</p> <p>b. No licensee, person or establishment shall employ an unlicensed person to practice cosmetology.</p>	<p>3. <u>201 KAR 14:065 License required</u></p> <p>a. Licensed barbers shall practice in a licensed shop or school.</p> <p>b. No comparable provision.</p>
<p>4. <u>Kentucky Revised Statutes 317A.050(11), (12) License expired for five years or more.</u></p> <p>Process for <u>renewal</u>.</p> <p>Not covered in regulation but KRS 317A.050(11) and (12) is similar to the barbering regulations.</p>	<p>4. <u>201 KAR 14:030 License expired five years. Renewal.</u></p> <p>a. Barbers required to pass the practical and science exam.</p> <p>b. Apprentice barbers required to take 150 additional hours in training from an accredited school.</p> <p>c. Teachers required to pass the practical and science exam prescribed.</p>
<p>a. Cosmetologists required to pass the practical only, plus pay \$50.</p> <p>b. Apprentices required to take 150 additional hours, plus pay \$50.</p> <p>c. Instructors required to pass the practical and science exam, plus pay \$75.</p> <p>d. Manicurist required to pass practical only, plus pay \$50.</p>	<p>5. <u>201 KAR 14:020 Due Process for License Revocation or Nonrenewal</u></p> <p>a. Process outlined in KRS 317.460 shall be followed.</p> <p>b. Affected party may present evidence on his own behalf.</p>

Appendix C, continued

COSMETOLOGISTS

- a. 20 days written notice of revocation or refusal to renew.
- b. Hearing. Presentation of evidence. Right to counsel, cross examine, etc.
- c. Appeal rights to Franklin Circuit Court.
- d. Authorizes board to issue subpoenas for attendance records, etc.

6. 201 KAR 12:031 Posting License. Lost License.

- a. Posting of license required to aid inspections
- b. Licenses lost, destroyed or stolen may be reissued as a "duplicate" upon verification of loss.

7. Kentucky Revised Statutes 317A.050(13)

Demonstration Permits

Requires guest artists and demonstrations before persons other than licensed personnel to pay \$35 for a 10-day permit. Not required for performances before non-profit professional groups.

BARBERS

6. 201 KAR 14:040, Section 2. Posting License

- a. Posting of license, pictures of all barbers, shop license, and inspection sheet required to aid inspections.

7. 201 KAR 14:025

- a. Permits required from board before any demonstrations of barbering.
- b. Must be licensed barber for three years; prove qualified to demonstrate; pay \$25 each year; give board 7 days notice.
- c. Does not qualify as teaching barbering.

COSMETOLOGISTS

8. 201 KAR 12:040. Apprentices: Ratio to Fully Licensed Practitioners in Shops and Salons

a. Ratios:

<u>Cosmetologist</u>	<u>Apprentice</u>
1	2
2	3
3	4

(one to one thereafter)

b. A licensed cosmetologist must be available for immediate supervision whenever an apprentice is providing service.

9. 201 KAR 12:045. Application for Apprentice, Regular and Instructor's License

(Also partially covered in 1 above)

a. Must include notarized certificate from professional school showing hours completed.

b. An apprentice must apply for regular license no sooner than six months and no longer than eighteen months after passing exam. Extension at discretion of the board.

c. An apprentice instructor must apply for regular license no sooner than six months and no later than twenty-four months. Extension discretionary.

BARBERS

8. 201 KAR 14:080 Apprentices: Ratio to Practitioners

- a. At least one licensed barber for each apprentice is required.
- b. No comparable provision.

9. 201 KAR 14:050; 201 KAR 14:055; 201 KAR 14:120 Application for License

a. Must show proof of completing four years of high school by transcript or a G.E.D. test with a 45% score or better.

b. Proof of 1,500 hours of instruction and a graduate of an approved school of barbering.

c. Licensed apprentice shall apply for regular license within twelve months of completion of his eighteen months apprenticeship. Extension discretionary. Applications for a license to teach barbering shall be accompanied by certified transcripts of high school credits and college credits showing completion of two years of college. Applicants must have had regular Kentucky barber license for at least thirty-six (36) months.

Appendix C, continued

BARBERS

COSMETOLOGISTS

10. 201 KAR 12:050. Reciprocity, Relicensing from other States.
- a. Out-of-state applicant with valid license and two years experience may take practical exam by paying the fees specified in KRS 317A.050 for the practical exam and first license.
 - b. Applicant must provide certification from out-of-state board and proof of two years high school education.
11. 201 KAR 12:055. Instructor's License for Out-of-State Applicant
- a. Out-of-state applicant with current instructor's license, two years experience and proof of educational requirements may take the exam, if he/she pays the statutory non-resident instructor fee. After passing exam, applicant must pay exam fee for regular cosmetologist, first cosmetology license fee as specified in KRS 317A.050 and first instructor license fee.
10. 201 KAR 14:060. Reciprocity, etc.¹
- a. Out-of-state or country applicant with current license where requirements are substantially the same may take exam upon payment of fee.
 - b. If requirements not substantially same, must have practiced for three years and been a registered barber.
 - c. An apprentice who is at least 16 1/2 years old, of good moral character, etc., with a current apprentice certificate from a state or country with requirements substantially similar may take exam for apprenticeship.
11. No comparable provision.

¹The 1982 General Assembly amended KRS 317.450 to provide for reciprocity with other states whose requirements are "substantially equivalent". Payment of a fee is required. Examination of applicant by the board is optional with the board. Regulations have not yet been promulgated to reflect this statutory change.

Appendix C, continued

COSMETOLOGISTS

C. INSPECTIONS

1. 201 KAR 12:060 Inspections of shops and schools
 - a. Board members, the administrator, and inspectors shall be allowed to enter and inspect establishments which are licensed or any place where cosmetology is purported to be practiced. Inspections are to take place at reasonable hours in order to check for compliance with statutes and regulations.
 - b. Licenses with pictures of licensees attached must be posted conspicuously in the salon or school.
 - c. Closed salons may remain licensed provided plumbing and equipment is not removed. They shall be inspected periodically. If equipment and plumbing is removed, the license is voided.
2. 201 KAR 12:065 Inspection of new, relocated and change-of-owner salons/shops. Also KRS 317A.020(3)(b).
 - a. All relocated shops must complete a board application.
 - b. New shops, relocated shops and shops with new owners shall notify board five (5) days before opening of the changes, location and date of opening.

BARBERS

C. INSPECTIONS

1. 201 KAR 14:040 Inspections of shops and schools
 - a. Board members and authorized agents shall be allowed to enter and inspect barber shops, manicuring establishments therein, or barber colleges at reasonable hours to determine compliance with laws and regulations. (Emphasis added)
 - b. Licenses with pictures of licensees attached, the shop license, and inspection sheets shall be displayed conspicuously to aid inspections.
 - c. No comparable provision.
2. 201 KAR 14:045; 201 KAR 14:070; 201 KAR 14:067 Inspection of new, relocated shops, etc.
 - a. No comparable provision.
 - b. New and relocated shops shall notify board five (5) days before opening of the new location and date of opening.

Appendix C, continued

COSMETOLOGISTS	BARBERS
<p>c. All new and relocated beauty salons shall be inspected and licensed before opening. KRS 317A.020(3)(b) specifies management by licensed cosmetologist.</p> <p>d. All new and relocated beauty salons must comply with city, county and state zoning, building and plumbing laws, regulations and codes.</p> <p>e. All salons shall be separated from all barber shops by a soundproof partition extending to the ceiling. Each facility shall have its own individual entrance.</p> <p>f. Any salon in a residence shall have an outside entrance.</p> <p>3. 201 KAR 12:080 Shops and schools: <u>public identification.</u></p> <p>a. Each establishment shall display at its main entrance a sign, clearly visible, indicating beauty salon or cosmetology school.</p>	<p>c. Shop licenses are not transferable from one location to another. A new license must be purchased. Shops must be managed by a licensed barber.</p> <p>d. New and relocated shops shall comply with city and county zoning regulations and have the signature of the state plumbing inspector on the application to the barber board.</p> <p>e. No comparable provision.</p> <p>f. Shops located in a residence shall have an outside entrance and use a lavatory not used for residential purposes.</p> <p>3. 201 KAR 14:035 Shops and schools: <u>public identification.</u></p> <p>a. Each shop or school shall display at its main entrance a sign, clearly visible, indicating barber shop, school, or college.</p>

COSMETOLOGISTS

D. SANITATION

1.- 201 KAR 12:100 Sanitation Standards

- a. No comparable provision. See 2k below.
- b. Establishments, furniture, equipment, utensils, floors, walls, ceilings, restrooms, laboratories shall be kept clean and sanitary. Clean towels provided.
- c. Practitioners shall have a sufficient number of combs and brushes. Must be sterilized after each use or if dropped.
- d. All water supply and waste connections in accordance with city, county and state plumbing codes.

BARBERS

D. SANITATION

1. 201 KAR 14:085 Sanitation Standards

- a. No barber, apprentice, student, manicurist, or instructor having T.B., influenza, coryza, gonorrhea, syphilis, small pox, chicken pox, measles, whooping cough, scarlet fever, septic sore throat, scabies pediculosis, leprosy, pemphigus, favus, tinea infections, or other communicable diseases shall serve or practice.
- b. Shops and schools, furniture, equipment, tools, utensils, floors, walls, ceilings and manicuring instruments shall be kept clean and sanitary.
- c. Each operator must have at least six (6) combs, a bottle of 70% ethyl alcohol and cotton to sterilize scissors, razors, clippers after each use or if dropped. Stropps cleaned, as necessary, with soap and water. Instruments may not be wiped on linens used on patron.
- d. Water supplied by a city system or two (2) gravity tanks (hot and cold). All water supply and waste connections in accordance with state and city plumbing codes.

Appendix C, continued

BARBERS

COSMETOLOGISTS

- e. Sufficient covered waste receptacles shall be provided.
 - f. Neck coverings must be employed and disposed of after each use.
 - g. Disinfection approved by DHR:
 - 1. Dry disinfection: formalin and ultra violet rays.
 - 2. Liquid disinfection: 10% solution of formalin, 70% alcohol; any other DHR approved liquid disinfectant.
 - h. Use of brush rollers prohibited.
 - i. Inspection grading for schools and salons: 100% - 90% = A; 89%-80% = B; 79%-70% = C. Grade less than A means failure to comply with statutes and regulations.
- e. At least one covered metal waste receptacle for every two chairs for the deposit of soiled towels. An additional metal receptacle for each two chairs for used tissues and shaving papers.
 - f. Neck coverings (cotton, towel or paper) must be employed and disposed of after each use.
 - g. Disinfection approved by DHR:
 - 1. Dry disinfection: formaldehyde gas (very limited), effective at 65°, 60% humidity and 6-12 hours; dry heat 338° for 1 hour.
 - 2. Liquid disinfection: carbolic acid and phenol (5% solutions); sodium hypochlorite; 10% solution of Formalin, 70% alcohol; boiling water for 15 minutes; steam sterilization (15 lbs., 248°F, 30 minutes).
 - h. No comparable provision.
 - i. No comparable provision.

Appendix C, continued

COSMETOLOGISTS

j - q No comparable provisions.

BARBERS

- j. Cuspidors cleaned and disinfected every day. Formula given for solution to clean and leave in cuspidor.
- k. Handwashing with soap and water required before working with each patron.
- l. Shaving mugs and brushes, and shampoo boards must be washed and disinfected after each use.
- m. Towels may be used for one operation. Cleaning methods by steam laundry or boiling. Certain drying methods prohibited. "Steamers" prohibited.
- n. Headrests must have clean towel or paper with each patron.
- o. Bathrooms and toilets must be kept clean and sanitary. Tubs and shower floors disinfected after each patron's use. Individual soap and towels provided for patrons.
- p. Powder or liquid alum and styptic permitted in individual applications or disposable form. "Use in common" prohibited.
- q. All implements, utensils which contact head, face, neck, hands must be washed with hot water and soap and disinfected by DHR approved methods.

Appendix C, continued

COSMETOLOGISTS

2. 201 KAR 12:101 Equipment sanitation (schools and salons)
- a. Implements, tools and equipment must be cleaned and sterilized before using.
 - b. No combs or brushes may be used on more than one patron without being cleaned and sterilized. Also see Sanitation 1c.
 - c. Individual towels, neckbanks, or strips must be used on patron's neck before putting on "neck cloth or cape". Also see Sanitation 1f.
 - d. Clean towels or tissues must be placed on headrest before each facial.
 - e. All instruments must be in a closed sterilized container when not in use.
 - f. All student kits must contain an approved method of sterilization and be kept closed when not in use.
 - g. All creams, lotions, tonics, shampoos, and other liquids must be kept covered when not in use.

BARBERS

2. 201 KAR 14:155 Equipment sanitation (schools)
- a. Identical provision. Also, see Sanitation 1c and 1q.
 - b. Identical provision. Also see Sanitation 1c.
 - c. Almost identical provision. Also see Sanitation 1f.
 - d. Almost identical provision. Includes both shave and facial. Also see Sanitation 1n.
 - e. Identical provision.
 - f. No comparable provision.
 - g. Almost identical provision.

COSMETOLOGISTS

BARBERS

- h. Covered containers required for disposal of waste. Also see Sanitation 1e.
- i. Floors, walls, furniture, fixtures including bowls and basins must be kept clean at all times. Also see Sanitation 1b.
- j. All glass or metallic electrodes must be sterilized between patrons.
- k. Patrons with infectious or contagious diseases may not be served. No persons with infectious or contagious diseases may operate or remain in school.
- l. All creams must be removed by disposable spatula or sterile spoon. Unused cream on those implements may not be used on another patron.
- m. Any dropped comb, brush, or implement must be washed, disinfected or sterilized. Also see Sanitation 1c.
- n. Combs, brushes, tweezers, shears, razors, or other implements may not be kept in the pockets of students or licensees.

- h. Almost identical provision. Broadened to include soiled towels as well as waste. See also Sanitation 1e.
- i. Almost identical provisions. Also see Sanitation 1b.
- j. Identical provision.
- k. Identical provision. Also see Sanitation 1a.
- l. Almost identical provision.
- m. Almost identical provision. Also see Sanitation 1c.
- n. Almost identical provision.

COSMETOLOGISTS

- o. Towels must be laundered after each use.
Drying towels on lines, radiators, or steam pipes prohibited. Dipping used towels into hot water for use on patrons prohibited.
- p. Each licensed salon or school shall provide an appropriate space to keep linens sanitized.
- q. No comparable provision.
- r. No comparable provision.

E. SCHOOLS

- 1. 201 KAR 12:082 School's Course of Instruction

a. Regular instruction contains:

(1) Professional Practices:

- (a) the cosmetology profession: cosmetology vocabulary, history, ethics and conduct.
- (b) salon procedures: hygiene and good grooming, professional attitudes and salesmanship, business management, customer relationship, public relations, behavior.
- (c) specialty services: facial treatments and makeup, manicuring, massage movements.

BARBERS

- o. Almost identical provision. Also see Sanitation 1m.
- p. Each school shall provide appropriate space to keep linens free of dust.
- q. No lump alum, styptic pencils, or sponges allowed.
Also see Sanitation 1p.
- r. Each school shall be well-lighted and ventilated.

E. SCHOOLS

- 1. 201 KAR 14:090 School Curriculum

a. Students will receive instruction in the following skills:

(1) History, hygiene, psychology, and professional ethics.

- (a) History of the barber profession including ancient and modern instruments used in other countries.
- (b) Hygiene, conduct, and business management, including bookkeeping, tipping, shop management, organization, advertizing, personal and professional hygiene.
- (c) Professional ethics and psychology including high ideals, personality and skill development and professional development.

COSMETOLOGISTS

BARBERS

(2) Life sciences (general anatomy - definitions, functions, etc.)

- (a) osteology; (b) myology; (c) neurology;
- (d) angiology (blood); (e) dermatology;
- (f) trichology (hair); and (g) nails.

(3) Physical sciences (chemistry and treatment)

(a) chemistry: elements, compounds and mixtures for body, skin and face, scalp and hair regarding hair lightening, coloring, relaxing, makeup, facials, soaps and shampoos and rinses, cold waving; (b) scalp and hair treatments (purpose and effects, etc.); (c) shampoos and rinses (importance, purpose, types, etc.); (d) hair coloring (reasons, procedures, various products, etc.); (e) hair lightening (types, procedures, etc.); (f) cold waving (requirements, hair analysis, curling rods and chemicals, procedures, safety, etc.); and (g) sterilization and sanitation (definitions, methods, etc.)

(2) Anatomy and Physiology (description, explanation, and function

- (a) structure of head or cranium; (b) blood circulation; (c) cell life; (d) muscles, nerves, bones of the head, face, and neck - function and location; (e) skin, hair, glands; (f) shedding and regrowth of hair; (g) sebaceous glands, sweat glands; (h) hair follicle, bulb and papilla; (i) sympathetic and cerebrospinal nervous system; (j) blood supply to face and scalp; (k) definition and structure of various types of hair; (l) preservation and beautification of hair and skin; (m) composition of hair and skin; (n) microscopic studies of hair; (o) digestive system; (p) effects of diet on hair and skin; (q) benefits of relaxation on digestion; and (r) benefits from relaxation in barber chair.

(3) Pharmacology and shampoos and hair tonics

- (a) medicinal and non-medicinal ingredients in hair dyes, face lotions, shampoos, permanents, tints, bleaches, face and scalp remedies; (b) purpose of shampoos; (c) how to shampoo; (d) materials and kinds of shampoos; (e) use of vibrator in shampooing; (f) water temperature in rinsing; (g) how to steam scalp; (h) explain standard hair tonics, dyes and application; (i) hair techniques, dyes, straightening, permanent waving, and other preparations.

COSMETOLOGISTS

BARBERS

(4) Hair designing or sculpting

(a) hair shaping: fundamentals, tools, wigs, safety; (b) hair styling: finger waving, pin curls, artistry, chemicals, hot iron curling, etc.; (c) care and styling of wigs: types, cleaning, shaping, tinting, safety.

b. Supplies and equipment in salon practice

c. Charts and visual aids

- (1) anatomy of neck and facial muscles
- (2) anatomy of nails

(4) Haircutting

(a) how to apply and remove hair cloth, neck strip, and towel; (b) use of comb and brush, clippers and shears; (c) tapering, thinning and cutting with shears, razor and clippers; (d) combing, drying and dressing the hair; (e) suggesting shampoo and tonic; (f) methods of hair cutting and hairstyling: short cut, medium cut, long cut or trim, short pompadour, medium and long pompadour, different ways to part hair and how to cut each; (g) scalp manipulation after haircut; (h) ladies haircutting and hair-styling; and (i) head shapes and proper contours.

b. Instruments and electricity

(1) Instruments (explain, describe, advise)

(a) razors; (b) shears; (c) clippers; (d) hones and strops; (e) combs and brushes.

(2) Electricity (explain)

Various electrical equipment and appliances used in barber science treatments.

c. Instructional aids

- (1) Microscope for study of hair and scalp
- (2) Medical dictionary and books on anatomy and physiology, etc.
- (3) Suggested list of books for library reference

Appendix C, continued

COSMETOLOGISTS

- d. Hours of instruction, 1,800 hours
(450 hours of lecture on science and theory,
1,305 hours clinic and practice, and 45 hours
on KRS and KAR)
- e. One hour per week should be devoted to the teaching
of KRS Chapter 317A and the board's rules and regula-
tions.
- f. Brush-up courses, hours specified. Enrollment with
permission of the board.
- (1) permanent waving and chemical control, 150 hours
 - (2) manicuring, hand and arm massage, 100 hours
 - (3) all iron curls, 100 hours
 - (4) facials, 125 hours
 - (5) hair coloring and bleaching, 150 hours
 - (6) scalp massage, 25 hours
 - (7) hair shaping, trimming, and thinning, 125 hours
 - (8) science, 100 hours
 - (9) hair dressing and styling, 150 hours

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- d. Hours of instruction
- (1) Not less than 1,500 hours in practice and scientific
lectures as provided in curriculum.
 - (2) At least one hour of lectures and demonstrations
each day excepting Saturday.
 - (3) One hour per week to teaching and explanation of
Kentucky Barber Law.
- e. See d(3) above.
- f. No comparable provision in this section. See 2.c. below.

COSMETOLOGISTS

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| <p>g. Curriculum required for licensure and renewal.</p> <p>(1) Freshman students</p> <p>(a) Theory, 100 hours: General Theory (including KRS and KAR), Clinical Theory, Lecturing Theory;</p> <p>(b) Clinical (practice on student or mannequins), 200 hours: cold waves, facials, fingerwaves, pin curl technique, hairshaping, hairstyling, lash and eyebrow tint, eyebrow arches, manicuring, scalp treatments, shampooing, haircoloring, heat permanent, safety measures.</p> <p>(2) Junior and Senior students</p> <p>(a) Theory, 500 hours; (b) professional practices, life sciences, physical sciences, hair designing, safety measures, KRS and KAR; (c) clinical class, 1,000 hours: items in (1)(c) above and hair conditioning, permanent wave, iron curling, bleaches and frostings, color rinses, wiggyery, ethics and grooming, salesmanship, reception and telephone, records, dispensary, personality development, salon management, public relations.</p> <p>h. In addition to regular instruction, schools may have one related lecture and demonstration per month.</p> <p>i. Time not used for theory and clinic must be used on study or library work.</p> | <p>g. No comparable provision.</p> <p>h. See d(2) above and 6.e. below.</p> <p>i. No comparable provision.</p> |
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Appendix C, continued

COSMETOLOGISTS

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- j. Reference books and recognized textbook to be used.
- k. Students must complete 300 hours before working on the public.
- l. Two out-of-school activities of eight hours per day allowed per 1,800 hours, if reported on proper forms.
- m. Two educational programs for eight hours credit per day permitted per 1,800 hours, if reported on proper forms.
- n. Copies of KRS and KAR for cosmetologists must be available to students.
- o. Manicurist curriculum
 - (1) Science and theory, 100 hours
 - (a) equipment, sterilization, sanitation, hygiene, safety, law and regulations; (b) nail condition and manicure techniques; (c) hand and arm massage; (d) science of hands and arms; and (e) personality, grooming, management, ethics, and cosmetic theory laws.
 - (2) Clinical, 200 hours
 - (a) oil and plain manicure; (b) nail polish changes, etc.; (c) hand and arm massage; (d) safety; (e) equipment; (f) stains; (g) repair; (h) buffing; (i) lacquer; and (j) artificial nails.

- j. See c(2) and (3) above.
- k. No comparable provision.
- l. No comparable provision.
- m. No comparable provision.
- n. No comparable provision in this section. See 5.n. below.
- o. No comparable provision.

Appendix C, continued

COSMETOLOGISTS

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| <p>p. Course of study and curriculum for apprentice instruction, 1,000 hours</p> <ol style="list-style-type: none"> (1) Orientation, 15 hours (2) Psychology of student training, 50 hours (3) Introduction to teaching, 300 hours (4) Good grooming and personality development, 50 hours (5) Course outlining and development, 40 hours (6) Lesson planning, 45 hours (7) Teaching techniques, 80 hours (8) Teaching aids, audio visuals, 80 hours (9) Demonstration techniques, 55 hours (10) Examination and analysis, 60 hours (11) Classroom management, 45 hours (12) Record keeping, 25 hours (13) Teaching observation, 65 hours (14) Teacher assistant, 90 hours (15) Practice teaching, 270 hours <p>q. All student instructors must be supervised at all times by licensed instructor.</p> <p>r. All records of apprentice instructor's hours earned shall be recorded monthly on standard forms supplied by the board office.</p> | <p>p. No comparable provision.</p> <p>q. No comparable provision.</p> <p>r. No comparable provision.</p> |
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| <p>s. No comparable provision.</p> <p>t. No comparable provision. See KRS 317A.090(2). Shaving mentioned as part of "courses of instruction" "as may be prescribed by regulation of the board".</p> | <p>s. Honing and stropping - explain
(1) methods; (2) types; (3) wet and dry hones; (4) prevention of razor corrosion; (5) care of stropps; and (6) testing razor after honing and stropping.</p> <p>t. Shaving instructions
(1) washing hands; (2) prepare patron; (3) purpose, mixing and application of lather; (4) sterilizing razor; (5) applying steam towel; (6) stretching skin while shaving; (7) lather paper use; (8) shaving patron once and twice over; (9) removing soap and cleaning face after shave; (10) after shave lotions and creams - application; (11) preparing steam towels; (12) suggesting facials, after shave; (13) mustache trimming; (14) finish patron; (15) further detailed lessons on shaving techniques, razor use, hygiene, patron comfort, various beard types, grain directions, and textures.</p> |
| <p>u. No comparable provision. However, see a.(c) "specialty services" and o.(c) "hand and arm massage" (above). Also KRS 317A.090(2) "massaging and manipulating of the muscles of the upper body" mentioned as part of "courses of instruction" "as may be prescribed by regulation of the board".</p> | <p>u. Massaging
(1) Theory of and reasons for massage; (2) different types; (3) reasons for and movements in scientific rest facial; (4) application and demonstration of various creams and lotions in facials; (5) effect of light therapy on tissues; (6) results of massage on skins, muscles, cells, glands, and circulation; (7) various packs; (8) when and when not to recommend massage; (9) acne and its treatment; (10) electrical and mechanical equipment.</p> |

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v. No comparable provision.

2. 201 KAR 12:083 Educational Requirements for Entrance to Schools¹

- a. Persons enrolling in cosmetology school must complete an application for enrollment on board provided forms, providing proof of having completed two years of high school or its equivalent by: (1) transcript; (2) G.E.D. minimum grade of 39; (3) notarized statement from high school official (principal, counselor, superintendent) on school stationery stating the opinion that the applicant has completed the equivalent of tenth grade; or (4) high school diploma.
- b. Board must receive proof no later than ten working days after student's enrollment.

¹The 1982 General Assembly amended KRS 317A.05 to lower the educational requirements for cosmetologists and manicurists from "four (4) years of high school education or its equivalent" to two (2) years or its equivalent. Regulations have not yet been promulgated to reflect this statutory change. However, this change will not substantially affect the educational requirements for school entry, which are already at two (2) years of high school or its equivalent.

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v. Bacteriology

- (1) Discovery of bacteria; (2) production, growth and destruction of bacteria; (3) necessity of knowledge of bacteria; (4) possibility of barber shop infection; (5) various bacteria carrying agents in barber shops; (6) helpful and harmful bacteria - differences; and (7) need for absolute cleanliness and sanitation in barbering practices because of harmful bacteria.

2. 201 KAR 14:050, 14:105, 14:120 Educational Requirements

- a. Applicants for apprentice license must show proof of having completed four years of high school by transcripts of grades and attendance or results of a 45% or better score on a G.E.D. test.
Schools shall require student applicants to fill out enrollment application with certificate from a school principal certifying completion of four years of high school, or G.E.D. equivalency certificate, or high school diploma.
- b. Enrollment application is to be mailed to the board within ten days of enrollment.

Appendix C, continued

COSMETOLOGISTS

- c. Unexpired and unrevoked license required for enrollment in brush-up courses. Application to board required.
- d. Persons with expired licensed must make application for enrollment in brush-up courses and meet educational requirements in effect at time of original licensure.
- e. Schools must advise enrollees of educational requirements for apprentice cosmetologists, cosmetologists, and manicurists.
- f. No comparable provision.

3. 201 KAR 12:085 School Advertising

- a. Deceptive statements and false promises to induce students to enroll are prohibited.
- b. Sign must be displayed in reception room, clinic room, or other area used by the public to read "School of Cosmetology - Work Done by Students Only". Sign must be readable from length of room.
- c. Schools may not guarantee students' work.
- d. Schools are forbidden to guarantee future employment to students.

BARBERS

- c. Post graduate or brush-up course enrollment allowed for persons with unrevoked license and at least one year's practice. Maximum time for such course is 150 hours.
- d. No comparable provision.
- e. No comparable provision.
- f. Each student must furnish a health certificate on form prescribed by the board and filled out by licensed physician showing applicant upon examination to be free of any infections or communicable disease including syphilis and tuberculosis.

3. 201 KAR 14:100 School Advertising

- a. Almost identical provision.
- b. Almost identical provision.
- c. Almost identical provision.
- d. Almost identical provision.

Appendix C, continued

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- e. No comparable provision.
- f. No comparable provision.
- g. No comparable provision.

4. 201 KAR 12:105 School Districts

- a. "To protect the public and implement the provisions of KRS Chapter 317A, the state is hereby divided into seven (7) districts the same as the United States Congressional Districts and shall change when the Congressional Districts are properly changed. At all times these districts shall remain in conformity with the Congressional Districts".
- b. "For the protection of the public good and welfare, for the public's protection against misrepresentation, deceit or fraud in the teaching of beauty culture, no new license for a school of cosmetology shall be issued which would cause any district . . . to have more than eight (8) such schools of cosmetology".

- e. No prices for services rendered shall be advertised in newspapers, handbills, etc. outside the school.
- f. Student equipment or books may or may not be supplied by the students, depending upon the school, but school advertisements must show what is to be furnished by the students.
- g. School may advertise under description of "a school operating for teaching purposes only"

4. 201 KAR 14:095 Accredited School

- a. No comparable provision.
- b. No comparable provision.

Appendix C, continued

COSMETOLOGISTS

- c. No school of cosmetology is permitted to move or transfer from one district to another without application to and approval by the board. Nor shall the move be approved, if it would cause a district to have more than eight schools of cosmetology.
- d. The above provision does not prevent issuance or re-issuance of a license to an existing school.
- e. This regulation controls private schools only.
- f. No comparable provision.

5. 201 KAR 12:110 School License

- a. Each entity applying for a school license must submit an application provided by the board.
- b. The ownership of the school must submit a financial statement indicating financial assets of \$10,000 for twenty students enrolled and \$1,000 for each additional student.
- c. Owners must submit two character references, a copy of the proposed student contract, financial charges to students, and length of lease, if applicable.

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- c. No comparable provision.
- d. No comparable provision.
- e. No comparable provision.
- f. "Any school in Kentucky that complies with the rules and regulations set forth herein, in addition to all Kentucky laws, will upon certification and approval by this board be deemed an accredited barber school."

5. 201 KAR 14:140 School License

- a. Implied.
- b. Similar provision without specifying financial assets in relation to students.
- c. Similar provision.

Appendix C, continued

COSMETOLOGISTS

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- d. The application must be accompanied by an architect's or draftsman's scale drawing of the proposed premises showing classroom, clinic, mannequin, dispensary, reception, shampoo, office and other areas, as well as the entrance, exits, and equipment placement.
- e. A school license issued by the board is valid only for the location and ownership specified and is not transferable to another location or ownership.
- f. Ownership must notify board in writing twenty days prior to any sale or change of management. Prospective ownership must meet all qualifications and have approval of the board.
- g. Following any approval of an application to operate a school, the site shall be inspected by a quorum of the board or at least one board member and the board administrator. A final inspection of the premises by the board is required before issuing a license. Schools must comply with city, county and state zoning, plumbing and building codes.
- h. Any owner, manager, or instructor who misrepresents facts to the board, students, or general public or violates board regulations must show cause to the board why the school and instructor's license should not be revoked.

- d. Similar provision including identification of the location of gas and electrical outlets.
- e. Almost identical provision.
- f. No comparable provision.
- g. No comparable provision in this section. See 9.j. and 1. below regarding codes.
- h. Very similar provision.

Appendix C, continued

COSMETOLOGISTS

- i. Any entity which accepts compensation for teaching cosmetology as defined in KRS 317A.010 shall be classified a school and required to comply with all provisions of law and the rules and regulations of the board.
- j. The board will not license a correspondence school or any school in an establishment that teaches any other trade, profession, or business, excluding vocational training schools.
- k. No owner, partner, stockholder, or corporate officer, etc. shall be enrolled as a student in the school.
- l. Schools shall not permit or require students to be in attendance more than forty hours per week.
- m. Schools desiring night classes must apply to the board for permission by application. No school shall operate past 10:00 p.m. local time.
- n. See l.n. above.

6. 201 KAR 12:120 School Faculty

- a. Any school employee, whether manager or teacher, must be a licensed cosmetologist instructor. Each licensed instructor or apprentice instructor must keep his/her photograph posted with his/her license.

BARBERS

- i. Identical provision.
- j. No comparable provision.
- k. No comparable provision.
- l. No comparable provision.
- m. No comparable provision.
- n. A copy of the laws and regulations concerning licensing of barbers must be available for use by the students.

6. 201 KAR 14:125 School Faculty

- a. Similar provision.

Appendix C, continued

COSMETOLOGISTS

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| b. | All students must be under the immediate supervision of a licensed instructor during classes, study hours, and practical work. | b. | Similar provision. |
| c. | No licensed cosmetologist shall render services. Instructors' and apprentice instructors' services shall be incidental to and for the purpose of instruction. | c. | Similar provision. |
| d. | Instructors and apprentice instructors shall devote their full time during school hours to instructing students and never for private or public practice for pay or permit students to teach other students during the absence of the teacher. | d. | Similar provision. |
| e. | Teaching by demonstration forbidden, except properly licensed operators may demonstrate new processes, preparations, and appliances in the presence of licensed teachers in a licensed school. School shall not permit more than one demonstration per month. | e. | Similar provision. Barbers permit two demonstrations per month. |
| f. | All services in a school on patrons must be by students only. Instructors shall be allowed to teach and aid students in performing services. | f. | Similar provision. |

Appendix C, continued

COSMETOLOGISTS

- g. Instructors and apprentice instructors must wear a clean, washable uniform with an insignia or badge indicating that they are an instructor or apprentice instructor.
- h. Only one apprentice instructor shall be enrolled in any school of cosmetology during a six month period.¹
- i. Each school shall notify the board within five days following termination, employment or other change in faculty personnel.

7. 201 KAR 12:125 School's Student Regulations

- a. Students may not receive a salary or commission from the school while enrolled.
- b. Students shall not smoke while providing services.
- c. No student can work on patrons in the school following completion of the course of enrollment.

¹The 1982 General Assembly amended KRS 317A.050 deleting the statutory language upon which this provision was based.

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g. Similar provision.

h. No comparable provision.

i. No comparable provision.

7. 201 KAR 14:135 School Attendance Hours

a-s No comparable provisions.

Appendix C, continued

COSMETOLOGISTS

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- d. No student after graduation shall return to any school for further practice in the "pay departments" without the board's permission.
- e. Schools must display conspicuously all student enrollment permits.
- f. School must require students to wear some identification as students.
- g. Schools must require students to wear a clean washable uniform, coat or smock.
- n. Students must be on time for classes and work.
- i. No student may leave during school hours without permission of the manager.
- j. No students shall leave a class during a lecture or demonstration.
- k. Students are not permitted to operate equipment in which there is a known operating hazard.
- l. Student kits with tools and implements must remain on school premises until completion of course or withdrawal.

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- m. Students who transfer from one school to another must notify the school they are withdrawing from and complete an application for enrollment when entering another school.
- n. Students must comply with school rules which do not conflict with KRS Chapter 317A or board regulations.
- o. Owners of schools must include school's refund policy in school-student contracts.
- p. Students may file complaints with the board regarding their school if clear, concise, and signed.
- q. Student dismissals and appeals
(1) Schools may dismiss students for law and rule violations, insubordination, or any reason contrary to licensing standards; (2) students may appeal in writing to the board within ten days after dismissal and be heard thirty days after board receives the request. The Board may sustain or overrule the school, and require reinstatement of the student.
- r. Schools shall report the names and hours of students who withdraw to the board within ten working days.

Appendix C, continued

COSMETOLOGISTS

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- s. If provision "r" is not complied with, the board shall accept a student affidavit regarding hours completed. This process becomes operational ten working days after the board's receipt of a student's request for certification of hours acquired.
- t. Training period for students is 8 hours per day, 40 hours per week maximum, 225 days of attendance minimum for cosmetology students and 37 1/2 minimum for manicurist students. See b.1.a.
- u. All students shall have a 30 minute lunch/rest break each day which is not counted toward the 1,800 hours required.
- v. An informational copy of the statutes and regulations of the board must be provided each student. Copies available through the board.
- w. Students get credit for all hours completed during a five year period only.
- x. No student can attend a school more than 8 hours in one day and no more than 5 days in a week.

t. No school of barbering shall permit or require students to be in attendance more than 40 hours per week.

u-x No comparable provisions.

Appendix C, continued

COSMETOLOGISTS

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8. 201 KAR 12:140 School Fees for Services

- a. Each school must submit to the board a price list for services rendered and any subsequent revisions.
- b. A copy of the prices must be posted in each room of the school where work is done on the public and must be readable at ten feet.
- c. Schools' manufacturing and supply houses are not permitted to charge students additional fees for demonstrations.

9. 201 KAR 12:140 School Equipment

- a. To be licensed a school must have the following equipment: shampoo bowls, facial chairs and supplies, manicure tables, styling chairs, curling irons, covered containers for hairpins, clips, and rollers, covered waste containers, mannequins for ironcurling, fingerwaving, etc., equipment and supplies for sterilization and sanitation. Supplies not limited to: shampoos, color preparations, permanent waves, cosmetics, manicuring equipment.
- b. Schools must be separated and not connected with beauty salons, barber shops, etc.

8. 201 KAR 14:110 School Fees for Services

- a. Similar provision. Barber board approves prices and prices are to cover only the cost of materials.
- b. Identical provision.
- c. Identical provision.

9. 201 KAR 14:110 School Equipment, Plant Layout

- a. Similar provisions.
- b. Identical provision.

Appendix C, continued

COSMETOLOGISTS	BARBERS
<p>c. Each school must have space at least as follows: (1) 36 square feet per student involved in the clinic area; (2) 18 square feet per student involved in the mannequin area; (3) reasonable space in all other areas.</p> <p>d. Each school must have a separate room for demonstration and study equipped with charts, blackboard, chairs with armrests or desks, etc.</p> <p>e. Separate toilets and lavatory for male and female students required.</p> <p>f. Lockers for students required.</p> <p>g. Booths or partitions in work department low enough to permit observation required.</p> <p>h. Reference library required.</p> <p>i. Supply or dispensing room for student experience, as indicated, containing towels, lavatory or sink, labeled bottles, wet sterilizer, dry sterilizer, soap, etc.</p> <p>j. No comparable provision in this section. See 5.g. above regarding codes.</p>	<p>c. 6 square feet per student enrolled is required.</p> <p>d. Identical provision.</p> <p>e. Identical provision.</p> <p>f. Lockers, dressing rooms, and restrooms required.</p> <p>g. Identical provision.</p> <p>h. Very similar provision.</p> <p>i. Very similar provision. Student experience of one to three weeks indicated.</p> <p>j. Board must have certificates from the zoning commission and a licensed electrical firm or electrician indicating safe and proper installation of equipment.</p>

Appendix C, continued

COSMETOLOGISTS

- k. No comparable provision.
- 1. See 5.g. above regarding codes.
- m. No comparable provision.
- n. No comparable provision.

10. 201 KAR 12:150 School Records

- a. Monthly record of entire enrollment must be kept and be available to the board and its employees.
- b. Daily records, signed by instructor, required and showing practical work and clinic work on patrons. Available to board and employees.
- c. Record of all enrollments, withdrawals and dismissals required.
- d. Records must be kept in lockable, fireproof file on the school premises and available to board and employees.

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- k. Schools required to supply or have students supply themselves with sufficient instruments for learning the profession.
- 1. Schools must comply with city and state building codes and zoning commission codes.
- m. Schools must use only standard, nationally advertised, and approved materials and equipment.
- n. Schools advised to make two trade journals available for students in the library.

10. 201 KAR 14:150 School Records

- a. Identical provision.
- b. Similar provisions. Daily records are to be mailed to the board with students' application for examination as an apprentice upon completion of course and graduation.
- c. No comparable provision.
- d. Identical provision.

Appendix C, continued

COSMETOLOGISTS

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| <p>e. Notice of withdrawals and dismissals must be forwarded to board with student permits and certification of hours within ten working days of withdrawal or dismissal.</p> | <p>e. No comparable provision.</p> |
| <p>f. School accountable and responsible to mail to the board by the tenth of each month accurately completed forms supplied by the board showing total hours obtained during the previous month and total accumulated hours.</p> | <p>f. No comparable provision.</p> |

APPENDIX D

REVIEW OF INSPECTION RECORDS
FOR A SAMPLE OF BARBER SHOPS
AND COSMETOLOGY SALONS

January 1980 - December 1981

<u>Last Inspection</u>	<u>COSMETOLOGY</u>		<u>BARBER</u>	
	Number	Percent	Number	Percent
0-3 Months	104	76%	86	68%
4-6 Months	25	18%	25	20%
6-12 Months	5 ^c	4%	9	7%
More than 12 Months	2	2%	6	5%
TOTAL	136	100%	126	100%
 <u>Current Grade</u>				
A	136	100%	117	93%
B	0	0%	6	5%
C	0	0%	0	0%
No Grade ^a	0	0%	3	2%
 <u>Consistency of Grade in Last Two Years</u>				
All A (100%-90%)	135	99%	114	90%
All B (89%-80%)	0	0%	5	4%
All C (79%-70%)	0	0%	0	0%
A, B Mix	1	1%	4	3%
A, C Mix	0	0%	0	0%
B, C Mix	0	0%	0	0%
No Grade ^b	0	0%	3	3%
 <u>Inspections in Last Two Years</u>				
Average		9.2		7.6
Median		8		7
Range		2-25		0-18

SOURCE: Random sample of shops resulting in 10% of 1,262 barber shops and 3% of 4,204 cosmetology salons.

^aNewly opened shops.

^bIncludes 2 new shops and 1 shop not inspected since 1977.

^cIncludes 2 salons inactive as of 2/81 and 4/81.

