

STUDY OF DIVISION 2  
(ANTITRUST, TRADE REGULATION  
AND CONSUMER AFFAIRS)  
FOR THE DISTRICT OF COLUMBIA  
BAR ON  
REGULATION OF COSMETOLOGISTS IN THE DISTRICT OF COLUMBIA

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SUMMARY

Division 2 (Antitrust, Trade Regulation and Consumer Affairs) has sponsored a study of the regulation of cosmetologists in the District of Columbia. The attached draft report is the result of more than one year's work by a study group of Division 2. The Steering Committee has requested clearance to make the report public on January 3, 1985, with a press release, and to circulate it to interested parties.

The study describes the current scheme of regulating cosmetology in the District of Columbia, with particular emphasis on the activities of the Cosmetology Board, and examines several issues relating to the licensing of cosmetologists, handling of consumer complaints, regulation of beauty schools, and the costs and benefits of regulation.

The study concludes with several recommendations that would substantially deregulate the practice of cosmetology, cutting back licensing and testing to the minimum level needed to assure safety for customers. The report recommendations include:

- Beauty establishments would need to have a licensed owner or manager who is responsible for the sanitation and safety of the business.
- Salons would deposit a security bond to ensure the availability of compensation for injured consumers.
- Salons would be subject to periodic sanitation inspections.
- Individual Cosmetologists would no longer be required to undergo compulsory formal training and licensing.
- Complaint handling and enforcement would be shifted from the Board of Cosmetology to the D.C. Department of Consumer and Regulatory Affairs.

As is usually the custom, we request that the draft report be kept confidential until January 3, 1985.

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# DRAFT

December 5 Revision

DIVISION 2: ANTITRUST, TRADE REGULATION AND CONSUMER AFFAIRS  
STUDY OF REGULATION OF COSMETOLOGISTS  
IN THE DISTRICT OF COLUMBIA

Division 2 has conducted a study of the District of Columbia Board of Cosmetology with respect to whether cosmetologists are properly regulated and whether consumers are properly protected. This study is one of several studies of occupational licensing undertaken by Division. The Division examined the records of the Board of Cosmetology and interviewed fourteen people who are knowledgeable about cosmetology: members of the Board, beauty school operators, practicing cosmetologists and D.C. Government employees. This study concludes that cosmetologists are greatly overregulated, considering the benefits achieved by regulation. This study recommends that the regulatory scheme of licensing every individual cosmetology practitioner should be abandoned in favor of a simpler system of licensing, bonding and inspecting beauty salon establishments.

## I. CURRENT REGULATION

In the District of Columbia, beauty shops, cosmetology schools and the practice of cosmetology are regulated under the Cosmetology Practice Act,<sup>1/</sup> enacted in 1938, and the Cosmetology School Regulation.<sup>2/</sup> The practice of cosmetology is defined broadly to include: (1) cutting, styling, coloring or other work on the hair; (2) massaging, use of lotions or other work on the

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<sup>1/</sup> D.C. Code, Section 2-901-2-928 ("Act").

<sup>2/</sup> Regulation No. 74-19 (July 26, 1974) ("Regulation").

scalp, face, neck, arms, bust or upper body; (3) and manicuring.<sup>3/</sup>  
The Board of Cosmetology, composed of cosmetologists appointed by the Mayor, licenses cosmetologists, and may hold hearings and impose disciplinary action, such as cancellation of licenses or censure of licensees. The Board was created in 1938.

The Act requires anyone who practices or teaches cosmetology, or operates a beauty shop or school of cosmetology to obtain a license from the Board of Cosmetology.<sup>4/</sup> The requirements for licensure vary with the type of license sought.

"Operators" (people who practice cosmetology) must be at least 16 years of age, be of good moral character, and have an eighth grade education. They must have completed 1,500 hours of training in at least an eight-month period at a school of cosmetology or have been apprenticed at least eight months with a licensed instructor in a beauty shop. They must pass an examination which, by regulation, includes a written and a practical exam.

To obtain a license to teach cosmetology or manage a beauty shop, applicants must be at least 18 years of age, be of good moral character, and have an eighth grade education. In addition, they must have either: (a) three years experience as an operator, or (b) have at least 2,000 hours of training at a

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3/ Barbers are regulated under a different statute.

4/ Over 5,600 people are licensed to practice cosmetology.

school of cosmetology and six months of experience as an operator. Instructors must pass a written and practical exam, and managers must pass a written exam. Anyone who manages or owns a beauty shop must obtain a manager's license.<sup>5/</sup>

The Act authorizes licensure of manicurists upon completion of at least 100 hours of schooling and passing an examination. The Cosmetology Board issues limited operator licenses for facials, shampoos or manicures with a requirement of at least 125 hours of training in a school of cosmetology, age 16, good moral character, completion of the eighth grade and passing a practical exam.

People who are hired by manufacturers to demonstrate beauty shop supplies are strictly regulated by the Act. They must register with the Board within three days after being hired by the manufacturer. They cannot demonstrate products until they have secured a certificate of registration and license from the Board and have paid a fee. They cannot charge for any materials or services they provide.

The Act also regulates beauty shops. Each shop must have a manager to supervise the operators. It may hire apprentices, but not more than two per shop. It must not have a ratio of less than three operators per apprentice. No one can sleep or

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<sup>5/</sup> If an operator wants to purchase a beauty shop, he or she must either devote three years to working as an operator or at least six months of work and 500 additional hours of schooling.

reside in a beauty shop (or school of cosmetology). Cosmetology may be practiced only in a registered beauty shop, except in emergencies.

Schools of cosmetology are heavily regulated by the Act and the Regulation. The Act requires schools to mandate at least 1,500 hours of training in a period or not less than 8 months to complete course work for all or most of the cosmetology professions. The Regulation adds that operator training must include 1,500 hours of course work in not less than eight consecutive months, manager and instructor training must include 2,000 hours in not less than 11 consecutive months, and manicure, shampoo or facial training must include 125 hours in not less than one month.

The Act requires that schools have adequate equipment to teach its curriculum. The Regulation provides that each school with up to 25 students must have four shampoo bowls, 10 stoves, six dryers, three blowers, two facial chairs, four all-purpose chairs, one vibrator, five manicure tables, and two wet sterilizers. However, no specific equipment is required at schools with more than 25 students. The regulation also requires all schools, whether large or small, to have separate rooms for class work and practical instruction and a separate room for supervised practice.

Schools must keep a daily record of the attendance of each student under the Act. Schools are directed to submit a monthly report to the Board listing each student, the student's



license number, the total number of hours each student attended class and the cumulative hours devoted by each student to date.

Each school must have on staff a person who is licensed to practice medicine or osteopathy. The Regulation directs that this individual must lecture at least once a month on sanitation, sterilization, skin and scalp diseases and personal hygiene.<sup>6/</sup>

The Act requires schools to have a broad curriculum including practical demonstrations and theoretical studies and studies in sanitation, sterilization, and use of antiseptics, cosmetics, and certain electrical appliances. The Regulation provides details on the areas that the theoretical instruction must cover, including muscles, the nervous system, bones, the circulatory system, lymph formation and function, respiration, and digestion. The Regulation also requires students to complete a minimum number of practical operations. Students interested in becoming Managers are generally required to complete a higher number of practical operations than those who are training to become Operators. For example, Operators must complete 30 soap shampoos, and Managers must complete 50. Operators must do 26 finger waves and managers must complete 34.

A school may not permit students to practice cosmetology on the public unless it has disclosed that the operator is a student. No charges can be assessed for these services, unless

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<sup>6/</sup> Nurses and other medical professionals who might provide this instruction at a lower cost cannot be used by the schools to meet this requirement.

the student has completed 500 hours of training. The Regulation requires schools to post a sign in a conspicuous place that says "ALL WORK IN THIS SCHOOL DONE BY STUDENTS." The Regulation also requires schools to maintain a bulletin board posting information on refunds to customers and claims for damage resulting from work done at the school.

Fees are charged by the Board for licenses to practice cosmetology or operate a school. To secure a license by examination, a manicurist must pay \$5 and instructors, managers, operators (including limited shampoo and facial operators) must pay \$10. To secure one of the above licenses without an examination costs from \$6 to \$60. Schools must pay \$150 to obtain a license. The Board reports that it collected \$55,000 in FY 1983 alone in license fees.

Practicing cosmetology in violation of the Act is a criminal offense, punishable as a misdemeanor, with a maximum sentence of a \$300 fine or 6 months in prison. The practice of cosmetology while knowingly suffering from a contagious disease is also a misdemeanor. There are no civil sanctions. The Division was unable to identify any criminal prosecution under this Act, and was told by the District of Columbia Corporation Counsel's Office that none had ever occurred.

## II. ACTIVITIES OF THE COSMETOLOGY BOARD

The Board of Cosmetology is composed of three cosmetologists, who volunteer many hours, most devoted to administering

and grading cosmetology examinations. In addition, the Board members meet monthly to make licensing decisions and to discuss policy.

A. Examinations

The examination for licensing cosmetologists is composed of two parts, a practical exam and a written exam. For the practical exam, applicants actually perform hairstyling operations in front of a Board member, who judges whether the procedure has been performed competently. As a general rule, over 90% of those who take the practical exam are passed by the Board.

The hairstyles performed for the practical exam are not styles chosen by beauty salon customers today. Applicants are judged on their ability to do finger waves, the Marcel-style gelatinized hairstyle popular during the 1930's, and pin curls, commonly seen in the 1940's and '50's. Several members of the Board expressed the view that, while these styles are not worn today, they involve basic procedures of hair manipulation that students should learn as a basis of becoming competent in other styles. This view was echoed by two beauty school managers we talked to, and one salon operator, Bernard LePrinz, who was also chairman of the Cosmetology Board for several years. It is not, however, a universal view. One Board member and several beauty salon managers told us that finger waves and pin curls are not valuable in teaching or predicting a student's ability to successfully style hair today. One beauty school operator said that

he didn't know whether they are valuable, but that his school teaches them because they are on the exam.

Applicants may opt for taking a practical exam on "hot work," a procedure designed for Black hair which involves applying oil to hair and pressing it with hot irons. This procedure is still used by some cosmetologists in local neighborhood shops, where the smell of burning hair and hot oil is unmistakable, but it has not been considered the trend in black hair styles for some time.

There is general agreement that successful performance of these hair styles for the practical examination does not qualify an applicant to be a successful cosmetologist, and that students must undergo extensive further training before they can successfully perform contemporary hairstyles, such as blow-dry cuts, on paying customers. Some students go to cutting schools, some succeed in placing themselves as de facto apprentices to experienced cosmetologists, and others do not gain employment in the field. In general, we were informed, success as a haircutter depends on the student's natural ability to manage hair, his or her sensitivity and taste as to what is appropriate for the individual customer, and his or her ability to work hard and concentrate.

The written exam is a multiple choice test, given in identical form over the years, and drawn from a standard cosmetology text used in the cosmetology schools. The study group

has not seen the written exam.<sup>7/</sup> However, we are informed that the test includes multiple choice questions on sanitation procedures in the beauty shop, how to do a manicure, structure of the head and scalp, scalp disease, and coloring of hair.<sup>8/</sup>

Our informants were unanimous that the cosmetology procedures most likely to entail hazards to customers are bleaching, coloring and permanent waves. These subjects are not touched in the practical exam, and are not emphasized, we are told, in the written exam. While it is commendable that students are taught sanitation and how to recognize scalp disease, these matters are much less of a safety problem than they were decades ago, before commercial cleaning products were available and scalp disease was common.

B. Complaint Handling

Because licensing is required by the statute and the Board considers unlicensed practice of cosmetology to be a major subject of concern, the Board investigates and considers complaints about unlicensed activity. There is no mechanism at the present time for routine inspection of beauty shops to see that

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<sup>7/</sup> The Department of Consumer and Regulatory Affairs, Office of the Director, denied access to the exam on the grounds that the confidentiality of the test would be jeopardized.

<sup>8/</sup> Recently, the Board made a slight change in the format of the exam. A large portion of the exam takers failed, and the school operators complained that the written exam was unfair and should be returned to its old format. The study group takes this to mean that students were coached to pass the written exam by learning the order of the answers rather than the subject matter of the questions.

operators are licensed.<sup>9/</sup> Unlicensed activity comes to the attention of the Board only if someone complains about a specific operator. According to Board records, 26 complaints were made about unlicensed activity in the last five years. For each of these complaints, the Board requested an investigation. An investigator went to the location for the purpose of seeing whether the operator was licensed. On several occasions, the operator merely fled when the investigator appeared at the shop, and that was the end of the investigation. On other occasions, the investigator concluded that cosmetology was not performed at the location, a conclusion that at least one Board member greeted with skepticism. On two occasions, the Board found that unlicensed cosmetology was being practiced, and recommended to the D.C. Corporation Counsel that enforcement proceedings be initiated. Enforcement proceedings did not occur. On a number of other occasions, the Board determined that unlicensed activity had occurred but did not merit prosecution.

We were told by a number of persons interviewed that unlicensed activity is common in the District. One source estimated that 20% of cosmetologists are unlicensed, including many in Georgetown shops. We do not see this as a failing of the Cosmetology Board, necessarily. It is the result of a lack of routine inspections of beauty salons, a lack of quick and competent investigation, and a lack of commitment by the Corporation

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<sup>9/</sup> In the past, the District conducted routine inspections.

Counsel to enforce the licensing requirement. One official in the Department of Consumer and Regulatory Affairs told us that Corporation Counsel could not be expected to enforce the requirement, since their only tool was criminal prosecution, and that unlicensed cosmetology was a low priority compared to other crimes seen in the District.

In addition to complaints about unlicensed activity, the Cosmetology Board considered ten complaints in the last five years from consumers who alleged bad care from cosmetologists. No action was taken in any of these instances. The most extreme complaint involved a beauty operator who allegedly beat the consumer on the head with a hot curling iron in response to her complaint about the hairstyle she received. The customer was admitted to a hospital emergency room where she received x-rays, stitches to the head, a tetanus shot, and pain killers. The complaint was documented by medical records, and a considerable amount of money was paid for medical bills. The Board decided that "no adverse action was warranted" against the operator.<sup>10/</sup>

The other quality of care complaints were about ineffective permanent waves, permanent waves causing hair loss

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<sup>10/</sup> The study group questioned the Board closely about their lack of action on this complaint. One of their responses was that the police had been called to the scene and had not charged the operator because they had not determined that intentional battery had occurred. The standard used in criminal cases is, of course, much more stringent than whether unprofessional conduct has occurred, and the police determination that a crime could not be proven beyond a reasonable doubt did not address the unprofessional conduct.

and baldness, and scalp burns. One person complained about lack of sanitation. In each case, the Board found that action was unwarranted, either because the cause of the baldness spots was undetermined to their satisfaction or because the investigator, looking at the scalp a number of months later, found no permanent damage. In one instance, the investigator, on his own initiative, convinced the cosmetologist to return the cost of the permanent wave to the consumer and to send a letter of apology to the consumer. The Board took no action.

In another instance, the Board held a formal hearing after a consumer complained about getting bald spots from a permanent and other unprofessional conduct by the operator. Because the operator was unlicensed, the hearing was targeted at the manager of the salon for employing an unlicensed operator. It was undisputed that the operator had been unlicensed and was employed by the respondent. However, at the hearing, the Board focused on the conduct of the consumer, not the manager. It noted that she was known as a "complainer." It also noted that there was no visible damage to her hair at the time of the hearing, 2 1/2 years after the incident complained of had occurred, even though it was undisputed that the consumer had had bald spots after the permanent. Thus, although the Board was willing to conduct a formal hearing on this case (the only formal hearing of which we are aware), it recommended no disciplinary action



even though it was undisputed that damage had occurred and that the cosmetologist was unlicensed. We conclude that the Board does not believe that its statute should be strictly enforced.

The professional staff member attached to the Cosmetology Board routinely takes steps to see that consumer complaints get attention. When a written complaint comes to the Board, she sends the salon owner a letter describing the complaint and asking the salon owner to resolve it with the consumer. She believes that, spurred by a letter from the District government, many salon owners do take some steps to resolve the dispute. About ten letters of this type are sent out a year. The Board is not apprised of these consumer complaints unless the consumer insists that it be presented to the Board because the salon owner refused to resolve it.

C. Beauty Schools

Five beauty schools operate in the District. No routine inspection of beauty schools is conducted. After receiving several complaints about the D.C. Beauty Academy, the Board initiated an investigation which was completed August 1982. Four violations of rules for beauty schools were found: (1) an excessive student-teacher ratio, (2) the absence of a physician consultant to the staff, (3) the occurrence of sanitation violations, and (4) three shampoo bowls in working order instead of the required four. No action was taken by the Board as a result of this investigation.

### III. BALANCING COSTS AND BENEFITS

The Division believes that the training and practice of cosmetology is greatly overregulated, taking into account the expense of regulation, the benefits to consumers, and the appropriate role of government in the practice of the profession.

#### A. Training

As noted above, a licensed cosmetologist must be a graduate of an eight-month beauty school course unless he is foreign-trained, and the vast majority of cosmetologists are graduates.

This requirement provides several advantages for consumers. First, it weeds out prospective cosmetologists who are too unstable to persevere through eight months of voluntary schooling and to interact successfully with supervisors and other students. Second, it provides an opportunity for prospective cosmetologists to take the time to learn and discuss subjects that otherwise might not be learned by each one in daily practice, subjects such as bacteriology, physiology, and basic hairstyles that are not now in vogue but may become fashionable again or may be functionally related to current hairstyles.

The beauty course requirement, however, imposes disadvantages. It is costly to prospective cosmetologists. The cost of the basic course runs from \$2,500 at the D.C. Beauty Academy to \$4,500 at Scanners. This cost is borne by the applicant, as is the eight-month period of required attendance.

Moreover, the course does not necessarily prepare graduates to be successful cosmetologists. The purpose of the schools is to prepare students to pass the license examination, not to be accomplished practitioners. As stated by Joseph W. Heath at the D.C. Beauty Academy, after graduation and licensing, the student is responsible for seeking advanced training, at a "cutting school" or elsewhere, that will teach the styles that consumers want.<sup>11/</sup>

While the Division is unaware of any economic analyses relating the beauty school requirement to the cost of a haircut, it seems plain that the beauty school requirement erects a significant barrier to entry into the profession. The Division believes that cost is not counterweighed by advantage to consumers in the quality of care.

In addition, the Division believes that the D.C. government cannot justify the need for regulating the most minute operations of beauty schools, as it has over many years through the regulations of the Board. The D.C. government has little interest in requiring, as a matter of law, how many shampoo bowls a beauty school contains, the physical setup of the facilities, or the student-faculty ratio. We do not believe that the rules are substantively unwise, but rather that they cover matters that are not essential either to the health of the consumer or to the

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<sup>11/</sup> One school, Scanners, claims to teach students current styles as well as basic cosmetology.

training of a cosmetologist. The schools should have the latitude to experiment with different facilities and modes of operation, left to the judgment of students, faculty, and, if appropriate, trade organizations. Evidently, there is already consensus on the nonessentiality of beauty school regulations, in that routine inspections do not occur, and violations, when found, have not been deemed to merit enforcement proceedings.

The District of Columbia school system operates a cosmetology school as part of its vocational high school at the Chamberlain Career Center in Southeast Washington. This school is exempted from the beauty school regulations. According to Elizabeth Gill, cosmetology teacher at the school, most graduates pass the licensing examination and are placed in cosmetology jobs, notwithstanding the fact that the school is not required to comply with beauty school rules, and in some instances, such as student-teacher ratio, would not be in compliance if it were covered. We recommend that regulations for beauty school operations be rescinded, and that the schools comply with the rules on their own volition if the rules are wise and essential for good instruction.

We recommend that beauty school graduation be dropped as a requirement for the practice of cosmetology. Students may well want to attend beauty school and salon owners may well want to hire beauty school graduates only, but it has not been demonstrated that beauty school graduation is essential either to

knowledge of cosmetology skills or the well-being of D.C. consumers. We suggest that the industry explore more apprenticeship training, private learning from texts and short courses in hair-cutting. For those cosmetologists who wish to do the more difficult procedures of permanent waving, straightening and bleaching, special courses could be devised, and required for employment by salon owners.

B. The Operator's License

The Division recommends termination of the cosmetology operator's licensing exam. The subject matter of the exam is not important to the health of consumers. The exam requires time and effort. The Board of Cosmetologists spends at least several days per month on business connected with the giving of hundreds of exams. Having taken the exam, students wait a number of months to hear whether they have passed before being able to continue with their professional plans. These costs would be acceptable if the exams were important to consumers, but we believe that they are not.

The practice of cosmetology can entail hazards to the consumer. The serious hazards are eye injuries from sharp objects such as scissors and from chemical burns in the process of bleaching, straightening, permanent waving, and coloring hair. All of our informants agreed that those chemical processes present safety risks to consumers in the hands of inexperienced cosmetologists. We do not believe that the exams prevent those risks. The written exam, we are told, contains merely a few

general multiple-choice questions on hair chemicals. The practical exam does not cover them at all. Mainly, we were told, the student is left to rely on his or her common sense in reading the labels on hair dyeing products.

We have no evidence that extensive injury from chemicals has occurred. The chemical products used in beauty salons are essentially the same as those sold over the counter directly to consumers. The Board has received few complaints from consumers, and, according to a study by the Washington State Department of Licensing, malpractice losses to cosmetology practice are negligible.<sup>12/</sup> The study group believes that consumers who receive injury through cosmetology practices should have recompense, but the documented injuries are too few to justify that all cosmetologists undergo licensing exams even assuming that the licensing exams adequately tested the applicants' proficiency with hair chemicals.

The examination contains questions on bacteriology and sanitation, subjects that are important for all professions that entail body contact. However, good anti-pathogen cleaning products have become available since the textbooks and the tests were devised, and much of the subject matter is no longer necessary for the individual operator to know. Sanitation procedures in the beauty salons, which all believe to be important, should

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<sup>12/</sup> The study noted that, based on insurers' submissions, cosmetologists' malpractice losses in the District of Columbia, 1979-1982, totalled only \$7,800.

be left to periodic scrutiny by sanitation inspections, a measure that will more economically ensure that cleaning products are routinely used and that the salons are clean.

The written and practical exams do not cover electrolysis at all, a procedure that may, by all accounts, result in infection and scars. The Board does not consider electrolysis to be part of cosmetology, an opinion supported by the Corporation Counsel.

The practical exam tests whether the student can adequately perform the pin curl and finger wave hair styles, or, if he elects, hot iron work with black hair.<sup>13/</sup> We do not believe that the D.C. government has a strong interest in whether or not the cosmetologist can perform the pin curl or the finger wave, or can cut a good haircut. Whether or not the haircut is good is a matter that the marketplace can judge adequately. If one gets a bad haircut, the damage is temporary and is not health-related. The consumer will simply go to another cosmetologist the next time. Cosmetologists who consistently do bad haircuts will be driven out of business for lack of customers.

The practices that do entail hazards for consumers are barely covered by the exams for licensing. The Board members and others have told us that it would be impossible to obtain the

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<sup>13/</sup> Charles Stevenson, Dean at Scanners International Beauty Academy, has pointed out that hot iron work, which he considers outdated, frequently results in hair breaking off at a very short length. This result, apparently, has been accepted as a given by many black consumers over the years.

time and the subjects for applicants to perform bleaching, permanent waves and dyeing for a practical exam. We believe that these procedures must be closely supervised, but at the level of the beauty salon, hour by hour, and that the licensing procedure is ineffectual.

As stated in Section II, above, the Board takes no enforcement action in those instances where consumers do complain about actual damage that has already occurred through permanent waves, dyeing and bleaching. Evidently, this has been true for many years. Thus, consumers are not even protected against future damage from operators who have already been associated with injury.<sup>14/</sup>

In summary, the Board of Cosmetology is not regulating safety matters. It does not ensure that cosmetologists are competent either at chemical procedures or at haircutting. By its own account, its major responsibility is regulating unlicensed activity. Being licensed, however, is not by itself significantly related to safety. Indeed, the Division's investigation

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<sup>14/</sup> The only consumer benefit we found in cases of consumer injury was performed by the Board's professional staff member, who transmits consumer complaint letters to the salon operators with a request that a resolution be made. These informal referrals are a service to consumers because they create some pressure on the salon owners to heed the consumer complaint. However, this function is a simple one and could be performed without the extensive training and licensing scheme now called for by the statute and without a Cosmetology Board.



has found no evidence that unlicensed operations have resulted in more complaints or safety problems than licensed activity.<sup>15/</sup>

We see no serious purpose in the weighty regulation of this profession as presently conducted, and recommend that it be abolished in favor of a simpler, more economical scheme whereby salon owners and managers are held responsible and legally accountable for the health and safety of their own establishments.

#### IV. RECOMMENDATIONS

##### A. Licensing Should Be Limited To Owners And Managers

We recommend that establishments where cosmetology services are provided to the public be required to be licensed in much the same fashion that restaurants are currently licensed in the District of Columbia (see, DCMR Title 23). A registered beauty establishment would meet the following requirements:

1. It would have a licensed owner or manager who is responsible for the sanitation and safety of the business;
2. It would deposit a security bond with the licensing agency to compensate injured consumers;
3. It would have adequate identified assets for covering judgments for consumers;

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<sup>15/</sup> We are also troubled by the notion that cosmetology work performed in one's home, or for a few friends and family is a criminal violation of law.

4. It would appoint the registering agency as agent for acceptance of service of process;
5. It would display a certificate indicating that the manager or owner has passed an examination on sanitation practices and chemical hazards;
6. It would display a notice stating where to complain about sanitation or injury; and
7. It would pass periodic, unannounced sanitation inspections.

Under our proposal, the owner or manager of a registered beauty establishment would be responsible for assuring the quality of services provided by students and more experienced cosmetologists. The owner or manager would also be liable, in the first order, for any injury sustained by a consumer at the beauty establishment.

The bond would be available to compensate consumers who are injured as a result of services provided in a beauty establishment. The amount of the bond for beauty establishments probably should be less than the \$25,000 security bond required of home improvement contractors (see, D.C. Code § 2-502), because the risk of economic loss to consumers is substantially less. Executing against the bond should be one of the remedies available to consumers and also could be used by the District government to collect fines.

This proposal would require the preparation and administration of a test to salon owners and managers on sanitation

procedures and safe chemical procedures, but cosmetologists would not be licensed,<sup>16/</sup> and no one would be tested on hair styling procedures.

B. Procedures for Investigating and Resolving Consumer Complaints Should be Established.

The Board presently lacks adequate resources to process and investigate consumer complaints. It also lacks authority to impose appropriate sanctions and to order relief for the consumer when consumer complaints are determined to be meritorious.

We recommend that the consumer complaint resolution procedures and remedies established under the D.C. Consumer Protection Procedures Act, D.C. Code §§28-3907 et seq., be utilized to resolve complaints about cosmetology services. This may require a change in the definition of "trade practices" under that Act, §28-3901(b).<sup>17/</sup> The Business Inspection Division of the D. C. Department of Consumer and Regulatory Affairs, which now inspects beauty establishments for sanitation violations, could be used to investigate consumer complaints.

C. Imposition of Civil Sanctions Should Be Authorized

We recommend a statute imposing civil sanctions, including fines, and consumer remedies for any cosmetology injury

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<sup>16/</sup> Nor would manicurists and shampooists.

<sup>17/</sup> Consumers could utilize the D.C. Small Claims Court, if it were open during evening and weekend hours. Currently, it is not available to working consumers because it is open during ordinary business hours.

that involves bodily damage. These sanctions would be imposed on the salon owner/manager, who would have responsibility for supervising each employee and guaranteeing the safety of any chemical work. The establishment's license should be revocable for serious or repeated violations of the conditions of the license. The consumer protection division, and not the Cosmetology Board, should make such decisions. <sup>18/</sup>

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18/ Alternatively, we recommend that cosmetologists who perform chemical procedures on consumers be permitted to apply for certification from the Board of Cosmetology. Certification would be granted by the Board after the cosmetologist has passed examinations, written and practical, showing competence in bleaching, straightening, permanent waving and dyeing -- the procedures that are most likely to entail a safety risk. Certification would not be mandatory for conducting these procedures, but would be available for those cosmetologists who found it valuable in obtaining employment and/or attracting customers. The term "certified" could be used as part of the cosmetologist's professional identification. These plans would require that the Board develop a thorough examination on chemical procedures. The practical exam could be conducted in a beauty salon since certification would not be a requirement of employment. However, since many cosmetologists are specialists in haircutting, fewer cosmetologists would have an interest in certification in chemical work. Disciplinary procedures should not be instigated or considered by the Board, but by the consumer protection office.

STANDARD DISCLAIMER

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The views expressed herein represent only those of Division 2: Antitrust, Trade Regulation and Consumer Affairs, of the D.C. Bar and not those of the D.C. Bar or of its Board of Governors.

MEMORANDUM FOR THE RECORD

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SA [Name], NEW YORK

RE: [Name]

[Faded typed text, likely the body of the memorandum]