

Approved: 2-7-00
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on February 4, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
Lisa Montgomery, Revisor of Statutes
Emalene Correll, Legislative Research Department
Hank Avila, Legislative Research Department
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Sandra Gasser, Chair, Kansas Board of Cosmetology
Joe Hancock, Superior School of Hairstyling, Olathe
Laurie Yocum, American Academy of Hair Design, Topeka
Helena Klassen, student, American Academy of Hair Design
Tahara Jackson, student, American Academy of Hair Design
Bob Peel, Beauty Inc., Hutchinson
Mary Lou Davis, Executive Director, Kansas Board of Cosmetology

Others attending: See attached list

Continued Hearing on SB 513—Cosmetology; braiding not considered cosmetology

Sandra Gasser, licensed cosmetologist, salon owner, and Chair of the Kansas Board of Cosmetology, spoke in opposition to **SB 513** and pointed out to the Committee why hair braiding should be regulated by the Board of Cosmetology in order to ensure the health and safety of the general public as noted in her written testimony. ([Attachment 1](#))

Joe Hancock, owner of four cosmetology schools in Kansas, appeared before the Committee in opposition to the bill. He noted that there are real health risks possible such as scabies, lice, ringworm, dandruff or even more dangerous blood borne diseases in regard to braiding when using a comb that has not been properly sanitized. ([Attachment 2](#))

Laurie Yocum, owner of American Academy of Hair Design, also spoke in opposition to the bill, pointing out the health hazards of braiding hair in unsanitary conditions. ([Attachment 3](#)). Ms. Yocum also read testimony from her husband, David Yocum, who also opposed the bill because he felt the general public would be put in a situation where their personal safety and health would be at risk. ([Attachment 4](#))

Others addressing the Committee in opposition to **SB 513** were two students attending the American Academy of Hair Design, Helena Klassen ([Attachment 5](#)) and Tahara Jackson ([Attachment 6](#)), both stressing the importance of sanitary precautions in the field of cosmetology; and Bob Peel, Beauty Inc., who felt that passage of the bill would result in an economic impact in Kansas as noted in his written testimony. ([Attachment 7](#)) Written testimony in opposition to the bill was also submitted by Bill Hancock, Sedgwick County Commissioner ([Attachment 8](#)), Marjo Anderson, KC Area Technical School, ([Attachment 9](#)) and Sally Finney, Kansas Public Health Association, Inc. ([Attachment 10](#)). Mary Lou Davis addressed the Committee briefly expressing her opposition to the bill and stressed the public safety issue.

Written testimony in support of **SB 513** was received from State Representative Tom Sloan ([Attachment 11](#)) and a report from the Kansas Public Policy Institute entitled, "Splitting Hairs Over Cosmetology Laws" ([Attachment 12](#)).

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 7, 2000.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-4-00

NAME	REPRESENTING
Bob Pul	Pul's Salon Services
Kim McIntosh	Xenon Int'l. School
Joe Hancevel	Superior School
Brad Black	Community College Cosmos
Hilary Berry	Community College Cosmos
Charlotte Repp	Community College Cosmos
Chad Frederick	Community College of Cosmetology
Tamara De	Community College of Cosmetology
Tahara Jackson	American Academy of Hair Design
Laurie Yocum	American Academy of Hair Design
David Yocum	American Academy of Hair Design
Helena Klassen	American Ac. of Hair D.
Rogene Handlow	BVC Member Topica
Karl Alegria	You Name it Styling Salon
Vallette Hawn	Bd of Cosmetology
L. Anna Hickman	Bd of Cosmetology
Susan Starting	Ks. Bd. of Cosmetology
Linda A Nelson	Ks Bd. of Cosmetology
Debbie Ludwig	American Academy of Hair Design

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-4-00

NAME	REPRESENTING
Candice Torres	American Academy of Hair Design
Lynn Summer	AAHD
Brandi Johnson	American Academy of Hair Design
Dana Akin	American Academy of Hair Design
Holly Kinnett	American Academy of Hair Design
Martina Tucker	American Academy of Hair Design
Jamie Ann Wood	American Academy of Hair Design
Vicki Helsen	Parade
Asnley Robertson	American Academy of Hair Design
Ralph Lauterwasser	Braiden Maidens
Shirley Leach	Braiden Maidens
Ann Lavaty	Braiden Maidens
Toby Jennings	Braiden Maidens
Jori Edington	American Academy of Hair Design
Jack Howie	KPERS



2708 NW Topeka Blvd.
Topeka, Kansas 66617-1139
Phone: (785) 296-3155
Fax: (785) 296-3002

TESTIMONY ON SENATE BILL 513
BEFORE THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
Thursday, February 3, 2000

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today to discuss Senate Bill 513.

My name is Sandra Gasser. I am a licensed cosmetologist and electrologist and have been a practitioner in these professions for over sixteen years. I am also a salon and clinic owner in Johnson County. Currently I serve as Chairperson of the Kansas Board of Cosmetology.

The mission of the Kansas Board of Cosmetology is to protect the health and safety of the consuming public by licensing qualified individuals and enforcing standards of practice.

This regulatory authority was originally mandated by the legislature in the early 1930's. From the onset of its existence, the law specified that the Board shall conduct examinations for licensure (registration), inspect for "sanitary conditions" of the place of business, and regulate schools and apprentices. (Additionally the law established fees - which was \$7 annually.)

The original intent of this enacted law - health and sanitation - has been the mainstay of the Board's responsibility through eight decades and is even more pertinent today.

As you reviewed Senate Bill 513 you will note that present law defines cosmetology as "the profession of arranging, dressing, permanently curling, curling, waving, cleansing, temporarily or permanently coloring, conditioning or cutting the hair." A cosmetologist is further defined as an individual who practices the profession of cosmetology for compensation. The cosmetology statutes also mandate that cosmetology services be performed within a licensed facility to ensure the health and safety of the general public.

Senate Bill 513 defines braiding and specifies that cosmetology shall not mean braiding. Therefore, individuals who wish to braid hair for compensation would not be under the regulatory authority of the Kansas Board of Cosmetology.

The Board is unanimous in its opposition to this proposed legislation.

Since the inception of the cosmetology definition it has included "arranging" or "arranges." The only revisions to the definition has been updating the terminology to reflect current procedures - the words *singeing*, *dyes* and *bobs* have been omitted. This current definition is comparable to a majority of states that view braiding as inclusive within the cosmetology definition - therefore requiring licensure.

A recent survey of 29 states noted that 21 states require a cosmetology license for braiding hair. Five states require a specific braiders license which may require a curriculum of 300 to 400 hours of training. Please note that each state bordering Kansas requires a cosmetology license to braid hair.

Senate Public Health & Welfare
Date: 2-4-00
Attachment No. 1

As noted earlier - of equal importance for your consideration is the continued safeguarding of the health and safety of the consuming public. Individuals thoroughly knowledgeable in bacteriology, decontamination and infection control can ensure that this responsibility is met.

Individuals may view some infections lightly. *Those are the very individuals who must be safeguarded.* Recent medical studies have shown that head lice is becoming resistant to current treatments. The outbreak of scalp ringworm was so severe in Sedgwick County in 1998 that the Sedgwick County Medical Society enlisted the help of the Kansas Board of Cosmetology and the Kansas Department of Health and Environment. Scalp ringworm is but one serious condition that should not be left untreated. Cosmetologists are educated to identify infections and diseases and in turn cosmetologists advise infected individuals to seek proper medical care and treatment.

Individuals unable to detect or understand the seriousness of such conditions may unknowingly infect the public.

The Baylor University College of Medicine televises a syndicated medical news report titled TV Healthline. A recent segment was aired about the hazards of hair braiding. Dr. John Wolf, a teaching physician in dermatology at Baylor states that it is common knowledge among individuals in his profession that the tension of hair braids may cause considerable damage and/or side affects - including but not limited to breakage of the hair, scarring of the scalp and headaches.

Hair braiding - and the proper braiding techniques - and the necessary health and sanitation practices are taught in each of the 25 licensed Kansas schools. Hair braiding is a component of the curriculum and is included in each major cosmetology textbook and workbook. Numerous materials and texts are devoted to the teaching of varying styles of braids. Instructors routinely attend training seminars which include sessions specific to hair braiding.

Some individuals may argue that cosmetologists fear the competition of unlicensed practice. This is not the case. As a licensed cosmetologist I can assure you our primary concern is the health of our clients.

As you may recall the Board was involved in the continuing education controversy during the 1998 legislative session. Although the CE requirement for licensure renewal was discontinued in 1998, *the legislature believed that it was vital to maintain high standards of practice in health and sanitation.* Therefore it enacted the provision that beginning in July 2000 each cosmetologist must successfully complete a "renewal exam." This exam will address health and sanitation rules and regulations and other current health issues.

The market is demanding more cosmetology professionals. Currently two "new school" licenses are pending. In addition to this, one grant has been submitted to the Kansas State Board of Education for opening a cosmetology school in a local school district's secondary education technical track. In western Kansas a local Chamber of Commerce and partnering salons are approaching the local school district and community college offering in-kind contributions of equipment to open a cosmetology school. If competition is feared these efforts would not be occurring.

Senate Bill 513

Page 3

The Kansas Board of Cosmetology currently has over 26,000 active issued licenses. Of this number over 18,000 are cosmetologists and 3,500 facilities are licensed by the Board. The Board has recently added additional test dates to meet the increased volume of licensure candidates.

Braiding is indeed a unique technique for "arranging" the hair.

Again, I thank you for the opportunity to appear before you today. Mary Lou Davis, Executive Director of the Board and I will be happy to answer any questions you may have.

Senate Committee on Public Health and Welfare
Room 526 South
State Capitol

Honorable chairwoman and members of this distinguished committee, I appear before you today to oppose House Bill 513.

You may believe that I am here for my own financial interest, however that is incorrect. I own 4 Cosmetology schools in the state of Kansas with a total enrollment of approximately 270 students. Whether this bill is passed or not I will continue to have students in my schools. I am here because of my concern for the public who may have their hair braided by someone who is not licensed. The people who are licensed have demonstrated that they at least know how to practice safely. The law requires that I spend a lot of time teaching my students how to prevent the spread of germs and infectious diseases from one client to another.

There are some real health risks possible with braiding although it seems simple enough. At my school in Olathe a student braided another student's hair without supervision and pulled the hair too tight causing swelling and trauma to the scalp and subsequently impetigo. This alone could be a health risk along with improperly sanitized hands and or equipment. The possibilities could include scabies, lice, ringworm, dandruff or even more dangerous is blood borne disease when a comb has come in contact with an open sore on one head and transferred to another because it has not been properly sanitized.

I ask you to not be guilty of an adverse knee jerk reaction to an agency trying its best to guarantee the public a certain standard of safety. Would you vote for similar legislation if someone unlicensed to practice medicine would have been at the Renaissance Festival performing what is commonly performed by Doctors.

I sincerely thank you for your time and consideration.

Joe Hancock
The Superior Company

To: Committee on Public Health and Welfare

REF: Bill 513

Laurie Yocum - Opposition

My name is Laurie Yocum and I am the owner of the American Academy of Hair Design, a Nationally Accredited Cosmetology College located in Topeka, Kansas. Over the last 10 years, I have practiced the profession of Cosmetology as a designer, a salon owner, an educator, and as a school owner.

Working in the school environment, I have trained hundreds of cosmetologists in the proper methods of sanitation, infection control, and client protection. I train students to be able to identify the different types of hair in relation to texture, porosity, density, and elasticity. By the point of graduation, each student is fully trained in the proper methods of sanitation and disinfection methods to ensure quality service and client protection. Each student is also able to identify a variety of contagious disorders and diseases. During the initial client consultation for a service, the scalp is thoroughly examined for abrasions, lesions, as well as, for contagious disorders and diseases.

When performing a hair braiding service, it is very important to be able to identify and understand the texture and elasticity of the client's hair. Texture refers to the diameter of each individual hair strand. Elasticity is the ability of the hair to stretch and return to the original length without breaking. Texture and elasticity vary tremendously from person to person. A service that is safe on one client's hair can easily cause breakage and damage to another client's hair. If a client has virgin hair (hair that has received no chemical services), it can withstand firm pressure and tension during braiding. If a client has chemically abused hair, such as bleach, chemical relaxer, or permanently waved hair, only light pressure and very light tension may safely be used. Both bleach and chemical relaxers are made with chemicals that range from 12-13.5 on the p.H. scale with 14 being the strongest chemical used in the field of cosmetology.

Traumatic Alopecia is baldness in patches and is caused by improper pulling and twisting on the hair. A braided style performed on bleached or chemically relaxed hair by an individual who is not trained to recognize the differences between virgin and chemically abused hair, Traumatic Alopecia will result.

If untrained, unlicensed people are allowed to perform braiding, the client receiving the service will be put at unnecessary risk of contacting a contagious disorder or disease. Cosmetologists are trained to recognize a wide variety of disorders and diseases on the skin, scalp, hair and nails. A few commonly seen disorders and disease are: Pityriasis, Tinea Capitis, and head lice. Pityriasis is the technical term for dandruff. Pityriasis can be spread from person to person through the common use of combs and implements. If left unattended, it can lead to baldness. Tinea Capitis is ringworm of the scalp. If a braid is performed on a client with this condition, the hair will break off from the enlarged hair follicles leaving only stumps of hair. Tinea is caused by a vegetable parasite and is extremely contagious.

Head lice, while not as severe as tinea, is still a major concern when working with the public. The Shawnee County Health Department treated over 500 cases of head lice in 1999. This number only reflects those individuals who actually went to the health department for treatment. At the American Academy of Hair Design, my students and educators identify head lice cases on a daily basis. Professionals trained to identify disorders and disease such as those I have mentioned, understand the importance of referring infected clients to a physician or pharmacist for immediate treatment. If an untrained individual performs a braid on a client with tinea, they are putting the next client, as well as, themselves at risk for contracting the parasite.

Because not all clients with infectious diseases and disorders can be easily identified, the same infection control practices should be used with all clients. This approach is referred to as "Universal Precautions". Infection control procedures include hand washing (before and after each client), the use of personal protective equipment such as gloves when necessary, the proper disinfection of all implements and the

disinfection of the surfaces (countertops) to prevent the transfer of microorganisms from one person to another.

Disinfectants are used to kill microbes on contaminated tools and other non-porous surfaces. Disinfectants are regulated by OSHA and the EPA and must meet guidelines set-forth by these agencies. Disinfectants are not for use on human skin, hair, or nails.

Mar-v-cide is the most commonly used disinfectant for cosmetology related services. It is approved as a disinfectant, fungicide, germicide, and virucide. This means the solution is capable of disinfecting implements, surfaces and also can destroy fungus, germs, and virus causing microbes. In order to work efficiently, all implements must be thoroughly cleaned in soap and water before soaking in the disinfectant solution to avoid contaminating the solution. A minimum of 10 to 20 minutes of complete submergence is required for proper disinfection.

The Occupational Safety and Health Administration established the Hazard Communication Rule in 1970. This act requires chemical manufactures to assess the hazards associated with their products. Material Safety Data Sheets are a result of this law. The MSDS sheets provide all pertinent information on products ranging from content and associated hazards, to combustion levels and storage requirements. Any business or individual using disinfectants or other chemicals during the course of their business must have the MSDS sheets available upon request.

The Environmental Protection Agency must approve all disinfectants used in the United States. Mar-v-cide has been approved in the state of Kansas for use in salon type services for disinfecting implements. As with most chemicals, mixing is required for the proper ratio for disinfecting implements. Mixing must be done in strict accordance with the MSDS directions. Gloves and safety glasses must be worn to prevent accidental exposure to the chemical.

If non-trained individuals are allowed to braid hair for profit, it is unlikely that they have been properly trained in the safety precautions that must be observed when handling a chemical such as Mar-v-cide. It is important to remember that this chemical is designed to destroy germs. Germs exist on living and non-living surfaces. Severe eye and skin damage may occur if contact with the chemical is made prior to mixing the chemical to the correct ratio.

At the Renaissance festival where braiding by non-licensed individuals was performed, there was no running water. The directions and specifications for proper usage of mar-v-cide clearly state that implements must be washed with hot water and soap prior to being submerged in the disinfectant solution. It should also be noted that without running water, thorough hand washing could not occur. This is a vital step in the universal precautions. OSHA and the EPA work to ensure that chemicals are used safely and that the public is not put at risk. When untrained individuals use this product it creates a safety hazard not only to themselves, but also to the general public.

There are currently only two fields required by law to hold a license to physically touch another human being. The first is the medical field. The second is the field of cosmetology. The Board of Cosmetology was first enacted in 1927 to protect the public. If braiding is removed from cosmetology there will be no regulatory agency ensuring the protection of the public. Since 1927, our cosmetology board and the cosmetology industry have worked diligently to ensure that the laws governing the practice of cosmetology are focused on the interest of public safety and health. As more and more chemicals are created to enhance the beauty and care of hair and skin, it becomes even more important that we continue to regulate cosmetology practices. The process of properly training, licensing and regulating this field must continue to ensure we are not putting the public at risk. Removing braiding from the practice of cosmetology would be a step backwards in all our efforts to ensure we are meeting the needs of the public.

It is my professional belief that giving a non-trained person the ability to touch another person is not only foolish; it is dangerous to the public. I ask at this time that you vote no to Bill 513.

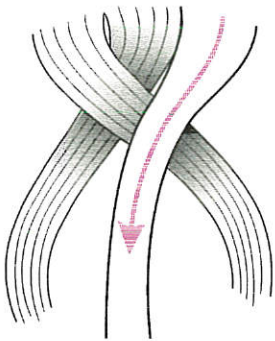
Sincerely,

Laurie Yocum



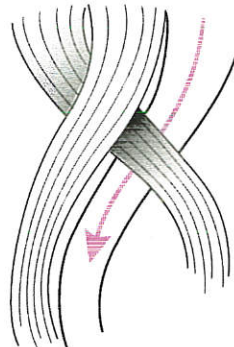
A braid consists of the crossing or weaving of three or more strands of hair.

3-STRAND OVERBRAID

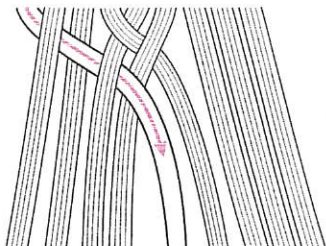


This braid is achieved by alternately crossing the outside strands over the center strand. Note that when this technique is performed on the scalp, it creates an inverted appearance.

3-STRAND UNDERBRAID



With this braid the outside strands are alternately crossed under the center strand. Note how this braid creates a projected appearance when performed on the scalp.



BRAIDING WITH MULTIPLE STRANDS

When incorporating more than three strands within a braided design, strands are alternately crossed over and under one another to create a woven pattern.

SIZE

The size of a braid may vary from large to small, depending upon the size of the strands and/or the sectioning pattern. Keep in mind that although the sectioning pattern varies according to the desired results, the basic braiding technique remains the same.



LARGE SECTIONS
3-strand underbraid



SMALL SECTIONS
many 3-strand
underbraids



MEDIUM SECTIONS
multi-strand braid

POSITION

Braids may be positioned along any line of the celestial axis to achieve a multitude of designs.

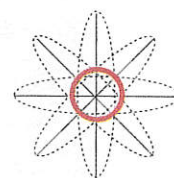
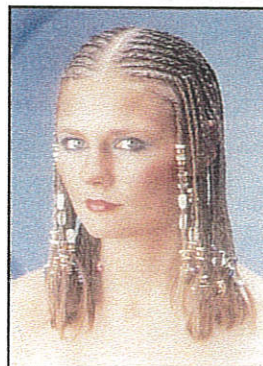
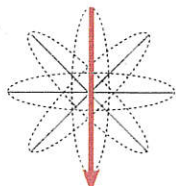
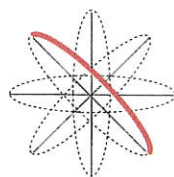
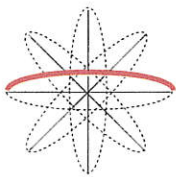




FIGURE 4.34 — Applying high-frequency current with glass rake electrode.



FIGURE 4.36 — Head lice do not jump or fly but run very quickly.



FIGURE 4.37 — Nits are the tiny, yellow-white eggs of lice. They are firmly attached to the hair and difficult to remove. (Courtesy of Hogil)

VEGETABLE PARASITIC INFECTIONS

Tinea (TIN-ee-ah) is the medical term for ringworm. It is caused by vegetable parasites. All forms are contagious and can be transmitted from one person to another. The disease is commonly carried by scales or hairs containing fungi. In swimming pools, and unsanitized articles are also sources of transmission.

Ringworm starts with a small, reddened patch of little scales. Several such patches may be present. Any ringworm condition should be referred to a physician.

Tinea capitis (kah-PEYE-tis), ringworm of the scalp, is characterized by red papules, or spots, at the opening of the hair follicles. (Fig. 4.35) The patches spread and the hair becomes brittle and lifeless. It breaks off, leaving a stump, or falls out, leaving enlarged open follicles.

Tinea favosa (fa-VO-sah), also favus (FAY-vus) or honeycomb ringworm, is characterized by dry, sulfur, yellow, cuplike scabs on the scalp, called scutula (SKUT-u-la), which have a peculiar appearance. Scars from favus are bald patches that may be pink or white and shiny. It is very contagious and should be referred to a physician.



FIGURE 4.35 — *Tinea capitis*. (Courtesy of Robert A. Silverman, MD, Clinical Associate Professor, Department of Pediatrics, Georgetown University)

ANIMAL PARASITIC INFECTIONS

Scabies "itch" is a highly contagious, animal parasitic skin condition caused by the itch mite. Vesicles and pustules can form from irritation of the parasites or from scratching the affected area.

Pediculosis (pe-dik-yoo-LOH-sis) *capitis* is a contagious condition caused by the head louse (animal parasite) infesting the hair of the scalp. (Figs. 4.36, 4.37) As the parasites feed on the scalp, itching occurs and the resultant scratching can cause a secondary infection. The head louse is transmitted from one person to another by contact with infested hats, combs, brushes, or other personal articles. To kill head lice, advise the client to apply sulfur tincture, or other similar medication, to the entire scalp before retiring. The next morning, the client should shampoo with germicidal soap. Treatment should be repeated as necessary. Never treat a head lice condition in the salon or school.

To: Committee on Public Health and Welfare

REF: Bill 513

David Yocum - Opposition

I would like to take this time to present to you my opinion on the issue of removing hair braiding from the cosmetology definition established by our State Board of Cosmetology. I would like to thank-you in advance for taking the time to review this issue, as the decision you make will have a serious impact on the safety and health of our general public.

The argument being made by the "Braiden Maidens" is that the State Board's actions revolve around a "monetary" issue rather than an issue of safety and health for our general public. I would ask at this time that you look closely at the facts of this matter. Anytime the general public is put in a situation that puts their personal safety and health at risk, the matter should be approached professionally and swiftly. Our State Board of Cosmetology took the proper steps to shutdown the unsafe operation as it was putting the general public at risk. The unsafe actions were as follows:

1. The proper sanitation methods were not being used.
2. Barb-I-cide was being used incorrectly according to manufacture directions.
3. No running water was available.
4. Unlicensed and untrained individuals were not taking precautions in examining the hair and scalp of each client for possible contagious diseases.
5. Clients were put in an unsafe situation because they were assuming that the individuals running this operation were trained in all the required sanitation and decontamination procedures.

The point the "Braiden Maidens" are making about this issue being a "monetary" issue is a good approach if they are to believe that our State Senators and Representatives are easily motivated to make quick decisions based on un-truths. It has taken years and efforts on the part of our cosmetology board to establish laws and regulations that ensure the safety of the general public. These laws and regulations should be examined closely so you will be able to make a decision based on an understanding of the original "intent" or "reason" they were established.

I have been involved with safety and health for over 10 years in other areas of business. I have been involved with the cosmetology industry for the last 3 years. It is in my opinion that not only are these laws and regulations appropriate for this industry, they are a necessity to ensure the public's safety and health.

I have listened to the argument being made by the "Braiden Maidens" over the last several months. I even received a phone call from Ms. Jennings when she called our school to discuss the training our students received on "hair braiding" (I was at first unsure of who I was speaking to because Ms. Jennings used a fictitious name, but we eventually came to an understanding of who she was and what she wanted). I answered her questions honestly and invited her to see our college and training methods so she could see first hand the amount of time spent on sanitation and decontamination control. Ms. Jennings response to my stance on the issue is summed up as follows:

Cosmetology colleges were in business for the money.

It is an undisputed fact that all businesses operate to make a profit. This is an easily understood principal of our economic system and really has no bearing on this issue. It should be said, however, that any business that has the purpose of education as their main operation is a direct result of the supply and demand process. There is a need to supply properly educated individuals into the field of cosmetology. The schools fill that need. Their guidelines for education are established through laws provided by this legislature and the board of cosmetology.

I always find it interesting when individuals rally for a cause and when they find no basis for their argument, they attempt to steer people away from the real issue. It then becomes difficult to understand

Senate Public Health & Welfare
Date: 2-4-00
Attachment No. 4

what the real issue is. The real issue is the safety and health of the general public. These individuals need to be trained properly in the methods of sanitation and decontamination. They need to be trained properly in identifying hair and skin disorders and chemically treated hair so they can make an educated decision on the type of hair care their client needs.

I apologize to this board that I do not have any photographers or news media here with us today to take pictures of long hair braids or to write articles lacking in factual information. I also was unable to provide you with a physician who does not know what barb-I-cide is or how it works in providing properly sanitized implements and work areas safe for the general public. All the physicians I have spoke with were educated in the need for a hospital grade disinfectant to ensure any items used from person to person are free from infectious or contagious disease. I believe the best approach to making educated decisions are to present the facts to this board and not unprofessional unethical political coercion through the use of the media and individuals who are uneducated on the topic.

I believe it would be a mistake to allow the "Braiden Maidens" to operate outside our established laws. Although we all enjoy the Renaissance festival, they need to follow the guidelines set by the governing body of this industry including all sanitation and health practices. If we allow them to operate without being trained and licensed appropriately, we are telling everyone who breaks the law, "if you stir-up enough media attention, regardless of the facts, you can get your way."

I would like to thank you for taking the time to hear this statement and would like to ask again that you support our state board of cosmetology in their actions.

Sincerely,

David Yocum

TESTIMONY OF HELENA KLASSEN

Hello,

My name is Helena Klassen; I am 18 years of age and I attend the American Academy of Hair Design. The following is my testimony opposing Bill #513 for deregulating braiding in the cosmetology field.

Due to my training in school, I am able to identify head lice (Pediculosis Capitis) and other contagious hair and scalp diseases. I am able to identify damaged hair and last but not least, I am able to control the spread of infectious diseases through the process of decontamination.

In short, there are three levels of decontamination. The first and most effective level is sterilization. It is named the most effective against microbes because it kills bacteria spores, which are the most resistant form of life on earth. Dentists and surgeons only use this method of decontamination in hospitals. The second level is known as disinfection. It controls microorganisms on nonporous surfaces. Disinfection is the highest level of decontamination, second only to sterilization. Disinfectants are substances that kill microbes on contaminated tools and are not to be used on live tissue. A disinfectant must be a fungicide, germicide, and virucide. At school we use MAR-V-CIDE is a Quaternary Ammonium Compound, also known as Quats. One must have the proper training when diluting MAR-V-CIDE to ensure its peak performance. (2oz per every gallon of water) MAR-V-CIDE also contains Isopropyl alcohol which must be at a strength of no less than 99% or it's ineffective. Even the best disinfectant won't work if used incorrectly. The entire implement must be immersed in the disinfectant solution for a minimum of 10 to 15 min. Prior to soaking, the implement used must be thoroughly cleaned to avoid contaminating the solution. Hair, nail filings, creams, oils, etc will lessen the effectiveness of the disinfectant. Which brings me to sanitation, the lowest level of decontamination used to significantly reduce the number of pathogens found on a surface. Washing hands or removing hair from a brush and then washing the brush with soap and hot water are both examples of sanitation. Sanitation alone, will not remove all the pathogens that harbor on implements and other surfaces.

The following are quotes and statistics from Mary sue Coffee, a Communicable Disease Nurse at the Shawnee County Health Department.

-Myth: Lice prefer dirty hair to clean hair.

Not true, the head louse would rather infest a clean environment because the hair is not as greasy; thus, they can attach to the hair follicle much easier making a tighter bond.

-“Since it's not mandatory for schools to report head lice it is almost impossible to insure others that infected students will seek treatment.”

-“Shawnee County Health Department treated 537 individuals in 1999. This is so incorrect because head lice are becoming a larger problem now than ever before. This is due to the fact that most of the people infected don't ever even see a physician, so over half of the cases aren't reported.”

-“If the head lice is not treated, secondary bacteria infections such as staph develop on the scalp.”

Along with the factual information I've provided, I would now like to share my feelings towards this bill. I understand that, they feel that it's a waste of time and money to go to school if the school doesn't center on braiding. Likewise; however, doesn't every college student in America have to take the general education classes when going to school? Cosmetology is about serving people, how can they safely serve the public without important knowledge provided by school. If they feel this strongly about cosmetology school not going in depth enough on braiding, then why don't they get licensed in cosmetology and get their instructors license and teach extensively on braiding. I have a 26-year-old friend at school that will only be doing updos when she graduates; yet, she still performs all of the other services, never feeling sorry for herself, complaining, or attempting to pass a law deregulating updos from Cosmetology. My point is, is that, we all end up specializing in certain areas, but it's the overall knowledge that we receive in school that gives us our edge and the backbone to success.

My second concern for this bill is... where will it stop. Meaning, if you let these women win, what stops the next person from deregulating something else out of cosmetology. What right do they have to take away my job security, and the job security of ever other cosmetologist in Kansas? Why should I not be furious and irate when women such as these try to pick apart my profession? A profession, which I take seriously and respect. By passing this bill you will send out a message, a message that does nothing but belittle my industry.

As a Politian, reading or hearing my testimony, you should know, understand, and feel my passion when it comes to taking pride and commitment to one's profession.

Bill 513 – Opposition
Tahara Jackson – Cosmetology student

My name is Tahara Jackson, I am a cosmetology student at the American Academy of Hair Design. I would like to thank-you for taking the time to here my view on removing hair-braiding from the definition of cosmetology.

A hair care professional must understand and practice sanitation and safety precautions and know how to recognize physical conditions that should prevent you from performing a service on a client.

To be successful, you must govern cosmetology and you must know the laws, rules, and regulations that govern cosmetology and you must comply with them. By complying, you are contributing to the health, welfare, and safety of your community. State boards of cosmetology and State departments of health require that a business that serves the public must follow certain sanitary precautions.

Contagious diseases, skin infections, and blood poisoning are caused by infectious bacteria or by the use of unsanitary implements (such as combs, brushes, hair pins, clippers, rollers, etc.). It is important to properly disinfect combs, brushes, and other commonly used tools. But you must also sanitize the table or countertop. Any surface can be contaminated if touched by a client and/or staff member. These items must also be sanitized regularly. The disinfectant will not work properly if used incorrectly. All implements should be thoroughly cleaned in hot, soapy water before soaking to avoid contamination of the disinfecting solution. An implement must have soaked ten to twenty minutes before using.

As stated yesterday, “One should be able to walk into a facility and know if it’s clean or not.” Bacteria are minute; one-celled vegetable microorganisms found nearly everywhere. One cannot see bacteria or germs with the naked eye. Bacteria can only be seen with the aid of a microscope. Fifteen hundred rod-shaped bacteria will barely cover the head of a pin, so it’s foolish to assume that the average consumer can know if a comb has been properly disinfected.

Draping is also a part of sanitation. We are not allowed to work on a client without a neck strip and a cape. If there are no neck strips, we are not allowed to use the same cape on another client. The neck strip or towel is for sanitary reasons, to prevent contact of the cape with the client’s skin. Therefore, since we are worried about the client and not our own financial gain, we need to drape. Draping protects the client’s skin and clothing. Consideration for the client is one of the most important responsibilities as a cosmetologist.

A trained hair care professional knows that repetitive traction on the hair by pulling or twisting can cause Traumatic Alopecia (patchy or diffuse hair loss). The earlier the hair loss is detected, the higher the chances to successfully treat it. Cosmetologists are in a position to help detect early signs of hair loss and recommend appropriate treatment. As students, we are taught the amount of tension to use on each client’s hair, for instance, light tension would be used for a client with chemically treated hair versus firm tension for normal hair. We are also taught the three-strand, five-strand, and seven-strand braid.

It was also mentioned on yesterday that “they allow their client to comb through

Senate Public Health & Welfare
Date: 2-4-09
Attachment No. 6

their hair, in return the stylist also combs through it". By having the client comb through their hair, you are allowing them to contaminate the comb, as their hands are not sanitized. When the comb is returned to the stylist, the comb once again contaminates his/her hands.

We have a responsibility as hairstylists, to protect our clients from harm, as well as our own health and safety. That's why it is important that we follow the manufacturer's instructions and not take shortcuts when it comes to sanitation and disinfection.

To: Sen. Sandy Praeger, Chairperson, Public Health and Welfare Committee and Members of the Committee

From: Bob J. Peel

Date: February 4th, 2000

Subject: Senate Bill 513

Testimony on Senate Bill 513

1) Industry Expert

- a) Peel's has been in business in Kansas for 55 years
- b) I have been in the salon industry for 26 years
- c) Dual degree in Management and Marketing from KSU
- d) Past president of BBSI (Beauty and Barber Supply Institute)
- e) Created Disaster Relief Foundation for the Beauty Business
- f) Organized beauty industry boycott of businesses selling diverted merchandise
- g) Created a \$3,000,000 scholarship fund (ACE) to attract new people to the industry
- h) Presently raising \$1,000,000 for breast cancer research through cut-a-thons in salons

2) Long Range Economic Impact of Bill

- a) If this bill is ever expanded, it could lead to an economic disaster
- b) All major beauty manufacturers have contracts with their wholesaler and salons.....to sell to licensed cosmetologists only!
- c) Why do they do this?
 - i) Lawsuits with diverters like Drug Emporium, Osco, and Shopko. Their lawsuits are based on requiring professional recommendations by licensed cosmetologists to purchase their product.
- d) Matrix is owned by Bristol-Myer Squibb
 - i) Their attorneys told me they would cease doing business in Kansas if licensing was eliminated
- e) In my opinion, Redken, Paul Mitchell, Grahm Webb, Tigi, Scruples, and Wella would also cease doing business in Kansas also.

3) Economic financial impact?

4) Public Relations impact

- a) 1/3 of all Kansas residents visit a beauty salon in Kansas

FROM: BILL HANCOCK
Commissioner - Second District
BOARD OF COUNTY COMMISSIONERS
SEDGWICK COUNTY, KANSAS

COUNTY COURTHOUSE • SUITE 320 • 525 NORTH MAIN • WICHITA, KANSAS 67203-3759
TELEPHONE (316) 383-7411 • FAX (316) 383-8275

TO: Sen. Sandy Praeger, Chairperson, Public Health and Welfare Committee
and Members of the Committee

FROM: Bill Hancock, Sedgwick County Commissioner - Second District

DATE: February 3, 2000

SUBJECT: Testimony - Senate Bill 513

Dear Chairperson Praeger and Members of The Public Health and Welfare Committee:

Senate Bill No. 513 redefines cosmetology to exclude the braiding of hair. This simply means that all personal services associated with cosmetology are to be licensed except that service of interweaving three or more strands of hair.

I know you certainly have many issues this 2000 legislative session to consider. The least of which is the legality of hair braiding in a salon, or at an event such as a Renaissance Fair. However, there are very good reasons for licensing the personal service of hair braiding; primarily, to insure sanitation.

Performing personal services on members of the public requires that all sanitation procedures be followed. Without proper sanitation, contaminations of an unsuspecting public will occur as sure as night follows day. To insure sanitation, those performing braiding must be trained in proper sanitation technique and procedure. This has been the first reason, among many, that the Board of Cosmetology has traditionally included braiding, as well as other manipulations of the hair, in the definition of cosmetology. To exclude hair braiding from the definition of cosmetology will almost guarantee the spread of a number of parasitic diseases to members of the public receiving that service.

As a commissioner, I am responsible for the public health of Sedgwick County. I am also familiar with the necessity of sanitation while performing personal services such as braiding. It will not serve the public well to exclude hair braiding from the definition of cosmetology.

Thank you.

BILL HANCOCK

BH/jc

Senate Public Health & Welfare
Date: 2-4-00
Attachment No. 8



**Kansas City, Kansas
Area Technical School**

2220 North 59th Street
Kansas City, KS 66104
(913) 627-4100 FAX 627-4109

February 2, 2000

Senator Sandy Praeger
Capital Office
Rm.#128-5
Topeka, KS

Dear Senator Praeger:

In reviewing Senate Bill No. 513 by Committee on Public Health and Welfare, Sec.1. KSA 1999 Supp.65-1901, I am in complete disagreement of the amended Bill. My specific disagreement is with " 'Cosmetology' shall not mean braiding." This statement, ironically, is preceded by "...manicuring, pedicuring or sculpting nails; or performing any other beautifying process on any person."

If all services currently covered by State Board of Cosmetology are considered part of the beautifying process, and require licensed by all individuals performing said services, how can braiding suddenly be removed from the established definition of cosmetology?

What cosmetology services currently under provision of licensing will be repealed in the future? Perhaps within a few years Kansas won't need a governing Board to oversee health and welfare standards within the industry. With the help of our own Board we can 'sunset' our profession and its standards of excellence and education, and anyone can serve the public under the pretense of being a cosmetologist.

The far reaching consequences of this amended Bill to the Cosmetology industry as a whole, including not only individuals and professionals will have a severe negative affect.

Please take a hard look at long range consequences your current legislation can and will adversely affect Licensed Cosmetology professionals.

Yours truly,

Marjo B. Anderson, Cosmetology Instructor

c.c. Louri Yocum, Am. Accd.. Of Hair Design Bd. Member, St.Bd. of Cosmetology

Senate Public Health & Welfare
Date: 2-4-00
Attachment No. 9

**KANSAS
PUBLIC
HEALTH
ASSOCIATION, INC.**

KANSAS PUBLIC HEALTH ASSOCIATION, INC.

AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION

215 S.E. 8TH AVENUE

TOPEKA, KANSAS 66603-3906

PHONE: 785-233-3103 FAX: 785-233-3439

E-MAIL: kpha@networksplus.net

Testimony submitted by
Sally Finney, M.Ed.
Executive Director
February 4, 2000

The Kansas Public Health Association is a professional organization representing individuals and organizations throughout the state. KPHA is dedicated to promoting sound public health policy and programs in Kansas. I am submitting this testimony on behalf of our members and ask that you oppose Senate Bill 513.

Any time you have one human being touching another, there is a risk of transmission of disease. Hair braiding is no exception. Unsanitary practices place unwitting members of the public at risk for a variety of infections and infestations from such unsavory agents as head lice, scabies, and ring worm.

KPHA is concerned that this committee, in its quest to right a perceived injustice, must not rush through statutory changes that could place the public's health at risk. In short, we ask that any revisions you make in this state's current cosmetology statutes be made with careful deliberation so that such changes would require appropriate training of hair braiders to educate them about proper infection control technique.

Thank you for your consideration of this matter.

Senate Public Health and Welfare
Date: 2-4-00
Attachment No. 10

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

TOPEKA

HOUSE OF
REPRESENTATIVESSTATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924

772 HWY 40
LAWRENCE, KANSAS 66049-4174
(785) 841-1526

Testimony on SB 513 – Concerning Hair Braiding and the Board of Cosmetology

Madam Chairman and members of the Committee, thank you for the opportunity to provide testimony on SB 513. I regret that I cannot be present during the hearing, but the House Utilities Committee Chairman desires my presence in that committee. Please contact me if you have questions about this issue or my testimony.

The Lawrence legislative delegation became interested in the hair braiding issue when the Braiden Maidens contacted us regarding the Board of Cosmetology's action to prevent braiding at the K.C. Renaissance Festival. As the Braiden Maiden testimony reports, they or their predecessors have been braiding at the Festival for 23 years without a complaint from the public or the Board of Cosmetology. Our delegation is convinced that the Maidens, so as to protect the health and safety of the public, utilize appropriate sanitation practices. The Maidens' testimony addresses their sanitary techniques, essentially the same ones employed by cosmetologists.

The legislative delegation was provided in greater detail the same chronological history of the relations between the Braiden Maidens and Board of Cosmetology that is contained in the Maidens' testimony. Several items seem particularly salient:

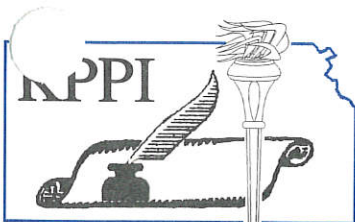
1. The Board took over 4 months to respond to the Maidens' March letter which was prompt response to the Board's March 4 "show cause" letter. That delay was inexcusable.
2. The Board's July letter threatened to fine the Maidens if they braided hair without a license. In response to my telephone call to Ms. Mary Lou Davis, I was informed that the Board does not have the authority to issue temporary or off-premises licenses. In effect a "Catch 22" situation existed as the Braiden Maidens could not be licensed by the Board to work at the Renaissance Festival, but the Board or staff were requiring the Maidens to be licensed.
3. The Board's July order for the Maidens not to work at the 1999 Festival arrived after the women had paid their Festival fees, ordered supplies, and otherwise prepared to fulfill their contractual arrangements with the Festival organizers.
4. The Board staff person who inspected the Braiden Maidens' booth and operations apparently failed to follow normally expected State agency investigatory practices. The Board conference call hearing on the Maidens' activities also may not have conformed to standards.

5. A District Court Judge ruled that the Board had exceeded its authority and permitted the Braiden Maidens to resume working at the Festival. While the Judge did not rule on the merits of the case, my layperson's perspective is that the Judge would not have so ruled if he believed the Board's case had merit.
6. The Douglas County legislative delegation, in a show of bi-partisan support, encouraged the Braiden Maidens to file a Claim Against the State to recover their attorney fees. Most of the delegation wrote supporting letters to the Committee. The Committee refused to hear the matter because the Board of Cosmetology will not drop its lawsuit against the Maidens. The Board's action necessitated the Maidens renewing their countersuit against the Board.
7. I have spoken with five licensed cosmetologists who are personally known to my wife or me. Each described the course work and testing they passed to become licensed; they also described the continuing education courses they take. Each cosmetologist stated that hair braiding was not a significant (or in some cases any) part of his or her curriculum. Each stated that she/he did not feel that the Maidens "threatened" their livelihood or professionalism. Furthermore, they unanimously stated that no threat exists to the public health or safety because the Maidens do not color, treat with chemicals, or cut hair. While five cosmetologists do not constitute the basis for a scientific survey, it is indicative of a lack of concern by the cosmetology professionals and belief that the braiders are not cosmetologists.
8. The legislative delegation members have received countless telephone calls, street side conversations, and correspondence from the public stating that those individuals do not view hair braiding as a threat to public health.
9. Because the Douglas County delegation believes that the Braiden Maidens and other hair braiders have not violated the tenets of the Cosmetology Act, we sought the introduction of SB 513 to clearly establish that hair braiding is not cosmetology.

Efforts by several delegation members to facilitate resolution of the impasse between the Board of Cosmetology and the Maidens have been rebuffed by the Board's staff. I do not question that legitimate public policy interests exist to require that hair braiders follow sanitary procedures. However, I side with the District Court Judge that permitted the Braiden Maidens to resume work, the Renaissance Festival staff that wants the Maidens to work, and the public that very vocally has spoken in favor of the hair braiders.

If you perceive no threat to the public health and safety from hair braiding, I ask your support of SB 513.

Again, I regret that my committee schedule precludes my attendance before you. Please do not hesitate to contact me or any other member of the Douglas County legislative delegation about our perception of the issues and support for clarifying that hair braiding is not part of the Board of Cosmetology's responsibility.



KANSAS PUBLIC POLICY INSTITUTE

P.O. Box 1946 • Topeka, KS 66601-1946

Ph: 785/357-7709 • Fax: 785/357-7524

Executive Director

Bob L. Corkins

Board of Trustees

Martin K. Eby, Jr.
(Chairman)
Wichita

E.C. Brookover
Garden City

John W. Cooper, Ph.D.
Wichita

Kent Garlinghouse
Topeka

John Humphreys
Shawnee Mission

Eric Jager
Kansas City

George Pearson
Wichita

Gerrit Wormhoudt
Wichita

Trustee Emeritus

Merrill Werts
Junction City

Research Advisory Council

Doug Houston, Ph.D.
(Chairman)
University of Kansas

William W. Beach
Heritage Foundation

Tom W. Bell
Cato Institute

Henry N. Butler, Ph.D.
University of Kansas

Myron Calhoun, Ph.D.
Kansas State University

Keith W. Chauvin, Ph.D.
University of Kansas

Joe Cobb, Ph.D.
Heritage Foundation

James D. Gwartney, Ph.D.
Florida State University

Felix R. Livingston, Ph.D.
Foundation for Economic
Education

Phil May, Ph.D.
Wichita State University

James C. Miller III, Ph.D.
George Mason University

Walter Williams, Ph.D.
George Mason University

Gene W. Wunder, Ph.D.
Washburn University

November 11, 1999

Splitting Hairs over Cosmetology Laws

By Erin Rooney

Senate Public Health and Welfare
Date: 2-4-00
Attachment No. 12

Splitting Hairs over Cosmetology Laws

By Erin Rooney¹

Executive Summary

Regardless of the intent motivating the 1927 Kansas Legislature to create the Board of Cosmetology, the Board has become a bureaucratic conglomeration of rules and regulations that extend far beyond the Board's mission to protect public health. Mandates by the state have become burdensome and irrelevant, entrepreneurship has been stifled and freedoms have been trampled. "Splitting Hairs over Cosmetology Laws" explains why the State needs to get out of its citizens' hair and allow individuals, such as the Kansas City Renaissance Festival's Braidin' Maidens, the freedom to make an honest living.

Background

Debra Jennings and Wendy Moody never imagined that braiding hair could be considered to be a crime. Especially since a "Braidin' Maidens" booth had been a part of the Kansas City Renaissance Festival for almost 23 years. Jennings and Moody had worked the booth for more than five years each and never had any reason to believe they were criminals.

But the state of Kansas had other ideas. During the second weekend of the fall festival in 1999, the Kansas Board of Cosmetology threatened the women that harsh fines might have to be paid and jail time might have to be served if they did not shut down their booth. Not wanting to go to jail, the women closed up shop and waited for a judge to rule in their case.

The State claimed that the women were illegally operating without cosmetology licenses and were not working in a licensed salon. Braiding hair, as the State defines, is an act of cosmetology, and the braiders were acting as black-market cosmetologists.

This obscure case begs the question of when is government too much government. The Board of Cosmetology's mission is "to regulate the profession of cosmetology, tattooing, and body piercing, including the cosmetology schools and tanning facilities in order to protect the health and safety of the licensees and the general public."² But with the Braidin' Maidens' case, one can clearly see that this is an issue of protecting economic turf, with only a minimal intent of protecting public health.

Many Mandates are Burdensome and Irrelevant

Most mandated hours of course work at cosmetology schools have nothing to do with health and safety, but, instead, teach other skills useful for practicing this career. A licensed

¹Erin Rooney is Director of Policy Studies for the Kansas Public Policy Institute.

²*The Governor's Fiscal Year 2000 Budget Report*, volume 2, p. 513

cosmetologist must complete 1,500 hours of education, including classes in “care of hair pieces”, “blow dry styling” and “salesmanship.”³ These state-mandated classes go far beyond the Cosmetology Board’s mission.⁴

In addition, schools must devote 50 hours of class time simply educating cosmetology students about the laws regulating their profession. To put this into the perspective of a cosmetology student, one hour of class time, each day, for **10 weeks**, is spent learning Kansas cosmetology statutes. If the government didn’t regulate beauticians so heavily, then, instead of spending 50 hours learning statutes, students could actually be learning how to style hair.

It should also be noted that just because someone has a cosmetology license does not ensure customers will be happy with haircuts they receive. A cosmetology license merely means

An individual can learn how to protect life, save life and end life in less than a third of the time that is required to become a beautician.

that the beautician has managed to jump through multiple hoops and spent a lot of money while jumping. Kansas statutes dictate that police officers only need 320 hours of training, emergency medical technicians are required to have 90 hours of training, and a hunting license may be obtained after only a 10- or 12-hour course. Thus, an individual can

learn how to protect life, save life and end life in less than a third of the time that is required to become a beautician.⁵

There are hundreds of provisions in Kansas laws that regulate the cosmetology profession. A few examples demonstrate these laws’ negative impact.

Regulations Stifle Entrepreneurship

The Braidin’ Maidens quickly learned that the laws governing cosmetology in Kansas do not exist solely to protect public health. In fact, as the statutes currently read, if the Maidens had continued braiding hair at the Renaissance Festival for free, they would not have been in violation of the statutes, for the laws only apply if they charge money for their services. What better evidence could there be that the law’s real purpose is economic protectionism?

A number of years ago, Monique Landers, then a 15-year-old student, opened her own hair-braiding business. While she won an award from the National Foundation for Teaching

³Kansas Board of Cosmetology, “Cosmetology School Course Curriculums,” Approved by the Kansas Board of Cosmetology on September 26, 1995, effective June 1, 1996.

⁴*The Governor’s Fiscal Year 2000 Budget Report*, volume 2, p. 513

⁵Kansas Statutes Annotated (K.S.A.) 74-5604a, Kansas Administrative Regulations (K.A.R.) 109-11-7, and an October 18, 1999, interview with the Kansas Department of Wildlife and Safety.

Entrepreneurship for her ingenuity, the State quickly shut her down for practicing without a cosmetology license. According to Monique, "The [Kansas Cosmetology] Board won't let me earn my own money, and won't let kids like me learn how to take care of ourselves. I think owning your own business is a way of being free. If more kids knew they could grow up to be their own boss they would be more responsible and cause less trouble."⁶

If the Board were simply trying to secure health and safety, then Landers could have stayed in business. Many individuals who perform traditional African-styled hair braiding have also run into obstacles in other states. Because cosmetology schools do not teach this form of hair braiding, it should lead Landers to support the eloquent statement by a businessman concerned with similar regulatory burdens in Washington, D.C. "How do you license what you do not teach? How do you teach what you do not know?"⁷

Requirements Harm Both Customers and Cosmetologists, Physically and Financially

Current laws forbid beauticians from being able to visit the residence of a typical senior citizen to cut their hair.⁸ According to Kansas law, a beautician can work only in a licensed beauty shop, nursing home, hospital, or in a rest home or invalid's home. In the middle of January, many Kansans, especially the elderly who live in their own homes, might prefer to stay inside rather than fight the weather in order to get to their beauticians. As one beautician observed, "I think there's a lot of business out there. I get a lot of phone calls, not only from invalids, but from people who don't want to get out of their homes."⁹

In the middle of January, many Kansans, especially the elderly who live in their own homes, might prefer to stay inside rather than fight the weather in order to get to their beauticians

This regulation also prevents cosmetologists from serving their most lucrative potential client base: men and women who would be willing to pay for the convenience of having someone visit their home or office.

Remove Barriers to Entry

A person wanting to become a beautician can expect to pay thousands of dollars for his or

⁶*Cascade Update*, Cascade Policy Institute, Spring/Summer 1994, p. 2

⁷"Hair Raising," *The Wall Street Journal*, September 1, 1999. Taalib Din-Uqdah is a Washington, D.C. businessman who testified in the United States District Court of Southern California for the case of Cornwell vs. Hamilton. Case No. 97 CV 138-B (POR). Uqdah's quote may be found in footnote 50 of the Judge's ruling.

⁸K.A.R. 69-6-3.

⁹September 1, 1997 interview.

her training. Not including books, supplies or enrollment fees, tuition at a Kansas cosmetology school can cost up to \$8,500.¹⁰ (Remember, the education at a licensed school is mandated by the state of Kansas.) Over the next six years, he or she would also have to pay the Board for a state examination (\$50), a license application fee (\$45), two license renewals (\$90), and possibly two statutes and regulations books to help with the renewal exams (\$10).¹¹ The Board also has authority to increase these fees, subject to limitations.¹²

In contrast, an individual who pursues an Associate's Degree at a community college in Kansas can spend less money on tuition for their two-year program. Furthermore, most Kansas students could complete roughly three full years at a public university for the same price.

Licensure Can Harm Minorities

“Written licensing examinations for cosmetology licenses appear to be biased against the less educated, apprentices, blacks, and non-natives.”
— *Economist Stuart Dorsey*

In 1923, laws that once excluded females from cutting hair were lifted and women flooded into the workforce as hairdressers.¹³ While this was a major victory, some analysts conclude that licensing boards continue to have a discriminatory impact on the profession. According to Dan Hogan, “The reliance of licensing laws on academic credentials — which are less frequently

possessed by the poor, minorities, women, and the elderly — has a deeply pernicious and discriminating effect, especially when evidence does not exist that these credentials are positively correlated with competence.”¹⁴

Randall Collins reached a similar conclusion. “Since the evidence strongly shows that credentials do not provide work skills that cannot be acquired on the job, and that access to credentials is inherently biased toward particular groups, the case for discrimination is easy to

¹⁰Telephone survey conducted of a random sampling of cosmetology schools in Kansas by the Kansas Public Policy Institute on October 28, 1999. Tuition costs ranged from \$2,400 to \$8,500. This information, according to the office of the Board of Cosmetology, is not kept on record by the State.

¹¹K.A.R. 69-11-1, and interview with the Kansas Board of Cosmetology October 27, 1999.

¹²1998 Kansas Session Laws, Chapter 160, substitute for House Bill No. 2609.

¹³*Litigation Backgrounder*, Institute for Justice, May 2, 1997, p. 4.

¹⁴Hogan, Dan B., *The Regulation of Psychotherapists, vol. I: A Study in the Philosophy and Practice of Professional Regulation* (Cambridge, Mass.: Ballinger Publishing, 1979), p. 282, in Stanley J. Gross, “Professional Licensure and Quality: The Evidence,” *Cato Institute Policy Analysis No. 79*, December 9, 1986, p. 27.

make.”¹⁵ Economist Stuart Dorsey took this one step further and concluded specifically that, “written licensing examinations for cosmetology licenses appear to be biased against the less educated, apprentices, blacks, and non-natives.”¹⁶

Licensure vs. Freedom

The state is also denying individuals the ability to seek an honest living. As U.S. Supreme Court Chief Justice John Marshall concluded in *Ogden v. Saunders*, “Individuals do not derive from government their right to contract, but bring that right with them into society.”¹⁷ In contrast to Chief Justice Marshall’s view that individuals are free to do business with whomever they please, the state cosmetology board routinely denies Kansans the freedom to contract.

In a case similar to that of the Braidin’ Maidens, JoAnne Cornwell, a professor at San Diego State University who practices a form of ethnic hair braiding, was shut down by the

“Individuals do not derive from government their right to contract, but bring that right with them into society.”
— Chief Justice John Marshall

California Board of Cosmetology for braiding hair without a license. In Professor Cornwell’s case, however, a U.S. District Judge corrected this stifling of freedom when he said that California’s requirement of 1,600 hours “may work against the State’s professed interest in health and safety,”¹⁸ a ruling very similar to Chief Justice Marshall’s.

While on the surface the Cornwell case may sound like a minor victory for hair braiders, it could have truly profound Constitutional implications, for the ruling held that there was no *rational basis* for California’s onerous cosmetology regulations.¹⁹ The *rational basis* test is a critical gauge in deciding whether a law complies with the Constitution’s Due Process requirement. Historically, the Supreme Court has been extremely liberal in giving state legislatures the benefit of doubt that there is *some good* reason for their enactments. Perhaps now, humble hair braiders can bring some meaningful limit to this presumption.

¹⁵Collins, Randall, *The Credential Society: An Historical Sociology of Education and Stratification* (New York: Academic Press, 1979), p. 198, in Stanley J. Gross, “Professional Licensure and Quality: The Evidence,” *Cato Institute Policy Analysis No. 79*, December 9, 1986, p. 27.

¹⁶Dorsey, Stuart, “The Occupational Licensing Queue,” *Journal of Human Resources 15*, 1980, p. 432, in Stanley J. Gross, “Professional Licensure and Quality: The Evidence,” *Cato Institute Policy Analysis No. 79*, December 9, 1986, p. 27.

¹⁷As noted by Blevins, Sue A., “The Medial Monopoly: Protecting Consumers or Limiting Competition?” *Cato Institute Policy Analysis No. 246*, December 15, 1995, p. 6.

¹⁸United States District Court, Southern District of California, *Cornwell vs. Hamilton*, Case No. 97 CV 138-B (POR). Ruling by United States Senior District Judge Rudi Brewster.

¹⁹*Ibid.*

Who Does the Board Represent?

While regulatory agencies, such as the State Cosmetology Board, are intended to protect consumers, the reality is very different. For example, membership on the Kansas Board of Cosmetology consists of four licensed cosmetologists, two of whom must operate a salon, a licensed tattoo artist or body piercer, and only two representatives of the general public.²⁰ Not even one public health official has a seat on the board that is supposed to protect the health and safety of the general public.

This lopsided board membership is another way for individuals already in the industry to restrict others from joining their profession. Nobel prizewinning economist Milton Friedman and his wife Rose explain this phenomenon in their book *Free to Choose*. “The justification offered is always

the same: to protect the consumer. However, the [real] reason is demonstrated by observing who lobbies at the state legislature for the imposition or strengthening of licensure. The lobbyists are invariably representatives of the occupation in question rather than of the customers.”²¹

Not even one public health official has a seat on the board that is supposed to protect the health and safety of the general public.

This point is further emphasized by the case of the Braidin’ Maidens. It was not a physically-harmed customer who made a complaint to the board against the hair braiders; rather, it was a licensed cosmetologist who complained that the women were violating state law because they didn’t have a license and weren’t operating in a licensed salon.²²

Empower Cosmetologists and Their Customers

A 1987 review of a wide variety of occupational licensing restrictions found that “licensing has, at best, a neutral effect on quality and may even cause harm to consumers.”²³ When it comes to hair care, surely Kansans are equipped to take care of themselves. As two Arizona researchers observed, “walking down the aisle of any drugstore — or driving past any high school — shows the wide range of dyes, gels, creams and appliances you can use on your hair without the supervision of a government employee or even an adult.”²⁴

²⁰The Governor’s Fiscal Year 2000 Budget Report, volume 2, p. 513.

²¹Friedman, Milton and Rose, *Free to Choose* (New York: Harcourt, Brace, Jovanovitch, 1979), p. 240.

²²Peterson, John L., “Legal snag ensnares hairdressers: Without license, Braidin’ Maidens close festival booth,” *The Kansas City Star*, Metropolitan Edition, p. B1. Also confirmed by telephone interview with Mary Lou Davis, Executive Director of the Kansas Board of Cosmetology, October 11, 1999.

²³Young, S. David, *The Rule of Experts: Occupational Licensing in America* (Washington: Cato Institute, 1987), p. 53.

²⁴Franciosi, Robert and Nelson Llumiquinga, “Don’t Raise the Bridge, Lower the Water: How Government Can Really Help Small Entrepreneurs,” *Goldwater Institute Perspective*, February 21, 1997, p. 2.

The Board of Cosmetology may have been created with good intentions, to protect the people of Kansas. The board has evolved, however, into a bureaucratic conglomeration of rules and regulations that go far beyond protecting public health and safety. At the bare minimum, cosmetology laws need to be trimmed so that their authority doesn't extend beyond public health issues. The best plan, though, would be to give authority back to Kansans by eliminating the 1927-era cosmetology board and getting the government out of its citizens' hair.²⁵

²⁵The author would like to thank Bryan Riley and Dr. Myron Calhoun for their assistance with this study.