



To: Senate Public Health and Welfare Committee
The Honorable Mary Pilcher-Cook, Chair

From: Chiquita C. Coggs, Executive Director
Kansas Board of Cosmetology

Date: February 11, 2016

Re: Proponent Testimony on SB 345 – Cosmetology Act

Chairman Pilcher-Cook and members of the Committee, thank you for the opportunity to appear today on behalf of the Kansas Board of Cosmetology to offer proponent testimony on SB345.

SB 345 would make several amendments to the Cosmetology Act.

New Section 1 – Nail Technologist Reciprocity

This addition sets forth requirements for licensure by reciprocity for nail technologists. Currently, an out-of-state applicant for a nail technology license is eligible for licensure in Kansas if they have received 350 hours of training in another state. The applicant is not required to be licensed in the state they received training. The vast majority of out-of-state applicants are not licensed in another state. In addition, the majority of these applicants are also Kansas residents, but are applying as out-of-state applicants because they did not receive training in Kansas. The applicant is also required to take the Kansas written and practical examination.

On numerous occasions, the Board has denied applications for licensure where it was discovered that the individual never attended the out-of-state training program, but instead paid for a diploma. In other cases, the Board suspects this activity, but does not have enough evidence to prove that the individual did not complete the training.

Requiring that the applicant have an active license in order to obtain a Kansas license would make it less desirable for individuals to purchase diplomas if, in addition to purchasing the diploma, they must also travel to that state and complete practical and written examinations.

This section would also continue to require that applicants take a written and practical examination in Kansas because many states administer examinations in other languages. The ability to read English and follow instructions in English is very important. Nail technologists must be able to read chemical labels, communicate with their clients and understand Kansas law.

In Florida, Jenny Howell won a \$2M judgment against Regal Nails when the superficial nerves in her feet were so damaged by a callous remover that she had to have a spinal stimulator surgically implanted so that she could walk. During Ms. Howell's pedicure at Regal Nails, she tried to communicate several times to the nail technician that her feet were burning, but the technician did not understand English. The technician was not able to read the instructions on the product label either, which called for a 45 second application. The product remained on Ms. Howell's feet for over 25 minutes causing permanent damage.

The public is at great risk if individuals who have never received training are able to obtain a license in Kansas. In addition, these individuals must be able to demonstrate proficiency in reading and understanding the English language to ensure that the public is protected.

Section 2 – K.S.A. 65-1902 – Prohibited Acts

This change would add to the list of prohibited acts allowing or employing an individual to practice without a license. This change would also make a technical correction to the wording of statutory amendments.

Currently, allowing unlicensed practice is a violation of K.S.A. 65-1909(a)(1) which states, “No person shall employ or allow an individual to engage in any activity for which a license is required pursuant to K.S.A. 65-1902, and amendments thereto, unless such individual holds a currently valid license issued to such person.” If a person violates K.S.A. 65-1909(a)(1), the Board must bring an action in District Court in order to impose discipline.

Practicing without a license is included in the list of prohibited acts found in K.S.A. 65-1902. However, allowing unlicensed practice was not originally included in the list of prohibitions. The reason it is important that it is also included in K.S.A. 65-1902 is because the Board may carry out discipline through the Kansas Administrative Procedure Act and is not required to file an action in District Court.

The Board’s ability to carry out discipline under the Kansas Administrative Procedure Act in a timely, cost-efficient manner is extremely important in protecting the public from salons that hire unlicensed individuals.

Section 3 – K.S.A. 65-1904b – Cosmetologist, Esthetician & Electrologist Reciprocity

Changes to this section would broaden reciprocity options for out-of-state applicants for a cosmetologist, esthetician or electrologist license.

While the Board seeks to restrict reciprocity options available to nail technologists, the same restrictions are not necessary for cosmetologists, estheticians or electrologists. Fraudulent training documents are not prevalent in these professions.

Currently, an applicant for licensure in Kansas as a cosmetologist, esthetician or electrologist must have the number of training hours required for licensure in this state regardless of the number of years the individual has been licensed. Current hour requirements in Kansas are as follows:

Cosmetologist – 1,500 hours

Esthetician – 1,000 hours

Electrologist – 500 hours if obtained in a licensed school or 1,000 hours if obtained in a clinic.

Training hours required for each profession vary from state to state. The Board regularly receives applications from out-of-state practitioners who have been licensed for many years that cannot be licensed in Kansas because of a deficiency of hours.

Ms. Gabrielle Tallberg, a cosmetologist licensed for 15 years in Colorado wants to continue her profession in Kansas. Ms. Tallberg received 1,450 hours of training in Colorado. Kansas requires 1,500 hours.

Likewise, Mr. David Demaree, a cosmetologist licensed for 32 years in Missouri wants to continue his profession in Kansas. Mr. Demaree received 1,224 hours of training in Missouri. Kansas requires 1,500 hours.

Under current law, Ms. Tallberg and Mr. Demaree would have two options:

1. Enroll in a Kansas cosmetology school, complete the additional hours required for licensure in Kansas and take a twenty question open book examination; or
2. Take the practical and written examinations.

The changes to this section would allow an individual who does not have the number of hours required for licensure in this state to qualify if they meet one or more of the following requirements:

1. They have been licensed for at least five years;
2. They have taken a written and practical examination administered by a national testing company; or
3. They are an active member or veteran of the armed forces or the spouse of such individual.

These changes would reduce the licensing burden for those individuals moving to Kansas.

Section 4 – Posting Apprentice License

This change would add a requirement that each apprentice's license must be posted in each school, clinic or establishment.

Currently, all practitioners and establishments are required to post their license. This section would require that each apprentice must also post their license. This requirement would allow Board inspectors and consumers to verify an individual's licensure.

Section 5 – Apprentice Applications

This amendment would change the requirement that an application for an apprentice license be received by the Board within 15 days of enrollment to requiring that an apprentice obtain a license prior to providing services to consumers.

Currently, all applications must be received by the Board within 15 days of enrollment. The application is provided by the school and completed by the school as part of the enrollment process. If an application is late, the Board changes the student's date of enrollment to 15 days prior to receipt of the application. This results in all hours the student completed prior to the new start date being denied. The most frequent reason that applications are submitted late is due to staff errors or oversight. The Board is unable to discipline the school for filing a late application because legally the apprentice is required to obtain the license.

The Board believes that the intent of this statute was to make sure that each apprentice is licensed prior to providing consumer services in the school salon. The Board would like to require that the apprentice obtain a license prior to providing services to consumers instead of within 15 days of enrollment. The Board would be able to verify that all students are obtaining licensure before providing services by requiring that their licenses be posted in the school (see Section 4 above).

We are available to respond to any questions. Thank you for your consideration.