



INSTITUTE FOR JUSTICE

December 19, 2022

Honorable Ann C. O'Reilly
Administrative Law Judge
Office of Administrative Hearings
State of Minnesota
PO Box 64620
Saint Paul MN 55164-0620

Re: OAH Docket Number: 65-9013-36457
Revisor's ID Number: R-04456
36457 MN Board of Cosmetology's Intent to Adopt Administrative Rules

Objections: Rule: 2110.0550 Credit Toward Another License
Rule: 2110.0580 Eyelash Technician Training
Rule: 2110.0590 Eyelash Testing

Dear Judge O'Reilly:

This Court is to be commended for the patient, probing, and professional way that it managed the public hearing of December 12 about the proposed changes to the referenced rules.

This Court's approach and role are important. Regulatory capture is the original sin of administrative agencies. Unfortunately, there is no baptism to cleanse board members of this intrinsic problem. There is only periodic penance when officials are confronted in the rulemaking process.

I write to confirm the Institute for Justice's support for the recommendations that Senator Bill Ingebrigtsen and Representative Mary Franson submitted on October 13.¹ I acknowledge happily that the Minnesota Board of Cosmetology committed to adopt the legislators' recommendations on page 10 of Exhibit L.²

¹ Letter from Sen. Bill Ingebrigtsen and Rep. Mary Franson to Hon. Ann C. O'Reilly, ALJ, Office of Administrative Hearings (Oct. 13, 2022) OAH Docket No.: 65-9013-36457 Exhibit I, 5-18, www.tinyurl.com/Cosmo-Exhibit-I

² Minn. Bd of Cosmetology, Amendments to rules governing schools, instructors and school managers - Chapter 2110, OAH Docket No.: 65-9013-36457, Exhibit L, 10, www.tinyurl.com/Cosmo-Exhibit-L

Finally, I wish to provide to this Court the source of one of my comments. I testified that the Minnesota Board of Cosmetology is the only cosmetology board in America that requires that a board position be filled by a cosmetologist who is “recommended by a professional association of cosmetologists, nail technicians, and estheticians.”³

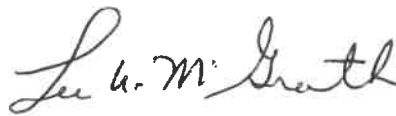
This is a finding of Stephen Slivinski of the Pacific Legal Foundation.⁴ He writes that governors normally appoint members to licensing boards but:

In some states ... there is a more restrictive and consequential requirement: The governor may only choose board appointments from a list of candidates provided by the **professional associations of the industries**. Some statutes explicitly name which of these incumbent special interests shall provide the lists or require that the lists contain only three or four names.⁵

Mr. Slivinski’s national survey of the boards reveals that Minnesota is unique in the explicit level of regulatory capture of its cosmetology board. Only Minnesota requires that a board position be filled by a cosmetologist recommended by a professional association.

Thank you again for the opportunity to testify on December 12 and submit this additional testimony.

Sincerely,



Lee U. McGrath
Managing Attorney

cc: Senator Bill Ingebrigtsen
Representative Mary Franson
Mr. Stephen Slivinski

³ Minn. Stat. § 155A.20(a)(1) (2022)

⁴ Stephen Slivinski, Pacific Legal Foundation, *Choosing the Gatekeepers: How Special Interests Control Licensing Board Nominations* (Nov. 10, 2022) 5, www.tinyurl.com/Choosing-The-Gatekeepers

⁵ *Id.* at 2 (emphasis added).

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Senate

State of Minnesota

October 13, 2022

Honorable Ann C. O'Reilly
Administrative Law Judge
Office of Administrative Hearings
State of Minnesota
PO Box 64620
Saint Paul MN 55164-0620

Re: OAH Docket Number: 65-9013-36457
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Rule: 2110.0580 Eyelash Technician Training
Rule: 2110.0590 Eyelash Testing

Dear Judge O'Reilly:

We are state legislators who authored legislation¹ codifying into Minnesota law the education that the state requires to be a licensed eyelash technician. Specifically, our bill—which became state law on May 20, 2016—established a requirement of **14 hours** of training. See [Appendix 1](#).

The Board of Cosmetology is violating this law. In 2017, the Board promulgated rules requiring **38 hours** of training. The Board now wishes to perpetuate its ultra vires action in the proposed changes.

We submit this comment and ask this Court to address the Board's mistake. This Court should recommend amended rules that require the enacted total of **14 hours** as presented in [Appendix 2](#). Only then will the Board's rules be consistent with state law.

¹ Representative Franson introduced HF 2389 on March 8, 2016. Senator Ingebrigtsen introduced SF 2802 on March 17, 2016. The Senate bill became the primary version when the Senate passed the bill on May 10 and sent it to the House. On May 12, the House concluded the bills were identical. The House passed SF 2802 on May 16, 2016 and sent it to Governor Mark Dayton. Governor Dayton signed SF 2802 into state law on May 19, 2016. The Secretary of State filed the law on May 19, 2016. The law was recorded in Chapter Number 127.

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BACKGROUND

A chronology of our legislation in 2016 and the Board's subsequent rulemaking reveals the illegal action that the Board took in 2017 and proposes to continue in its petition before you.

In 2016, the Minnesota Legislature enacted our bill, SF 2802. The bill first defined eyelash extensions² and differentiated a lash technician's work from that of cosmetologists, estheticians, and advanced practice estheticians.³

Section 8 of the enacted bill limited the Board's authority. Specifically, the bill stated that "*[a]ny educational or training requirements developed by the board regarding eyelash technicians must be 14 hours.*"⁴

Unfortunately, the Board ignored this mandate. The next year, the Board promulgated Rule 2110.0580. It requires an applicant to complete not 14, but 38 hours of curriculum. That 38-hour rule, on its face, violates Minnesota law.

The Legislature and Governor Dayton were thoughtful and explicit in establishing the requirements for lash technicians. We balanced the competing interests by requiring training that (a) protects consumers from the risks of eyelash work and (b) avoids an excessive barrier-to-entry for existing and aspiring technicians. We explicitly included the 14-hour requirement on final two lines of SF 2802.⁵

The Board's Executive Director even agreed to the 14-hour requirement.

During the legislative process, the 14-hour requirement was the compromise that Senator Ingebrigtsen negotiated between the Executive Director and a passionate constituent. Our constituent would have preferred a complete exemption from licensing,⁶ but she supported Representative Franson's bill in the House that required only 8 hours of training.⁷

Ultimately, the 14-hour requirement was agreed upon. It was a meaningful compromise.

² SF 2802 Lines 1.9-1.13 codified the definition that is now Section 155A.23 Subd. 4a. "Eyelash extensions' means the application, removal, and trimming of threadlike natural or synthetic fibers to an eyelash, and includes the cleansing of the eye area and lashes. Eyelash extensions do not include color agents, straightening agents, permanent wave solutions, bleaching agents, applications to the eyebrow, or any other cosmetology service."

³ SF 2802 Lines 1.16-1.19 codified the difference. It is now Section 155A.23 Subd. 4b. "An 'eyelash technician' is any person who is not a cosmetologist, esthetician, or advanced practice esthetician who, for compensation, performs the personal services limited to eyelash extensions as defined in subdivision 4a only."

⁴ SF 2802 Lines 4.31-4.32.

⁵ *Ibid.*

⁶ Seeking to meet the constituent's preference for an exemption from any licensing, Senator Ingebrigtsen offered an amendment in the Senate Committee on State and Local Government. The amendment reflected the fact that the constituent was an established provider who offered her services safely and without complaint for many years. Although the amendment failed, it led to the 14-hour compromise.

⁷ First engrossment of HF 2389 Lines 5.17-5.19 stated "The educational and training requirements must not exceed eight hours. The board may use the expedited rule process in Minnesota Statutes, section 14.389."

WISDOM OF MINNESOTA'S TRAINING REQUIREMENT

The Board's 2017 rule did more than encroach on the Legislature's sole authority to write law. Its rule requiring **38 hours** creates an excessive barrier that does not provide greater benefits for consumers and does not reflect the desires of the beauty industry.

The Legislature weighed the costs and benefits of regulating this new occupation.

Specifically, legislators found that the government's interest in protecting health and safety can be met well within the **14 hours** required by state law. That is because the predominate risks are well-defined. They relate to the use of adhesives and tools near a customer's eyes. See Appendix 3. We concluded that a technician can certainly learn the skills necessary to manage those risks in roughly a two-day class.

Our conclusion is supported by the fact that most states do not license eyelash technicians.⁸ Instead, the eyelash technician industry relies on private certification to protect consumers' health and safety.

Private suppliers of eyelash extensions, adhesives, and related products are concerned about the safe and proper use of their merchandise. They have this concern for many reasons, including maintaining their reputations. As a result, leading providers require would-be customers to earn the supplier's private certification **before** they can buy the products.

Two leading suppliers are *NovaLash*⁹ and *Lavish Lashes*.¹⁰ Each requires a one-day class to gain the necessary skills to safely use their products. Their **8-to-8.5-hours** classes are enough to teach technicians basic safety. That training is less than the **14 hours** that we enacted in Minnesota law in 2016. It also demonstrates how the Board's **38-hour** requirement dramatically departs from the balance of competing interests struck in the **14-hour** statutory requirement. The Board now aspires to repeat that departure in this petition.

⁸ Only Connecticut, Minnesota, and Texas have enacted a specialty license for eyelash technicians. See Verified Petition at 5, *Davis v. Okla. State Bd. of Cosmetology & Barbering*, Case No. CV-2022-1729 (Okla. Dist. Ct. Sept. 7, 2022), available at <https://ij.org/wp-content/uploads/2022/09/Petition.pdf> (last visited 9/30/2022). But seven states completely exempt lash technicians from licensing. They are Alaska, Arizona, Indiana, Kentucky, Maryland, Mississippi, and Wisconsin.

⁹ NovaLash Extension Certification, For Beginners Classic Training, www.novalash.com/get-certified (last visited Sept. 30, 2022).

¹⁰ Lavish Lashes, Basic Certification Course, www.lavishlashes.com/lash-extensions-training-class-one-day (last visited Sept. 30, 2022).

REBUTTING THE BOARD'S POSSIBLE ARGUMENT

The Board may argue that it has been granted authority to promulgate administrative rules related to licensing requirements under Section 155A.30, Subd. 2 of the Minnesota Statutes. That statute states:

*The board shall by rule establish minimum standards of course content and length specific to the educational preparation prerequisite to testing and licensing as cosmetologist, esthetician, and nail technician.*¹¹

This argument would fail for two reasons.

First, the bill states explicitly on Lines 1.16-1.19 that an eyelash technician is ***not*** "a cosmetologist, esthetician, or advanced practice esthetician" on whom the statute focuses.

Second, the enacted version of SF 2802 did not include a delegation of rulemaking authority to the Board. This was a change from the version that Representative Franson introduced as HF 2389 on March 8, 2016. Specifically, Representative Franson's introductory version and first engrossment included the following explicit delegation of rulemaking of authority to the Board:

4.3 Sec. 9. RULEMAKING

4.4 The Board of Cosmetologist Examiners shall adopt rules governing the eyelash
4.5 technician license, including educational and training requirements, scope of practice, and
4.6 the conditions and process of issuing and renewing the license.

On April 1, 2016, Representative Franson amended her bill and removed the Section 9 from the second engrossment of her bill. The Senate version never had a delegation of rulemaking authority. The Senate bill, SF 2802, was the version that legislators passed, and Governor Dayton signed.

For these reasons, the Board would be mistaken if it argued this Court should recognize it as having rulemaking authority to create a ***38-hour*** license instead of the ***14-hour*** license we enacted.

¹¹ Minn. Stat. § 155A.30, subd.2 (emphasis added).

CONCLUSION

Like all government agencies, the Board of Cosmetology should follow the law. Unfortunately, it failed in 2017 and wishes to continue that failing today.

Before this Court, the Board repeats its past violation and aspires to perpetuate it. The Legislative branch and the Executive branch already have acted. Given the many issues legislators face, we should not be required to act again. Along with fellow legislators and Governor Dayton, we set the requirement at 14 hours of training. That is the law. The Board's rules should reflect it, not offend it.

This Court has the responsibility and authority to uphold the law. We respectfully ask this Court to correct the Board's error by recommending the changes to the proposed rules in Appendix 2.

Thank you.

Sincerely,

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SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2802

(SENATE AUTHORS: INGEBRIGTSEN, Rosen and Johnson)

DATE	D-PG	OFFICIAL STATUS
03/17/2016	5097	Introduction and first reading Referred to State and Local Government
03/29/2016	5307	Comm report: To pass and re-referred to Finance
04/28/2016	6532a	Comm report: To pass as amended
	6538	Second reading
05/10/2016	6878	Special Order
	6878	Third reading Passed
05/17/2016	7057	Returned from House Presentation date 05/18/16
05/20/2016	7264	Governor's action Approval 05/19/16
	7264	Secretary of State Chapter 127 05/19/16 Effective date 05/20/16

1.1 A bill for an act
 1.2 relating to cosmetology; regulating eyelash extension services; amending
 1.3 Minnesota Statutes 2014, section 155A.23, by adding subdivisions; Minnesota
 1.4 Statutes 2015 Supplement, sections 155A.23, subdivisions 8, 18; 155A.27,
 1.5 subdivision 1; 155A.271; 155A.29, subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 155A.23, is amended by adding a
 1.8 subdivision to read:

1.9 Subd. 4a. Eyelash extensions. "Eyelash extensions" means the application,
 1.10 removal, and trimming of threadlike natural or synthetic fibers to an eyelash, and includes
 1.11 the cleansing of the eye area and lashes. Eyelash extensions do not include color agents,
 1.12 straightening agents, permanent wave solutions, bleaching agents, applications to the
 1.13 eyebrow, or any other cosmetology service.

1.14 Sec. 2. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
 1.15 to read:

1.16 Subd. 4b. Eyelash technician. An "eyelash technician" is any person who is not
 1.17 a cosmetologist, esthetician, or advanced practice esthetician who, for compensation,
 1.18 performs the personal services limited to eyelash extensions as defined in subdivision 4a
 1.19 only.

1.20 Sec. 3. Minnesota Statutes 2015 Supplement, section 155A.23, subdivision 8, is
 1.21 amended to read:

1.22 Subd. 8. Manager. A "manager" is any person who is a cosmetologist, esthetician,
 1.23 advanced practice esthetician, or nail technician practitioner, or eyelash technician

2.1 practitioner, and who has a manager license and provides any services under that license,
2.2 as defined in subdivision 3.

2.3 Sec. 4. Minnesota Statutes 2015 Supplement, section 155A.23, subdivision 18, is
2.4 amended to read:

2.5 Subd. 18. **Practitioner.** A "practitioner" is any person licensed in the practice of
2.6 cosmetology, esthology, or nail technology services, or eyelash technology services.

2.7 Sec. 5. Minnesota Statutes 2015 Supplement, section 155A.27, subdivision 1, is
2.8 amended to read:

2.9 Subdivision 1. **Licensing.** A person must hold an individual license to practice in
2.10 the state as a cosmetologist, esthetician, nail technician, eyelash technician, advanced
2.11 practice esthetician, manager, or instructor.

2.12 Sec. 6. Minnesota Statutes 2015 Supplement, section 155A.271, is amended to read:

2.13 **155A.271 CONTINUING EDUCATION REQUIREMENTS.**

2.14 Subdivision 1. **Continuing education requirements.** (a) ~~Effective August 1,~~
2.15 ~~2014,~~ To qualify for license renewal under this chapter as an individual cosmetologist,
2.16 nail technician, esthetician, advanced practice esthetician, eyelash technician, or salon
2.17 manager, the applicant must ~~attest to the completion of~~ complete four hours of continuing
2.18 education credits from ~~an accredited school or a professional association of cosmetology~~
2.19 a board-approved continuing education provider during the three years prior to the
2.20 applicant's renewal date. One credit hour of the requirement must include instruction
2.21 pertaining to state laws and rules governing the practice of cosmetology. Three credit
2.22 hours must include instruction pertaining to health, safety, and infection control matters
2.23 consistent with the United States Department of Labor's Occupational Safety and Health
2.24 Administration standards applicable to the practice of cosmetology, or other applicable
2.25 federal health, infection control, and safety standards, and must be regularly updated so as
2.26 to incorporate newly developed standards and accepted professional best practices. Credit
2.27 hours earned are valid for three years and may be applied simultaneously to all individual
2.28 licenses held by a licensee under this chapter.

2.29 (b) Effective August 1, 2017, in addition to the hours of continuing education credits
2.30 required under paragraph (a), to qualify for license renewal under this chapter as an
2.31 individual cosmetologist, nail technician, esthetician, advanced practice esthetician, or
2.32 salon manager, the applicant must also ~~attest to the completion of one four-hour~~ complete a

3.1 four credit hour continuing education course from a board-approved continuing education
3.2 provider based on any ~~or all~~ of the following within the licensee's scope of practice:

- 3.3 (1) product chemistry and chemistry chemical interaction;
3.4 (2) proper use and maintenance of machines and instruments;
3.5 (3) business management, professional ethics, and human relations; or
3.6 (4) techniques relevant to the type of license held.

3.7 Credits are valid for three years and must be completed with a board-approved provider of
3.8 continuing education during the three years prior to the applicant's renewal date and may be
3.9 applied simultaneously to other individual licenses held as applicable, except that credits
3.10 completed under this paragraph must not duplicate credits completed under paragraph (a).

3.11 (c) Paragraphs (a) and (b) do not apply to an instructor license, a school manager
3.12 license, or an inactive license.

3.13 Subd. 1a. **Product sales or marketing prohibited.** The marketing or sale of
3.14 any product is prohibited during a continuing education class receiving credit under
3.15 subdivision 1.

3.16 Subd. 2. **Continuing education providers.** (a) Only a board-licensed school of
3.17 cosmetology, a postsecondary institution as defined in section 136A.103, paragraph
3.18 (a), or a board-recognized professional association organized under chapter 317A may
3.19 be approved by the board to offer continuing education ~~curriculum~~ for credit under
3.20 subdivision 1, paragraph (a). Continuing education ~~curriculum~~ under subdivision 1,
3.21 paragraph (b), may be offered by a:

- 3.22 (1) board-licensed school of cosmetology;
3.23 (2) board-recognized professional association organized under chapter 317A; or
3.24 (3) board-licensed salon.

3.25 ~~The An approved school and or professional association may offer online and~~
3.26 ~~independent study options~~ Web-based continuing education instruction to achieve
3.27 maximum involvement of licensees. Continuing education providers are encouraged to
3.28 offer classes available in foreign language formats.

3.29 (b) Board ~~authorization~~ approval of a any continuing education provider ~~under~~
3.30 ~~paragraph (a)~~ is valid for one calendar year and is contingent upon submission and
3.31 preapproval of the lesson plan or plans with learning objectives for the class to be offered
3.32 and the payment of the application fee in section 155A.25, subdivision 1a, paragraph (d),
3.33 clause (11). The board shall maintain a list of approved providers and courses on the
3.34 board's Web site. The board may revoke authorization of a continuing education provider
3.35 at any time for just cause and the board may demand return of documents required under
3.36 subdivision 3.

4.1 Subd. 3. **Proof of credits.** The continuing education provider shall provide to
4.2 licensees ~~who attend a class a receipt to prove~~ documentation establishing completion
4.3 of the class. Licensees shall retain proof of their continuing education credits for one
4.4 year beyond the credit's expiration. The continuing education provider shall retain
4.5 documentation of all licensees ~~successfully~~ completing a class and the licensee's credit
4.6 hours awarded by them for five years.

4.7 Subd. 4. **Audit.** The board shall conduct random audits of active licensees
4.8 periodically and continuing education providers to ensure compliance with ~~continuing~~
4.9 education the requirements of this section. To initiate an audit, the board shall notify
4.10 an active licensee of the audit and request proof of credits earned during a specified
4.11 period. The licensee must provide the requested proof to the board within 30 days of an
4.12 audit notice. The board may request that a ~~school or professional association continuing~~
4.13 education provider verify a licensee's credits. The ~~continuing education~~ provider must
4.14 furnish verification, or a written statement that the credits are not verified, within 15 days
4.15 of the board's request for verification. If the board determines that a licensee has failed to
4.16 provide proof of necessary credits earned during the specified time, the board may revoke
4.17 the individual's license and may deem the individual an expired practitioner subject to
4.18 penalty under section 155A.25 or 155A.36. The board staff shall have unrestricted free
4.19 access to any provider's class offerings to verify adherence to the provider's approved
4.20 lesson plan and overall compliance with this chapter.

4.21 Sec. 7. Minnesota Statutes 2015 Supplement, section 155A.29, subdivision 1, is
4.22 amended to read:

4.23 Subdivision 1. **Licensing.** A person must not offer cosmetology services for
4.24 compensation unless the services are provided by a licensee in a licensed salon or as
4.25 otherwise provided in this section. Each salon must be licensed as a cosmetology salon, a
4.26 nail salon, esthetician salon, or advanced practice esthetician salon, or eyelash extension
4.27 salon. A salon may hold more than one type of salon license.

4.28 Sec. 8. **EFFECTIVE DATE; APPLICATION.**

4.29 Sections 1 to 7 are effective the day following final enactment. With respect to
4.30 eyelash technicians, the Board of Cosmetologist Examiners must not enforce sections 1 to
4.31 7 until July 1, 2017. Any educational or training requirements developed by the board
4.32 regarding eyelash technicians must be 14 hours.

APPENDIX 2

This Court should adjust the proposed rule—from 38 to 14 hours—to reflect the limit Legislators and Governor Dayton imposed on the Board’s rulemaking authority with the enactment of SF 2802.

This Court does **not** have to change the text of the proposed rule. It can correct the Board’s error by changing only numbers in the proposed rule. Specifically, this Court should proportionally adjust the number of hours of required training on lines 30.23, 31.9, 31.10, 31.20, and 32.23 in the proposed rule as follows:

30.12 **2110.0550 CREDIT TOWARD ANOTHER LICENSE.**

30.13 A. A licensed esthetician ~~or, advanced practice esthetician,~~ nail technician who
30.14 completed licensure training within the last five years, ~~or eyelash technician~~ may receive
30.15 up to the following credit for that training that the esthetician or technician completed toward
30.16 another license:

30.17 A. ~~(1)~~ esthetician ~~or advance~~ practiced esthetician training = 550 hours credit

30.18 toward a cosmetologist license;

30.19 B. ~~(2)~~ nail technician training = 300 hours credit toward a cosmetologist license;

30.20 C. ~~(3)~~ nail technician training = 200 hours credit toward an esthetician license;

30.21 D. ~~(4)~~ esthetician ~~or advanced practice esthetician~~ training = 100 hours credit

30.22 toward a nail technician license.

30.23 (5) eyelash technician training = ~~38~~ **14** hours credit toward a cosmetologist or

30.24 esthetician license.

31.1 B. The applicant’s existing license must be current and active at the time that the

31.2 school gives the credit and at the time that the applicant applies for a subsequent license.

31.3 C. A licensed esthetician, an advanced practice esthetician, a nail technician, or

31.4 an eyelash technician who pursues another license must not complete clinical service

31.5 exercises or the practical skills test sections in the subject in which the esthetician or

31.6 technician is already licensed.

31.7 **2110.0580 EYELASH TECHNICIAN TRAINING.**

31.8 A. Eyelash technician training must consist of a board-approved curriculum of

31.9 ~~38-14~~ hours, including items B and C.

31.10 B. ~~There must be~~ Eyelash technician training must include ~~24-8~~ hours of preclinical

31.11 theoretical instruction in the following:

31.12 (1) ~~the~~ structure, function, and disorders of the eye and orbital area;

31.13 (2) eyelash growth cycles;

31.14 (3) contraindications and allergic reactions;

31.15 (4) infection control;

31.16 (5) eye shapes and eyelash ~~evaluation~~ evaluations;

31.17 (6) product ingredients;

31.18 (7) health and safety; and

31.19 (8) applicable laws and rules.

31.20 C. ~~There must be~~ Eyelash technician training must include ~~14-6~~ hours of clinical

31.21 instruction in the practical application of eyelash extensions, including client consultation,

31.22 design, cleansing the eye area, applying eyelash extensions, and removing eyelash extensions.

32.1 ~~Clinical instruction must not begin until the student has completed all of the theoretical~~

32.2 ~~instruction hours.~~

32.3 D. Part 2110.0500, subparts 2 and 3, do not apply to eyelash technology

32.4 ~~curricula~~ curriculum, which must not include field trips or guest presenters.

32.5 E. Each student is required to complete clinical service exercises in:

32.6 (1) eyelash extensions;

32.7 (2) the chemical removal of eyelash extensions; and

32.8 (3) eyelash extension service patch tests.

32.9 2110.0590 TESTING.

32.19 C. A student must not take the practical skills test before completing:

32.20 (1) 1,350 hours of the cosmetology program;

32.21 (2) 500 hours of the esthetician program;

32.22 (3) 315 hours of the nail technician program; or

32.23 (4) **38-14** hours of the eyelash technology program.

33.1 D. A student in an advanced practice esthetician program may complete the

33.2 advanced practice esthetician practical skills test sections at any time during the student's

33.3 program.

APPENDIX 3

The Practice of Applying and Maintaining Eyelash Extensions

The use of eyelash extensions emerged in South Korea and Japan in the 1980s. It quickly became a popular way to make a person's eyelashes look long and full without using strip lashes.

Strip lashes are strips of fibers that can be applied to an eyelid all at once using an easily removable adhesive. Strip lashes are meant to remain on a person's eyelids no longer than a day and are not intended to be worn while sleeping. Consumers can purchase them at many drugstores and apply them to themselves at home.

By contrast, **eyelash extensions** are single fibers or clusters of fibers that are applied to individual natural eyelashes using semi-permanent glue.

The fibers are often made of silk or synthetic material. The glue is semi-permanent. Once an extension is glued to a natural lash, the extension generally does not detach from that lash. Instead, the extension is discarded when the natural lash sheds from the person's eyelid.

High-quality eyelash extensions are generally not available at common drugstores. And they are generally not applied by the wearer. Instead, a trained practitioner applies extensions to another person. The process of applying eyelash extensions generally takes about two hours.

The practitioner first drapes a cloth over the client's shoulders. She then cleans the client's eyelids and eyelashes and places a piece of tape over the lashes on the client's bottom eyelids. The client's eyes are closed for the application process.

The practitioner uses one set of tweezers in each hand. With the tweezers in one hand, the practitioner places semi-permanent glue on an extension. With the other pair of tweezers, the practitioner separates the client's natural lashes from one another to isolate the lash to which an extension will be applied.

The practitioner then places the extension on a natural lash, allowing the glue to fix the extension in place as it dries. The practitioner may speed up the drying process by applying water or by blowing air on the applied glue.

The extensions are semi-permanent and are worn to sleep, shower, and swim. Extensions typically remain on a person's face for a few weeks, detaching only when the natural lash sheds from the client's eyelid.

Because natural lashes shed at different times, extension practitioners may replace lost extensions before the full set of original extensions has shed. Clients commonly prefer this "fill in" service every two to three weeks, to maintain a full- and long-lash appearance.

As eyelash extensions have grown in popularity, the practice has become a business unto itself, like hair braiding, threading, and manicuring.

Applying and maintaining eyelash extensions raises specific health and safety concerns stemming from applying semi-permanent adhesive and fibers to natural hairs next to a person's eyes. For example, a person could have adverse reactions to the extension adhesive.

Also, if an extension is improperly glued to multiple natural lashes instead of a single lash, the glue may pull out a natural lash from its follicle, resulting in temporary or permanent baldness on the eyelid.

Because of these and other health and safety risks inherent in applying eyelash extensions, the practice requires specific knowledge about safely applying and maintaining eyelash extensions. Practitioners should also have specific skills to avoid and address health and safety concerns that accompany the application and maintenance of eyelash extensions, specifically.

In part for this reason, industry-leading providers of professional grade eyelash glue and extensions condition the sale of their products on the completion of a training course on how to apply eyelash extensions safely and skillfully.

For example, *NovaLash* will not sell its glue to a licensed cosmetologist or esthetician unless that licensee completes *NovaLash's* certification requirements. *NovaLash* Classic Training is the required entry-level course; it is an in-person seminar lasting **8 hours**.

Similarly, it is the policy of *Lavish Lashes* to sell its products only to trained professionals. *Lavish Lashes* offers an inclusive one-day Eyelash Extension Certification Course. Its curriculum includes a "blend of theory and practical hands-on training." It lasts **8.5 hours**.