

TEXAS COSMETOLOGY COMMISSION

Staff Report

to the

Sunset Advisory Commission

April 20, 1978

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INTRODUCTION

This report is submitted pursuant to Section 1.06, Subsection (3) of the Texas Sunset Act and contains a review of the operations of the Texas Cosmetology Commission. Termination of the Texas Cosmetology Commission has been scheduled for September 1, 1979 unless it is continued by law.

The material contained in the report is divided into three major sections: Background, Review of Operations and Conclusions. The Background section contains a brief history of legislative intent and a discussion of the original need for the Texas Cosmetology Commission. The Review of Operations section contains a review of the operation of the agency, and uses the self-evaluation report submitted by the agency as the basis of review unless noted. The information contained in the self-evaluation report was verified, and additional data were obtained through interviews and review of agency files and other data sources. The Conclusions section summarizes the import of material developed in the individual criteria, from the standpoint of whether or not Sunset criteria are being met, and develops approaches relative to these findings.

This report is designed to provide an objective view of agency operations, based on the evaluation techniques utilized to date. Together with pertinent information obtained from public hearings, a factual base for the final recommendations to the Legislature will be provided.

BACKGROUND

HISTORICAL DEVELOPMENT

The practice of hair manipulation can be traced to prehistoric times. Various improvements in hair styling and the application of cosmetics can be traced through the evolution of most societies. The human concern relating to good grooming today has spawned a multi-billion dollar industry.

Licensing regulation of the hairdressing and cosmetology industry in the United States first appeared in 1897 when Minnesota enacted its original legislation relating to the occupation. By 1935, 37 states, including Texas, had passed laws regulating the activities of hairdressers and cosmetologists.

The growth of regulation of the cosmetology industry was paralleled by the concomitant increase in the number of states regulating barbers. In many instances legislation was enacted to regulate barbers and cosmetologists under one broad statute. As in Texas, this practice soon ceased as the growing industries sought autonomy through individual licensing boards or commissions.

The general purpose of the regulation of the occupations was to insure quality workmanship and to diminish the spread of contagious diseases.

In 1921, the Texas Legislature enacted a registration law relating to barber and beauty shops (Chapter 79, Acts of the Thirty-seventh Legislature, 1921). The law required the "owner and operator or manager" of a barber or beauty shop to register with the Texas State Board of Health and also emphasized the need for sanitary facilities and equipment. At the same time, the law provided the first legal distinction between the activities permitted in a barber shop and those permitted in a beauty shop or parlor. The barber could shave and trim the beard, cut, shampoo and dress the hair, and massage the face of any person for pay. The

beautician could dress the hair, manicure the nails, massage the skin and shampoo or wash the scalp and hair. The law further specified that the beautician had to be paid to be considered a "beautician", but it is not clear whether the beautician could work on either sex. Under the provisions of this legislation the activities of a beautician could not occur in a barber shop and the activities of a barber could not occur in a beauty shop. No records have been located which indicate the effects of the provisions of this Act.

The "regulation" of barbers continued under this Act until 1929. During the Forty-first Legislature comprehensive licensing regulation for the barbers was enacted. H.B. 104 and S.B. 116 (Chapters 65 and 62, Acts of the Forty-first Legislature, 1921) created the Board of Barber Examiners and required licensure of barbers, barber shops and barber schools. Persons "practicing beauty culture" were exempted and were allowed to "cut the hair" of any person.

Comprehensive licensing regulation of hairdressers and cosmetologists began in Texas in 1935 when the Forty-fourth Legislature enacted H.B. 189 (Chapter 116, Acts of the Forty-fourth Legislature, 1935) which created the State Board of Hairdressers and Cosmetologists and required the licensure of beauty operators, beauty schools, manicurists, instructors and beauty shops. The Act further defined the practice of beauty culture by establishing the specific functions of the "hairdresser" and the specific functions of the "cosmetologist". In addition, the legislation required that a hair cutter working in a beauty shop was to be a licensed barber. The implicit distinction made by this law was that the hairdresser or cosmetologist could not cut the hair, but could dress or style the hair of any person.

Amendments to the Act in 1953 by H.B. 79 (Chapter 242, Acts of the Fifty-third Legislature, 1953) combined and expanded the services performed by hairdressers and cosmetologists. Persons in either category could dress, curl, wave,

cleanse, singe, bleach, color and cut the hair of any person.

In 1971, another attempt to distinguish between the practices of barbers and cosmetologists was made by H.B. 156 (Chapter 1036, Acts of the Sixty-second Legislature, 1971) which created the Texas Cosmetology Commission to replace the Board of Hairdressers and Cosmetologists. The Act specified that cosmetologists could work only on female customers and barbers could work only on males. This restriction, enacted at a time when the barber industry was declining due to changing men's hair fashion, was challenged in the courts. In January 1972, the U.S. District Court in Dallas, ruled that this restriction violated the equal protection clause of the 14th Amendment to the U.S. Constitution and was therefore unconstitutional. The Attorney General attempted to resolve the issue in Opinion M-1270 which specified that both cosmetologists and barbers could cut the hair of males and females. This ruling was later challenged in Travis County District Court, and helped lead to the passage of S.B. 86 (Chapter 691, Acts of the Sixty-fourth Legislature, 1975) which allowed barbers and cosmetologists to cut the hair of both sexes, but not in the same shop or facility. The validity of preventing barbers and cosmetologists from working in the same facility has been recently reviewed by the Attorney General's Office. Opinion H-1137, issued March 16, 1978, states that it is likely the courts would find the requirement to separate a beauty salon from a barber shop, housed in the same building, to be a valid police power regulation. The two agencies involved, the Cosmetology Commission and the Barber Board are currently reviewing proposed rules to effect the separation.

Attempts to separate the two occupations have been drawn along seemingly arbitrary lines. It is likely that the activities of barbers and cosmetologists were confined to different sexes in the years from 1921 to the early 1960's. However, as

fashions and hair styles changed customers began to "cross the lines", **therefore** increasing the need to set a clear distinction between the two practices to insure the economic stability of both occupations. It is clear that the latest attempts to separate the occupations by definition or target populations have been legally unsound or ambiguous.

Administration

Since the creation of the State Board of Hairdressers and Cosmetologists the statutes relating to the regulation of hairdressing and cosmetology have experienced five major changes (1947, Fiftieth Legislature; 1953, Fifty-third Legislature; 1971, Sixty-second Legislature; 1973, Sixty-third Legislature and 1975, Sixty-fourth Legislature). These changes are briefly discussed here in relation to the Commission's (formerly Board's) administration, funding and responsibilities.

The original Board of Hairdressers and Cosmetologists was composed of three persons, all of whom were required to have had five years of experience in the occupation before appointment. No member was to be affiliated with any school of hairdressing or cosmetology while in office. The members were appointed by the Governor and until 1947 there was no requirement for confirmation by the Senate. The composition of the Board remained unchanged until 1971. At this time, the Sixty-second Legislature created the Texas Cosmetology Commission. This Act expanded membership from three to six. The structure established in 1971 holds true today and requires four members to have been licensed for at least five years prior to appointment. Of the four licensed members, one member is to represent beauty shops and have no affiliation with the schools; one member is to represent schools and **have no affiliation** with the shops; one member is to be a licensed operator; **and one member is to represent the wig industry** and have no interest in

beauty shops or schools. The two remaining members of the Commission are to be members of the general public with no direct or indirect affiliation with the cosmetology industry. Members' terms are for six years and no person can serve more than two consecutive terms. In addition to the appointed members, the Associate Commissioner for Occupational Education and Technology of the Texas Education Agency (TEA), or a designate serves as an ex-officio member of the Commission with voting privileges.

Board and Commission compensation has changed over the years. Originally, Board members received \$10 per diem and actual expenses not to exceed \$2,500 per year. In 1947, Board members were allowed a salary of \$3,600 per year in addition to actual expenses. The 1953 amendments increased the salary to \$4,620 plus expenses. With the creation of the Texas Cosmetology Commission in 1971, the Commission members were again placed on a per diem and actual expenses compensation system. Currently, Commission members may make only two out-of-state trips per year, and travel and per diem expenses cannot exceed \$2,800 for any one fiscal year according to restrictions in the last general appropriations act.

The original Act empowered the Board to appoint a secretary, a person not a member of the Board, to be paid \$1,800 per year. Amendments in 1947 allowed the Board to fix the salary of an Executive Secretary. This secretary position is now accomplished through an Executive Director whose salary is set by the general appropriations act. From the beginning, the duties of this position have been to assist the Board in carrying out its responsibilities of issuing licenses, holding examinations, promulgating sanitation rules and regulations, revoking or suspending licensees for cause, and accounting for revenues collected.

The original Board was also empowered to hire personnel to inspect

cosmetology shops and schools. Salaries for these persons were strictly required to come from fees generated by the Board's operations. Amendments in 1971, creating the Texas Cosmetology Commission, solidified the administrative structure into its current form:

Commission

Executive Director

Director of Inspections

Inspectors

Director of Licensing

ADP Supervisor
Acctg. & Budget
Licensing, Salons, School
Renewals
Mail and Messenger Service
Purchasing and Supply

Director of Examinations

Examiners
School Department

The current staffing for the agency includes 58 persons. Authorized expenditures are \$952,323 for 1978 and \$959,094 for 1979.

Responsibilities

The responsibilities of the Board and Commission have remained essentially unchanged since 1935. Provisions of the enabling statutes provided for regulation of the Cosmetology industry through the licensing of schools, salons and individuals, renewals of all licenses issued, examination of cosmetology school graduates for licensure and inspection of all cosmetology establishments for sanitation, license, required equipment and staff.

Funding

The nature of funding for the Commission has changed over the years since original enactment in 1935 of legislation regulating cosmetologists. The 1935 Act provided that the agency would be essentially self-supporting. All fees collected by

the agency were deposited in Special Fund No. 88 in the State Treasury. Three percent of this money was paid into the General Revenue Fund and the remainder could be used by the agency to meet operating expenses for the following year. Any remaining balances at the end of the fiscal year reverted to general revenue.

An amendment made during the Second Called Session of the Forty-fourth Legislature provided that ten percent of the agency's revenue was to be deposited in general revenue and the balance deposited to the agency's special fund.

Over the ten-year period between 1957 and 1967, agency records indicate the average balance of the cosmetology special fund was \$753,304. By 1967 the balance in the fund was \$1,260,617. This money, even though in the State Treasury, could not be utilized by the state except in funding the operations of the Cosmetology Commission. In 1971, modifications made by the Sixty-second Legislature required that all revenue received by the Commission be deposited in the General Revenue Fund and operations of the agency were financed from the General Revenue Fund. The remaining cash balance in the special fund, the "Cosmetologists Fund" (No. 88) on August 31, 1971, less outstanding obligations against the fund, was transferred into the General Revenue Fund.

Currently, fees accompanying original applications for licenses for beauty shops and beauty schools, renewals requiring physical inspection of the premises and examination receipts are deposited in the departmental suspense account in the State Treasury. Upon determination of the status of such collections, clearances are made to the General Revenue Fund or refunds are made if necessary. Throughout the agency's existence, revenues generated have generally exceeded expenditures.

COMPARATIVE ANALYSIS

To determine the pattern of regulation of the occupation of cosmetology within the United States, a survey of the 50 states was conducted to determine how this has been addressed in other states.

The need to regulate the occupation of cosmetology is currently expressed through licensing requirements imposed by all of the 50 states surveyed. From the standpoint of organizational patterns, 19 states, including Texas, meet this expressed need through an independent board or commission whose members are appointed by the chief executive. In 31 states the function is carried out through a governmental department charged with the regulation of multiple occupations.

In those states which utilize independent boards and commissions, 13 require that appointees be confirmed by the Legislature; and membership in 27 states is limited to persons who are licensed members of the occupation. In Texas, appointees are confirmed by the Legislature and membership is not limited to persons who are licensed members of the occupation. Eighty-eight percent of the states, as does Texas, utilize independent governing bodies limiting the responsibilities of the membership to that of policy-making as distinguished from the role of full-time administrators.

A majority of the states, including Texas, indicate that the revenue sources of the regulatory body, regardless of organizational form, were derived from fees collected. Only 2 of 50 states, indicated that these bodies were not solely supported by fees and charges of the agency.

Twenty-six of the states regulating the occupation of cosmetology administer national examinations. The other states develop and administer their own

exam. Texas does not use a national examination. The examination is required only once in 50 of the states, including Texas. In 31 states, licensees are required to renew their licenses annually. Texas licenses for a two-year period. Enforcement activities in 45 states, including Texas, involve investigation of complaints from consumers and others engaged in the occupation of cosmetology. Hearings are conducted inside the regulating agency in 39 states. In Texas, hearings are conducted by the Commission.

States which regulate the occupation of cosmetology indicated the necessity of performing the basic functions of administration, testing, license issuance, and enforcement. These basic functions also constitute the primary elements of the operations of cosmetology and are examined in light of specific criteria required in the Texas Sunset Act in the material which follows.

REVIEW OF OPERATIONS

Criterion 1

The efficiency with which the agency or advisory committee operates.

The review under this criterion centered on financial data and other records of the agency. This information was analyzed to determine if funds available to the agency had been utilized in a reasonable manner to achieve the purposes for which the agency was created and to determine if areas existed in which greater efficiency of operations could be achieved.

The Texas Cosmetology Commission is responsible for licensing and regulation of cosmetologists in the State of Texas. The Commission presently deposits all revenues into the General Revenue Fund, with administrative costs defrayed with moneys appropriated by the legislature. Since its creation in 1971, revenues deposited in the general fund have exceeded Commission operating costs.

Commissioners

The Commission consists of seven members, including an ex-officio representative from the Texas Education Agency. The attendance records of the current members of the Commission are presented in Exhibit I-1. Exhibit I-2 emphasizes percentage attendance by category of Commission representation. As shown by this material, operator, shop, school, and TEA representatives have the best attendance records.

The expenditures of Commission members for fiscal year 1977 are presented in Exhibit I-3. The expenditure data of the school and shop representatives, who are no longer on the Commission, may have contributed to a new rider being inserted in the current General Appropriations Act. The rider currently places a

EXHIBIT I-1

Commission Member Attendance
Fiscal Years 1975-1977
Texas Cosmetology Commission

Commission Member Represents	Term of Office	Attendance at Meetings		
		1975 (9)	1976 (8)	1977 (5)
Joe Golman Public	January 8, 1973 to December 31, 1981	6	6	5
J. H. Jemmison Operator	March 25, 1974 to December 31, 1979	9	8	5
Wilbur Cox Shop	December 31, 1977 to December 31, 1979	-	-	-
Sally Cooney Wiggery	January 1, 1976 to December 31, 1981	-	3	4
James McMullen III Public	August 28, 1971 to December 31, 1983	4	4	2
Nettie Jim Carter School	December 31, 1977 to December 31, 1983	-	-	-
<hr/> Past Members <hr/>				
Herby Cohen School	August 28, 1971 to October 31, 1974	2	-	-
Harold Grace Wiggery	August 28, 1971 to December 5, 1975	7	3	-
Frank Joseph Shop	August 28, 1971 to July 1, 1977	9	8	4
Peggy Gutierrez School	June 18, 1975 to December 31, 1977	1	8	4

EXHIBIT I-2

Texas Cosmetology Commission
Attendance by Category Represented
1975-77 (FY)

	<u>1975</u>	<u>1976</u>	<u>1977</u>
Operator	89%	100%	100%
Shop	100%	100%	80%
School	100%/100%*	100%	80%
Wig	77%	75%/100%*	80%
Public	66%	75%	100%
Public	33%	50%	40%
TEA	100%	75%	100%

*two members represented this category during FY depicted.

EXHIBIT I-3

Texas Cosmetology Commission
Commission Member Expenses, Fiscal Year 1977

<u>Member</u>	<u>Fares</u>	<u>Mileage</u>	<u>Per Diem (25/day)</u>	<u>Lodging & Meals</u>	<u>Total</u>
Sally Cooney	\$ 453	\$ 702	\$ 550	\$1,526	\$ 3,231
Joe H. Golman	196	124	150	28	498
Peggy Gutierrez	516	1,154	600	1,196	3,466
J. H. Jemmison	639	270	550	1,014	2,473
Frank Joseph	551	1,541	825	3,060	5,977
James A. McMullen III	<u>204</u>	<u>10</u>	<u>100</u>	<u>53</u>	<u>367</u>
Total	<u>\$2,559</u>	<u>\$ 3,801</u>	<u>\$2,775</u>	<u>\$6,877</u>	<u>\$16,012</u>

limitation on travel for each commissioner of not more than \$2,800 during any fiscal year, and limits the number of out-of-state trips to no more than two per year.

Administration

The Commission is administered by a staff consisting of an executive director; directors of inspection, examination, and licensing; 31 inspectors (32 authorized) and 23 other clerical and administrative personnel. Unit cost comparisons with other agencies indicate this staff carries out its activities in an efficient manner. Additionally, the current administration has effected numerous economies to allow the agency to expend less than was appropriated in fiscal year 1977 by approximately \$125,000 out of an appropriated \$1,022,201. Since the agency generated over \$1,200,000, this represented a net gain of \$300,000 to the state.

In order to accomplish the overall program objectives of the agency, the staff is responsible for performing a variety of specific and interrelated tasks which can be grouped under the following general categories of inspection procedures, examination procedures, licensing procedures, school records, accounting responsibilities and general support activities. Each of these areas is discussed separately in the material which follows.

Inspection Procedures

The inspection function of the Texas Cosmetology Commission receives the most emphasis, both in terms of personnel and agency expenditures. Thirty-eight personnel and \$489,635 were allocated to this function in fiscal year 1977.

The state is divided into 32 inspection districts and on the average, schools and shops are inspected slightly over five times a year. Through close monitoring

of inspector activities, five inspector positions were deleted during the current biennium. As the presently occurring electronic data processing conversion continues, better management information will be available in the future. That information will allow better monitoring of inspector workload, as well as more effective allocation of resources to inspect more frequently those shops and schools with records of infractions, and to insure that other shops are inspected within required intervals. Additional future personnel and travel cost-savings may be effected as a result. The function is well managed, although unequal populations in districts will likely require future redistricting.

Examination Procedures

Examination procedures require and receive relatively little emphasis within the Commission. In fiscal year 1977, four personnel were involved in that process and expenditures totalled \$55,196.

Examinations are given in Austin, starting with the first Tuesday of the month and continue until all applicants for the month have been examined. Last year, 6,357 applications for examinations were received, with most applicants receiving grades for the written and practical exams within two days. Exhibit I-4 provides a historical perspective of the examination process.

The examination system is also partially computerized, with examinations being generated from data banks of questions for each area to be tested. The exam is generated and written using computer technology. The examination procedures used by the agency appear reasonable, no backlogs exist, and the failure rate is neither excessively high nor low.

Licensing Procedures

The Texas Cosmetology Commission issues 18 types of licenses, with the

EXHIBIT I-4

An Analysis of Examinations Given
and Applicants who Passed/Failed
Texas Cosmetology Commission

	1974	1975	1976	Percent Increase/ Decrease*	1977	Percent Increase/ Decrease*
Successful Examinees for Licensure as:						
Operators	3,867	3,561	3,655	2.6	4,133	13.1
Instructors	127	109	90	17.4*	149	65.5
Manicurists	141	148	254	71.6	216	15.0*
Wig Specialists	122	88	29	67.1*	25	13.8*
Wig Instructors	4	--	0	--	0	--
Facial Specialists	--	--	27	--	57	211.0
Hair weaving Specialists	--	--	1	--	2	100.0
Shampoo Specialists	--	--	15	--	--	1500.0*
Total Licensed by Examinations	4,261	3,906	4,071	4.2	4,582	12.6
Passed Exam- No Money Sent	--	--	25		57	
Failures	946	1,277	1,970		1,158	
No Shows	356	374	538		560	
One Part of Exam Only	2	10				
Total Applications Received	<u>5,565</u>	<u>5,567</u>	<u>6,604</u>	18.6	<u>6,357</u>	37.4*

largest number being operator, beauty shop, and instructor licenses. Exhibit I-5 gives a historical perspective of the **Commission's** licensing activity.

Seventeen persons were assigned the licensing function and \$140,883 was expended in fiscal year 1977. The licensing procedures used by the agency appear **efficient and computer** technology is effectively used to **assist that process.**

However, a problem does exist regarding the use of **staggered biennial license renewals.** The renewal system is based on the agency's **32 inspection districts.** Licenses from odd-numbered districts renew in odd-numbered calendar years and licenses from even-numbered districts renew in even-numbered calendar years. This system creates uneven workloads and revenue generation because 70 percent of the licenses renew in odd-numbered fiscal years and 30 percent renew in even-numbered fiscal years. **This problem is further discussed in Criterion 2.**

School Records

As a general rule, the Texas Cosmetology Commission procedures are well conceived and implemented. One area of potential concern is in the school section. Currently, schools are required to forward records of each student's hours to the Commission on a monthly basis. These records are then inserted into the appropriate files. However, the section staff normally has little time to verify the information on the hour reports. As a result, each new report is added to the file to develop a chronological history which could be used in a verification process, should it be required.

This stored information serves to protect students from abuse by schools, and this motivation may have caused the school provisions to be included in the cosmetology statute. However, as currently operated, little systematic use of the

EXHIBIT I-5

Statistical Summary of Licenses Issued
Texas Cosmetology Commission

Licenses Issued (Originals and Renewals)	1974	1975	1976	Percent Increase/ Decrease* Prior Year	1977	Percent Increase/ Decrease* Prior Year
Operators	106,388 (A)	72,364	68,430	5.4*	53,227	22.2*
Manicurists	834	719	743	3.3	722	2.8*
Instructors	2,622	2,110	1,192	43.5*	1,621	36.0
Wig Specialists	888	622	404	35.0*	340	15.8*
Wig Instructors	193	113	160	41.6	55	65.6*
Beauty Shops	18,032	17,250	14,974	13.2*	9,819	34.4*
Wig Salons	448	332	263	20.8*	146	44.5*
Beauty Schools	186	161	136	15.5*	165	21.3
Wig Schools	4	2	--	200.0*	1	100.0
Reciprocity	226	297	354	19.2	352	0.6*
Duplicates	118	226	217	4.0*	269	24.0
Shampoo Specialists			16		40	250.0
Facial Specialists			248		75	69.8*
Hair weaving Specialists			55		3	94.6*
Manicurist Salons			20		33	65.0
Facial Salons			43		27	37.2*
Hair weaving Salons			4		1	75.0*
Temporary			183		164	10.4*
Total Licenses Issued	<u>129,939</u>	<u>94,196</u>	<u>87,442</u>	7.2*	<u>67,060</u>	23.3*

Note A: The number is inaccurate due to a large amount of undeposited cash on hand on August 31, 1973 (\$262,624) representing licenses paid for in fiscal 1973, but not yet issued. The procedures which caused this inaccuracy were corrected in Fiscal 1974.

data is made.

The Commission is developing a new form to simplify record-keeping designed to reduce time and space required for records maintenance. The staff time saved could then be allocated for data analysis to help identify, eliminate, or reduce potential problems in this area.

Accounting Responsibilities

Considerable concern has been raised in the past regarding delays in the deposit of fees generated by agency activities. That situation was caused by the inability of the Commission to stagger renewal dates, a procedure which has since been implemented. However, the current accounting processes and procedures of the Commission appear to be conducted in an appropriate and efficient manner.

A suspense account is used to deposit fees accompanying original applications, renewals requiring physical inspections, and examination receipts. The year ending balance in this account may be used as an indicator of improvements in agency procedures. These balances are as follows:

<u>Fiscal Year</u>	<u>Amount</u>
1972	\$ 33,607
1973	14,734
1974	15,889
1975	9,551
1976	2,368
1977	682

General Support Activities

The staff is responsible for miscellaneous correspondence, telephone operations, and purchasing responsibilities. Analysis of these processes and materials

indicated that operations are orderly and efficient.

Financial Position

A detailed presentation of Commission expenditures as a percentage of total expenditures for fiscal year 1977 is presented in Exhibit I-6. As indicated, the largest component of that cost is personnel. The pattern of expenditures is reasonable for a licensing agency of its size.

Unit Cost

The number of licensees of the Texas Cosmetology Commission has fluctuated over the past five years, with a peak in 1974. The cost of operating the agency has also fluctuated, as illustrated in Exhibit I-7. The trends illustrated are not unusual, reflecting inflation over time combined with economies of scale. It should be noted that since biennial registration has occurred, the figures shown for 1975-77 are not reflective of the total number of licensees, since only the number licensed in a given year are presented.

Exhibit I-8 compares the unit cost of the Commission with the Board of Barber Examiners, which also has biennial licensure. Adjustments are made in that exhibit to show biennial totals and adjusted unit costs. Those figures could be viewed as evidence for merging the Commission and the Barber Board.

Projected Revenues and Expenditures

Summaries and projections of revenues and expenditures of the Texas Cosmetology Commission for fiscal years 1974-1983 are presented in Exhibit I-9. Due to the uncertainties associated with biennial licensing and the limited data on which to base projections, the projections are less solid than with other agencies. However, it should be noted that even given optimistic projections, the agency will not be self-supporting by the 1982-83 biennium given the present fee structure.

EXHIBIT I-6

Texas Cosmetology Commission
Expenditures for Fiscal Year 1977

	Amount	Percent*
<u>Personnel Costs</u>		
Salaries	\$613,140	68
State Contribution - Insurance	10,860	1
	<u>624,000</u>	70
 <u>Board Expenses</u>		
Per Diem & Travel	16,012	2
	<u>16,012</u>	
 <u>Operating Expenses</u>		
Travel	155,179	17
Inter Agency Services (computer)	31,803	4
Printing and Supplies		
Office	10,411	1
Computer	2,001	--
Postage	31,605	4
Telephone	14,708	2
Cleaning Building	3,720	--
Machine Repairs		
Office	636	--
Computer	1,476	--
Equipment Rental	1,839	--
Furniture & Office Equipment	743	--
Other	2,773	--
	<u>\$256,894</u>	<u>29</u>
	<u>\$896,906</u>	<u>101</u>

*Does not add due to rounding.

Exhibit I-7

Texas Cosmetology Commission
Historical Unit Cost¹

Fiscal Year	Annual Expenses	Number of Licensees	Unit Cost
1973	\$675,610	87,064	\$7.76
1974	748,260	129,317	5.79
1975	748,742	94,111 ²	7.96
1976	994,361	87,462 ²	11.37
1977	896,906	67,060 ²	13.37

¹SOURCE: Texas Cosmetology Commission Annual Report

²Biennial registration.

EXHIBIT I-8

Texas Cosmetology Commission
Cost Per Licensee - Fiscal Year 1977

Agency	No. of Licenses		Total Expenditures	Unit Cost	
	Biennial ¹	FY 77		Biennial ²	FY 77
Board of Barber Examiners	25,262	7,252	\$ 352,911	\$27.94	\$ 48.66
Texas Cosmetology Commission	100,248	67,060	\$896,906	\$17.90	\$13.37

¹Estimated.

²Calculated by dividing expenditures by one-half of biennial total number of licenses, in order to obtain an annual average.

EXHIBIT I-9

Texas Cosmetology Commission
 Revenues from Licenses and Fees and Departmental Expenditures
 General Revenue

Fiscal Year	Professional Exams and Licensing Fees	Other	Total	Departmental Expenditures
1974	\$ 850,218	\$5,882	\$ 856,100	\$ 771,460 (A)
1975	798,173	4,939	803,112	829,895
1976	1,136,828 (B)	7,277	1,144,105	972,284
1977	1,230,926 (B)	9,714	1,240,640	896,906
Projections				
1978	702,718 (B)	--		952,323
1979	1,268,853 (B)	--		959,094
1980	723,285 (B)	--		998,928
1981	1,305,889 (B)	--		1,005,699
1982	744,984 (B)	--		1,047,875
1983	1,345,066 (B)	--		1,054,646

Note A: There was appropriated out of the Federal Revenue Sharing Fund \$280,000 for the purpose of acquiring the office building presently occupied by the Commission - not included in this amount.

Note B: Fiscal 1977 was the initial year to stagger expiration of licenses by districts for a two-year period. Eighteen odd-numbered districts renew for two years in odd fiscal years, while fourteen districts renew for two years on even-numbered fiscal years. Included in odd-year renewals are all metropolitan areas which accounts for the disparity in revenue of odd-numbered years versus even-numbered years.

The current (and immediate past) fee structure on which these revenues are based is shown in Exhibit I-10.

Summary

The Texas Cosmetology Commission performs its operations in an efficient manner and has consistently generated more revenue than expenditures since its creation, effecting considerable savings over appropriated levels in recent years.

A review of agency procedures indicates that, while its operations are conducted in an efficient manner, room for improvement exists. The first area of possible improvement is in the current staggered biennial registration system. The agency uses the 32 inspection districts to determine the renewal dates, with even-numbered districts renewed in even-numbered years, and odd-numbered districts renewed in odd-numbered years. The difficulty occurs since the urban areas of the state largely fall in the even districts, which generates an uneven distribution of revenues and workload. That 30-70 split is severe enough to require the agency to revise its current operations, and agency staff are currently addressing the problem.

A second area of inefficient allocation of resources is in the school section. A great deal of filing time and space is expended to insure that required records are properly located. However, very little productive use of the data is then made. Analysis of the data for inspection purposes could be instigated, or the requirements relating to school records could be deleted.

EXHIBIT I-10

Summary of Rate of Licenses and Fees
Texas Cosmetology Commission

	Prior to Sept. 1, 1975		Subsequent to Sept. 1, 1975	
	Original License	Renewal	Original License	Renewal
Operator	\$ 15	\$ 5	\$ 15	\$ 15
Manicurist	5	5	15	15
Instructor	20	15	35	35
Beauty Shop	25	10	25	25
Private Beauty School	250	150	250	150
Wig Specialist	15	10	15	15
Wig Instructor	20	15	35	35
Wig Salon	25	15	25	25
Wig School	100	25	100	55
Specialty			15	15
Specialty Salon			25	25
Other Licenses and Fees:				
Reinstatement Fee	5		5	
Reciprocity Fee	25		25	
Examination Fee (A)	5		5	
Duplicate License	5		5	
Temporary License	25		25	

Note A: Effective September 1, 1975. Examination fees are called administration fees.

Note B: Effective September 1, 1975. All licenses issued by the Commission, except temporary and private beauty school licenses, expire two years from the date of issue. Prior to September 1, 1975, all licenses issued by the Commission, except temporary licenses, expired one year from the date of issue.

Note C: As per Senate Bill No. 831, Sixty-third Legislature (codified as Section 38A of Article 8451a, Vernon's Annotated Civil Statutes), the Commission began staggering operator renewal licenses on September 1, 1973. Beginning September 1, 1975, all licenses issued by the Commission, except for beauty and wig school licenses, are staggered.

Criterion 2

An identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, the extent to which the objectives have been achieved and any activities of the agency in addition to those granted by statute and the authority for these activities.

The review under this criterion centered on an identification of the agency's statutory objectives as they related to the perceived need and the extent to which agency methods used can reasonably be expected to achieve those objectives. Statutes were reviewed to determine if objectives described in the self-evaluation report presented an accurate reflection of statutory duties. Agency viewpoints were sought to provide additional clarification; and appropriate files were reviewed to collect and verify selected data presented under this criterion.

The Texas Cosmetology Commission regulates the occupation of hairdressing and cosmetology through: 1) the licensing and inspection of schools, salons and individuals; 2) the biennial renewal of all licenses issued by the Commission; and 3) the examination of students for licensure. The agency's self-evaluation report indicates that this is all done to protect the health and welfare of the public.

Commission Administration

The Commission is designed by statute (Article 8451a, V.A.C.S.) to handle policy matters relating to the regulation of cosmetology in this state. Powers enumerated in Section 4 of the agency statutes include: 1) promulgating rules and regulations consistent with the Act, 2) prescribing application forms for the issuance of licenses, 3) prescribing the minimum curricula for beauty schools, 4) prescribing the method and content of examinations, and 5) establishing sanitation

rules and regulations to prevent the spread of infectious and contagious diseases. Commission activities have accomplished these basic objectives.

The composition of the Commission is also prescribed by statute to insure that public concerns are addressed and that all major facets of the cosmetology industry are equally represented. However, Commission composition apparently is weighted toward representation of the private beauty school facet of the industry. No restrictions are placed on the financial interests of the "operator" representative serving on the Commission. Currently, this member holds interest in a private beauty school as does the school representative. Thus, the current flexibility of the Act does not allow for effective, equal representation of the major facets of the beauty industry.

Agency Administration

Section 6, Article 8451a, V.A.C.S. requires that the Commission employ an executive director to "administer and enforce the provisions of the Act." The general objectives of the administrative functions are: 1) to make timely deposits of money received to the general fund, 2) to maintain a micro-file of all licenses and related documents, 3) to print by computer licenses issued and mailed, and 4) to maintain Commission offices and examination facilities. Procedures currently in effect accomplish these objectives within reasonable time frames. Money received is deposited within one day of receipt. Documents received relating to licenses are microfilmed daily and a permanent file is maintained and cross-referenced with data processing equipment. Licenses are issued within 2-3 days after receipt of correct renewal materials.

Past problems relating to large accumulations of money and a two-to-three month turn-around time for license issuance have been corrected. Assistance

provided by automated data processing (ADP) equipment and the staggering of license renewals has greatly eased the periodic strains experienced under the one-time renewal system.

Licensing

Section 7, Article 8451a, V.A.C.S., requires the Commission to employ a director of licensing to "collect all license fees, issue all licenses, and maintain a record of all licensees under this Act." The general objectives of the licensing function are: 1) to renew all licenses issued under the Act, and 2) to issue new licenses as needed with a turn-around time of 3-4 days.

Procedures currently in effect accomplish the above objectives. License renewals are staggered on a biennial basis by district. New licenses are generally issued within one week of the examination date. Exhibit II-1 depicts the number of licenses issued since 1967.

EXHIBIT II-1

Number of Licensees
Texas Cosmetology Commission (1967 - 1977)

	1967	1973	1974	1975	1976	1977
Examination	5,923	4,678	4,261	3,906	4,084	4,641
Reciprocity	465	263	226	297	354	352
Renewals	79,638	82,136	125,452	89,993	83,024	62,067
Total Licenses Issued	86,026	87,077*	129,939*	94,196	87,462	67,060

*These numbers are inaccurate due to a large amount of undeposited cash on hand on August 31, 1973, representing licenses paid for in fiscal year 1973, but not yet issued.

Although license renewals are made on a timely basis, the monthly workload is not spread equally over the biennium. Currently, 18 districts renew in odd-numbered fiscal years and 14 districts renew in even-numbered fiscal years. This system has evolved since 1973 to include all licenses renewed by individuals and shops. School certifications are still processed manually. Exhibit II-2 depicts the number of licenses renewed by fiscal year.

EXHIBIT II-2

License Renewal System by Fiscal Year
Texas Cosmetology Commission
March 1978

	Individuals	Shops	Total	%
Odd-numbered FY	61,196	10,722	71,918	74.3
Even-numbered FY	20,333	4,574	24,907	25.7
Total*	81,529	15,296	96,825	100.0

***3,302** reciprocal licenses not included in **this total.**

This system was implemented in 1975 before an accurate data base could be established. The end result has been to renew licenses from the major metropolitan areas in one year. The number of licenses issued in Fiscal Year 1977 represents 70-75 percent of the total licensee population. Licenses expected to be renewed in Fiscal Year 1978 will represent 25-30 percent of the licensee population. This uneven renewal system causes two major problems. One, the workload is not spread evenly over the two-year renewal period. Two, revenues generated annually by license renewals will be imbalanced. The agency's Semi-Annual Performance Report, submitted in March, 1978 indicates that generated revenues for Fiscal Year

1978 will approximate \$800,000 as opposed to \$1,232,000 collected in Fiscal Year 1977. Agency personnel are aware of the problems cited above and remedies are currently being discussed with ADP staff and Board of Control Interagency Services personnel.

Certification of Schools

Numerous sections of the cosmetology statutes refer to the beauty culture school system. The requirements relate primarily to the private beauty schools since public school programs are administered by TEA. General requirements include the following: 1) number of hours required for licensure, 2) student-teacher ratios, 3) maintenance of daily attendance records, 4) physical space required for school operations, 5) procedures for school license applications, 6) procedures for transfer of hours between schools, 7) restrictions on student work on patrons, 8) procedures for examination applications, and 9) verification of health certification for all applicants. Requirements are met through the operations of the school department with assistance from the agency's inspection division.

The major objectives of the school department are: 1) to receive, check and file student registrations and exam applications, 2) receive, check and file monthly student hour reports, 3) execute paper work to certify all schools, and 4) prepare and organize monthly exam schedules for each school.

Operating procedures currently in effect accomplish the above objectives and activities. Steps are currently being taken to simplify the receipt and filing of student registration materials. Materials relating to the approximately 10,000 annual students processed are voluminous, and partial computerization of the school department is anticipated soon.

Examinations

Section 34, Article 8451a, V.A.C.S., requires that examinations are to "be conducted in Austin on the first Tuesday of each month...". The examination schedule is set by the school department and administration of the exams is carried out by the Examination Division of the agency as established by Section 8, Article 8451a, V.A.C.S. The director of examinations is responsible for the administration and grading of all examinations and the maintenance of a record of all examinees and the grade scored by each.

General statutory requirements are met through the agency's examination division. Exams are given beginning the first Tuesday of each month and continued daily until all applicants for that month have been tested. Approximately 500 persons are tested each month by the director of examinations and three examiners.

The exam is structured to place more emphasis on the practical portion rather than the written portion. The practical portion (for an operator's license) consists of 12 steps which can be executed on a live model or a "slip-on" hairpiece. The written portion consists of 100 questions selected at random by computer and structured to reflect the emphasis given certain portions of cosmetology practice in the schools. The content of both portions of the exam is determined by the Commission members. Exhibit II-3 depicts the number of persons taking the exam over the past five years and their pass/fail rates.

A procedure has been developed for non-English speaking applicants. Written exams for all licenses, except wig specialist, have been translated into Spanish. These exams are used approximately 15 times per month. For other languages the student must bring an interpreter who cannot be a licensed cosmetologist. An interpreter is needed approximately five times per month.

EXHIBIT II-3

Examination Results
Texas Cosmetology Commission (1973 - 1977)

	1973		1974		1975		1976		1977	
	#	%	#	%	#	%	#	%	#	%
Pass	4,678	81.3	4,261	81.8	3,906	75.4	4,096	67.5	4,639	80.0
Fail	1,074	18.7	946	18.2	1,277	24.6	1,969	32.5*	1,158	20.0
Total	5,752	100.0	5,207	100.0	5,183	100.0	6,065	100.0	5,797	100.0

*Apparent statistical anomaly.

The practical portion of the exam is accomplished through the assistance of a Spanish-speaking examiner. The interpreter for languages other than Spanish can be used to convey instructions to the examinee or steps to be performed can be indicated through example.

A rough measure of the need for translation of examinations is found in the ethnic make-up of the agency's licensees. Exhibit II-4 describes the licensee population by sex and ethnicity. Although pass/fail rates for the persons using the translated exams or an interpreter are not separately compiled, the agency feels the rates are comparable across ethnic boundaries.

Examination procedures used by the agency appears to allow adequate opportunity for examination for all persons wishing to take the exam. Although the written portion has not been tested for validity, the combination of the two portions (written and practical) appears to yield an acceptable pass/fail rate (77.2/22.8 percent).

EXHIBIT II-4

Sex and Ethnic Makeup of Licensees
Texas Cosmetology Commission

	Female	Male	Total	%
White	61,117	3,404	64,521	76.1
Black	11,555	182	11,737	13.8
Spanish-Surnamed	7,648	452	8,100	9.5
Other	<u>443</u>	<u>31</u>	<u>474</u>	<u>.6</u>
Total	<u>80,763</u>	<u>4,069</u>	<u>84,832*</u>	<u>100</u>

*Does not include facilities licensed.

Enforcement and Investigation

Section 9, Article 8451a, V.A.C.S., requires that the Commission employ a director of inspections who shall "supervise the inspection of establishments and the performance of all licensees under this Act and report any violations of this Act to the executive director."

In order to accomplish this statutory objective the agency has deployed 31 inspectors by districts to make regular inspections of all facilities licensed by the agency. An average of 200-240 establishments are inspected each month by the inspectors. All facilities are inspected 5-6 times per year.

Inspectors are required to submit weekly itineraries and inspection reports to the director of inspections. Information from these reports is accumulated monthly by computer in relation to all facilities licensed by the agency. Inspector training and periodic testing occurs on a regular basis.

The content of the inspections is two-fold. One, the inspector checks a variety of areas of the facility to insure compliance with the sanitary rules and regulations issued by the agency. Two, the inspector verifies that all persons working in the shop or school have the appropriate licenses and that space and equipment requirements are met. Should the facility fail in a specified number of areas, a violation is issued. Three violations of a similar nature in a one-year period lead to a show-cause hearing for possible revocation or suspension of the license. Incidents involving unlicensed persons or serious sanitation problems can be taken to court.

In Fiscal Year 1977, 78,656 inspections were made of the approximately 15,000 facilities, 1,413 violations and 31 warnings were issued to private beauty schools. One show-cause hearing was held which resulted in the revocation of one shop license and 46 court cases were instigated. Forty-four of these were won, one was dismissed and one is pending.

Aside from the problems discussed in Criterion 6 (Complaint Disposition) agency operations appear to effectively meet statutory objectives.

Summary

In general, Commission operations effectively achieve statutory objectives. Problems encountered include: 1) weighting towards private school interest on the Commission, 2) unequal staggering of license renewals over biennial periods, and 3) voluminous material processed manually by the school department. Agency personnel are currently working to remedy the two latter concerns.

Criterion 3

An assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public.

The review under this criterion centered on analyses of the agency's regulatory functions in terms of: 1) changes over time in the restrictive nature of agency functions, as seen in the agency's statutory history; 2) significant effects of this regulation on the public and the industry; and 3) alternative methods of performing the agency's regulatory tasks. These analyses were obtained through the agency's self-evaluation report, interviews with agency personnel, literature concerning occupational licensing, and surveys of similar licensing functions in other states.

Historical Development of Regulation

The first law relating to the regulation of cosmetology was enacted in 1921. Since that time, laws passed in 12 legislative sessions have affected the regulation of the industry. Major changes which have affected key aspects of Board or Commission operations have occurred in six sessions: the Forty-fourth Session, 1935; the Fiftieth Session, 1947; the Fifty-third Session, 1953; the Sixty-second Session, 1971; the Sixty-third Session, 1973; and the Sixty-fourth Session, 1975.

The nature of these changes has been categorized into three functional groupings: licensing, enforcement and administration. Exhibit III-2 traces the development in each of these areas from 1921 to the present. A brief discussion of the evolutionary trends in each of these categories follows.

Licensing

The general direction of licensing requirements has been increased restriction on entry into the occupation and application of skills once admitted. The most

comprehensive change since the inception of cosmetology regulation occurred in 1971. This change occurred in response to the recommendations of a House interim committee created by the Sixty-first Legislature to study problems in the field of cosmetology. Review of the committee's minutes reveals that the major concern of the industry was the inadequacy of the examination procedures followed by the Board to select "qualified" persons for the practice of cosmetology. The industry's views were well heard and revision of statutes relating to cosmetology reflected a number of their specific concerns.

Even with the adoption of more comprehensive examination procedures, the number of persons entering the occupation seems to have been affected only slightly. Exhibit III-1 depicts the number of licensees by selected years since 1960. Even though fluctuations can be seen in the number of licenses issued, the revision of the statutes has had unpredictable results. It is likely that the increase or decrease in number of licensees during the period depicted can be related to changes in fashion rather than regulation.

EXHIBIT III-1

Number of Cosmetology Licenses Issued 1960-1975 (FY)

	Number of Licensees	Average (for adjusted figure)	Percentage of Increase or (Decrease)
1960	64,053		-
1964	95,099		48%
1970	86,740		(9%)
1971	118,754		37%

EXHIBIT III-1

(cont.)

	Number of Licensees	Average (for adjusted figure)	Percentage of Increase or (Decrease)
1972	104,902		(12%)
1973	87,077*	108,508	3%
1974	129,939*	108,508	-
1975	94,196**		(13%)

*These numbers are inaccurate due to a large amount of undeposited cash on hand on August 31, 1973 (\$262,624) representing licenses paid for in fiscal 1973, but not yet issued.

**Figures for years since 1975 do not accurately reflect a total licensee population as license renewals are now staggered over a two-year period.

Enforcement

The Board of Hairdressers and Cosmetologists, established in 1935, had the power to revoke or suspend for cause the license of any person regulated by the Board. This power has remained the essential enforcement mechanism throughout the agency's history.

Today, the Commission has a separate Division of Inspections which employs 31 persons to periodically inspect the regulated facilities. This division assumes the major work for enforcement of laws, rules and regulations related to Cosmetology and conducts an average of 80,000 inspections per year of approximately 15,000 establishments licensed by the agency. Final revocation and suspension powers, however, still reside with the Commission members.

Administration

The original administration of the agency rested with the Board members, a

secretary and assorted staff. Over the years, increased responsibilities have been delegated to the agency's staff for actual administration of the statutes. The most definitive change in administration occurred in 1971 when the various departments were established with a designated head for each. In general, the Commission now handles policy matters (rules, curriculum, exam content, etc.) and the executive director and staff carry out the administrative functions of the agency.

The only statutory changes which could clearly be identified as benefitting the public is the inclusion in 1971 of two public members on the Commission. These members must have no "direct or indirect affiliation with or interest, financial or otherwise, in any facet of the beauty industry."

The general structure of the following Exhibit allows for review of the changes which have occurred in relation to the operations of the Cosmetology Board or Commission. Unless specifically noted under the individual categories, changes can be assumed to be cumulative. The 1971 law is set out almost in its entirety due to the comprehensive nature of the changes it provided.

Regulation in Other States

Administration

Information gathered from other states indicates that the cosmetology industry is regulated in all states including the District of Columbia. Of the 31 states which utilize an umbrella regulatory structure, all have included cosmetology. The remaining states, including Texas, administer cosmetology regulation through independent boards or commissions. West Virginia, in 1934, combined the regulation of barbers and cosmetologists under one board and has maintained the structure through the years. Colorado and Oregon, in 1977, passed new legislation combining the regulation of the two occupations.

Enforcement

Enforcement of the statutes and related sanitary rules and regulations of the various boards regulating cosmetology is carried out in three major ways. One, the Board or Commission carries out its own inspections and investigations. This occurs in Texas and 41 other states. Two, the State Health Department assumes the responsibility for inspections and investigations with the assistance of the individual boards or commission. This system is found in four states. Three, an umbrella structure can assume the enforcement responsibilities for agencies under its aegis through a separate inspection or enforcement department. This occurs in 5 states. In all states, the primary revocation or suspension powers reside with the board or commission.

Licensing

All 50 states and the District of Columbia utilize licensing procedures for regulation of the industry. The general licenses required include the following: operator or cosmetologist, shop or salon, school (private), instructor or teacher, and manicurist. Six states, including Texas license skin care (facial) specialists. In addition, Texas is one of five states which license wig specialists.

Education Requirements

Educational requirements vary in the states for cosmetology licensure. The requirements for the general operator's, beautician's or cosmetologist's license follow:

<u>General Education Required</u>	<u>Number of States - 1976</u>
High School or Equivalent	7
11th grade	0
10th grade	24
9th grade	3
8th grade	12
7th grade	1 (Texas)
"Elementary School"	1 (New York)
None	<u>2</u> (Colorado, N. Carolina)
	51 (Includes D.C.)

Special cosmetology schooling is required in all states, but the number of hours required for the general license of "operator", "beautician" or "cosmetologist" varies greatly. Exhibit III-3 reflects the variation present in 1976.

EXHIBIT III-3

Number of Hours for Operator's License for 50 States and D.C.

<u>No. of Hours Required</u>	in	<u>No. of States</u>
1,000		4
1,200		5
1,220		1
1,250		1
1,500		22 (includes Texas)
1,600		2
1,650		1
1,800		5
2,000		8
2,100		3
2,500		1

The number of school hours required for licensure is used as the major factor in establishing reciprocity with another state. Current Commission statutes allow reciprocity with individuals from states or nations whose requirements for the license are equivalent to or exceed the requirements of Texas. Examination is not

required of persons from 28 states, including D.C., to be licensed in Texas.

A possible restrictive element of the Texas law is found in the section relating to examinations (Sec. 34b, Art. 8451a, V.A.C.S.). This section requires that:

No examination may be administered to an applicant who received his instruction in a private beauty culture school or wig school without certification from that school that the applicant has tendered, or has made arrangements to tender, the agreed tuition.

Staff review has not been able to identify persons actually prevented from entering the industry due to this restriction. However, it does seem to unreasonably favor a portion of the industry regulated by the agency.

Apprenticeships of varying lengths can be substituted for school requirements in 23 states, and four states require an apprenticeship from six months to one year to complete licensure requirements. Texas does not have an apprenticeship system.

Schooling

In Texas, cosmetology schooling for the operator's license can be obtained in three ways. Private beauty schools offer courses in all phases of cosmetology through approximately 150 facilities. Vocational courses are offered in public high schools and junior colleges. Currently, there are 160 public high school programs and 22 junior college cosmetology programs.

Educational requirements vary for the different types of schools. Private schools will accept persons with a seventh grade education. Public high school cosmetology programs usually begin in the tenth grade and junior colleges require a high school diploma or its equivalent.

Costs also vary for the courses of study at the different facilities. An average tuition cost for the 1500 hours of school required for an operator's license

obtained at a private school varies from \$250 to \$1,250. Public high school programs are state-supported and the average cost for a junior college program is \$150 - \$240.

The number of persons appearing for operator examination in FY 1977 is depicted below:

<u>Graduates From</u>	<u>No. Appearing</u>	<u>Total Passing - 1st Attempt</u>
Private Schools	2,883 (69%)	2,506 (87%)
Public High School	1,080 (26%)	763 (71%)
Junior Colleges	224 (5%)	202 (90%)
Total	4,187 (100%)	3,471 (83%)

From the material above, it appears that the least restrictive educational requirement, the seventh grade, attracts the most students (69%). The cost of attending private schools is mitigated through Federal Student Loans which are currently utilized by 88 of the 147 private beauty schools throughout the state. It is likely that the disparity between passing rates between the various schools is due to the fewer number of hours required for actual cosmetology practice in the public schools. Public school curriculum allows 1000 hours of cosmetology and 500 hours of related academic work. The private schools and junior colleges require 1500 hours of cosmetology related study and practice. The validity of the difference in curriculums has recently been tested and upheld in Federal District Court.

Unisex

All states allow cosmetologists to practice on males.

Summary

The preceding analysis reveals that increasing restrictiveness on entry into

the occupation has had unpredictable results. The number of licensees has increased over the years despite changes in the agency's operating procedures and entry requirements.

In comparison with other states, Texas appears less restrictive than most. Although the number of required school hours has increased, this change has been made, primarily, for the purposes of reciprocity. Only three other states set lower educational levels for entry than Texas.

In general, the educational avenues of the state system offer adequate flexibility and do not appear to unduly restrict entry into the occupation. However, the requirement to have paid or to have arranged tuition payment to private beauty schools prior to examination seems unnecessarily protective of only one portion of the school industry.

One alternative to the restrictiveness represented by hour requirements might be achieved through the ability to substitute an apprenticeship program for school hours.

EXHIBIT III-2

Changes in Laws Regulating Hairdressing and Cosmetology
1921-1977

Year	Licensing		Enforcement	Administration
1921 (37th Regular)			<u>Prohibitions</u> - Use of unsterilized or unsanitized barber utensils, towels, etc. - Employment of person with communicable disease - Use of any portion of shop as a sleeping compartment <u>Penalties</u> - Violation of act is a misdemeanor; punishable by a fine not less than \$10 nor more than \$50 and/or imprisonment in county jail for period between 30 and 90 days.	<u>Responsibilities - Registration</u> - Every owner and operator or manager of a barber or beauty shop is required to register name and location of shop with State Board of Health.
1935 (44th Regular)	<u>Requirements</u> INDIVIDUAL - Age 16 or over - Read and write English - Complete 1000 hours of school - Non-residents - examined after school or experience- (2 years) - Pass examination - Exhibit good moral conduct; no felony convictions	<u>Exemptions</u> - M.D. - Surgeon - Dentist - Chiropodist - Osteopath - RN - Barber (as haircutter) - Emergency or domestic service (not for fee) <u>Special Fund</u> - 97% of revenue to Hairdresser and Cosmetology	<u>Prohibitions</u> - Violation of sanitary rules - Conviction of felony - Fraud used in taking exam - Gross immorality, unprofessional or dishonest conduct - Addiction to drugs or alcohol - False or deceptive advertising - Failure to display license <u>Penalties</u> - Board has power to revoke or suspend license for cause	<u>Board Responsibilities</u> - Carry out provisions of Act; licensing, examination, enforcement - Hire secretary (bonded \$10,000) and staff to assist in administration - Maintain minutes of meetings and register applicants and licenses - Hold regular meetings for the purpose of examination - Promulgate sanitary rules and regulations in coordination with State Board of Health

EXHIBIT III-2
(cont.)

Year	Licensing	Enforcement		Administration																					
1935 (cont.)	<u>Requirements</u> - Health certificate and Wasserman Test SCHOOLS - Sufficient instructors; High school graduate - M.D. on staff - Sufficient equipment for teaching curriculum - Maintain regular class hours - Grade and examine students before graduation SHOPS - No sleeping compartment - Compliance with Board sanitary rulings - Shop can be in home if in compliance	<u>Exemptions</u> Fund (No. 88) - 3% to general revenue - Balance reverts to general revenue	<u>Prohibitions</u> <u>Regulation of</u> - Individuals - Shops	<u>Board Responsibilities</u> <u>Board Composition</u> - Three members appointed by Governor - six-year terms - All with five years experience in field - No affiliation with schools while in office <u>Board Compensation</u> - \$10 per diem and actual expenses up to \$2500 per year.																					
		<u>Fees</u> <table border="1"> <thead> <tr> <th></th> <th>Initial</th> <th>Renewal (yearly)</th> </tr> </thead> <tbody> <tr> <td>Exam</td> <td>\$ 10</td> <td>\$ -</td> </tr> <tr> <td>Shop</td> <td>10</td> <td>5</td> </tr> <tr> <td>Operator</td> <td>10</td> <td>3</td> </tr> <tr> <td>Manicurist</td> <td>5</td> <td>2.50</td> </tr> <tr> <td>Instructor</td> <td>10</td> <td>10</td> </tr> <tr> <td>School</td> <td>100</td> <td>100</td> </tr> </tbody> </table>			Initial	Renewal (yearly)	Exam	\$ 10	\$ -	Shop	10	5	Operator	10	3	Manicurist	5	2.50	Instructor	10	10	School	100	100	
	Initial	Renewal (yearly)																							
Exam	\$ 10	\$ -																							
Shop	10	5																							
Operator	10	3																							
Manicurist	5	2.50																							
Instructor	10	10																							
School	100	100																							

EXHIBIT III-2
(cont.)

Year	Licensing	Enforcement	Administration	
1935 (44th - 2nd Called Session)	<u>Fees</u> Exam \$3 (for person from one person beauty shop) <u>Special Fund</u> - Balance does <u>not</u> revert to General Revenue - 10% of revenues goes to General Revenue	<u>Prohibitions</u> - Itinerant shops; shop must have permanent and definite location	<u>Board Compensation</u> - Secretary and employees allowed reason- able expenses including travel to state or national conventions	
1943 (48th Regular)	<u>Requirements</u> INDIVIDUAL - Non-resident in armed services does not need Texas school or experi- ence, but does need current out-of-state license - No exam - Reciprocal license good until end of War	<u>Fees</u> Initial Renewal - Texas licensees out-of-state in armed services must only pay renewal fee upon return - no exam	<u>Prohibitions</u> - Itinerant shops	
1947 (50th Regular)	<u>Requirements</u> SCHOOLS - specific space 3500 square feet - at least 2 instructors - No doctor on staff - 150 hours for mani- curist - 7th grade education - No connection with shop	<u>Fees</u> Initial Renewal - \$5 plus back fees up to 5 years without exam Exam -fee must be refunded if exam not taken License -fee refunded if exam failed	<u>Prohibitions</u> - Unlawful for shop to employ unlicensed person - Gross malpractice or incompetency - Working once disease is discovered - Practice under another's name <u>Penalties</u> - Conviction punishable by fine of \$25 - \$100; no jail	<u>Board Responsibilities</u> - Exams - 1st Tuesday of February, May, August, November each year - Inspectors - must be 5-year licensee <u>Board Compensation</u> - Salary - \$3600 and expenses <u>Secretary</u> - Salary fixed by Board

EXHIBIT III-2
(cont.)

Year	Licensing	Fees	Enforcement	Administration
1953 (53rd Regular)	<u>Requirements</u> INDIVIDUALS - Non residents can be granted reciprocal license given equal state qualifications - no exam SCHOOLS - Instructor can substitute extra 1000 hours of school for 3 years school	Recip. <u>Initial</u> <u>Renewal</u> \$25	<u>Prohibitions</u> - Conviction of felony involving moral turpitude - Practicing cosmetology outside shop - Gross malpractice deleted	<u>Board Responsibilities</u> - Rules and regulations must be approved by AG - Exams must be held monthly beginning Jan. 1, 1954 - Sanitary rules must be approved by AG - Establish minimum curriculum of schools <u>Board Compensation</u> - Board salary - \$4620 per year and expenses - Out-of-state trips approved by AG
1963 (58th Regular Session)			<u>Prohibitions</u> - AG, District or County Attorney can enjoin any person in violation of Act.	
1965 (59th Regular)		Exam <u>Initial</u> <u>Renewal</u> \$15 -		
		<u>Special Fund</u> - \$5 of exam fee goes to "examination facilities" acct. for renting or providing adequate space for exams		
1969 (61st Regular)	<u>Requirements</u> SCHOOLS - Specified that vocational curriculum must include 1000 hours of cosmetology and 500 hours of related academics			

EXHIBIT III-2
(cont.)

Year	Licensing	Enforcement	Administration	
1971 (62nd Regular	<p><u>Requirements</u> INDIVIDUAL</p> <ul style="list-style-type: none"> - English writing and reading requirement dropped <p>SCHOOLS (Private)</p> <ul style="list-style-type: none"> - Minimum number of students - 50 - 1500 hours of instruction - Wig specialist course - 300 hours - Student can transfer hours between private and vocational school - Wig schools must be licensed (Public) - Must be inspected and approved by Commission inspector <p>SHOP</p> <ul style="list-style-type: none"> - Wig shops must be licensed 	<p><u>Exemptions</u></p> <ul style="list-style-type: none"> - Make-up Artists - <u>Barbers only if they work on males</u> <p><u>Funding</u></p> <ul style="list-style-type: none"> - All revenues remit to General Revenue - Funding from General Appropriations Act - Board balance to General Revenue - 8-31-71 	<p><u>Prohibitions</u></p> <ul style="list-style-type: none"> - No employee of commission can have any affiliation with beauty industry while employed - No student can take exam unless tuition has been paid or arranged. <p><u>Penalties</u></p> <ul style="list-style-type: none"> - Three similar rule violations in one year, grounds for revocation <p><u>Regulation of</u></p> <ul style="list-style-type: none"> - Individuals - Schools - Shops 	<p><u>Commission Responsibilities</u></p> <ul style="list-style-type: none"> - Issue rules and regulations consistent with Act - Prescribe license application and renewal forms - Minimum curricula of schools - Prescribe method and content of exam - Establish sanitation rules and regulations - Maintain record of proceedings; at least four meetings per year <p><u>Executive Director</u> (knowledge of beauty industry and five years business experience 25 yrs. old)</p> <ul style="list-style-type: none"> - Administer and enforce provisions of act - Bonded - \$10,000 <p><u>Responsibilities</u> DIRECTOR OF LICENSING (licensee for five years/ 25 years old)</p> <ul style="list-style-type: none"> - Collect all fees - Issue licenses - Maintain record of licensees <p><u>Responsibilities</u> DIRECTOR OF EXAMINATIONS (licensee for five years/ 25 years old)</p> <ul style="list-style-type: none"> - Administer and grade all examinations - Maintain record of all examinees and grades <p><u>Responsibilities</u> DIRECTOR OF INSPECTIONS (five years - licensee/ 25 years old)</p> <ul style="list-style-type: none"> - Supervise inspection of facilities and licensees

EXHIBIT III-2
(cont.)

Year	Licensing	Enforcement	Administration																																																																
1971 (cont.)			<u>Commission Composition</u> - Six members; appointed by Governor and confirmed by Senate; all engaged in represented segment for five years/ at least 25 years old																																																																
			<u>Commission Composition (cont.)</u> - 1 member; valid beauty shop licensee; no interest in school - 1 member; valid school licensee; no interest in shop - 1 member; valid wig licensee; no interest in beauty shop or school - 1 member; valid operator licensee; - 2 members of general public; no affiliation with Beauty Industry - 1 ex-officio; representative of TEA																																																																
			<u>Compensation</u> <u>Commission</u> - \$25 per diem for no more than 30 days per year and actual travel expenses																																																																
			<u>Employees</u> - Set by General Appropriations Act																																																																
	<table border="1"> <thead> <tr> <th></th> <th>Initial</th> <th>Fees</th> <th>Renewal</th> </tr> </thead> <tbody> <tr> <td>Exam</td> <td>\$ 5</td> <td colspan="2">(Refunded if exam failed)</td> </tr> <tr> <td>Reinstatement</td> <td>25</td> <td>\$ -</td> <td></td> </tr> <tr> <td>Delinquent</td> <td>5</td> <td></td> <td>(30 days)</td> </tr> <tr> <td>Shop</td> <td>25</td> <td></td> <td>10</td> </tr> <tr> <td>Operator</td> <td>15</td> <td></td> <td>15</td> </tr> <tr> <td>Manicurist</td> <td>5</td> <td></td> <td>5</td> </tr> <tr> <td>Instructor</td> <td>20</td> <td></td> <td>15</td> </tr> <tr> <td>Wig Specialist*</td> <td>15</td> <td></td> <td>10</td> </tr> <tr> <td>Wig Instructor*</td> <td>20</td> <td></td> <td>15</td> </tr> <tr> <td>Temporary*</td> <td>25</td> <td></td> <td>25 (renewed only once)</td> </tr> <tr> <td>Duplicate*</td> <td>5</td> <td></td> <td>-</td> </tr> <tr> <td>Reciprocal</td> <td>25</td> <td></td> <td>-</td> </tr> <tr> <td>Private School</td> <td>250</td> <td></td> <td>150</td> </tr> <tr> <td>Wig Salon*</td> <td>25</td> <td></td> <td>15</td> </tr> <tr> <td>Wig School</td> <td>100</td> <td></td> <td>25</td> </tr> </tbody> </table>		Initial	Fees	Renewal	Exam	\$ 5	(Refunded if exam failed)		Reinstatement	25	\$ -		Delinquent	5		(30 days)	Shop	25		10	Operator	15		15	Manicurist	5		5	Instructor	20		15	Wig Specialist*	15		10	Wig Instructor*	20		15	Temporary*	25		25 (renewed only once)	Duplicate*	5		-	Reciprocal	25		-	Private School	250		150	Wig Salon*	25		15	Wig School	100		25		
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EXHIBIT III-2
(cont.)

Year	Licensing		Enforcement	Administration
1973 (63rd Regular)	<u>Requirements</u> <u>SCHOOLS</u> <ul style="list-style-type: none"> - Private schools must maintain at least two licensed instructors on duty during business hours - 150 hours curriculum for hair cleansing and scalp conditioning - 7th grade education not required for above certification - No fee for certification - Certification good until 12-31-1978 - Instructor can be licensed from Vocational training program of public junior college 		<u>Prohibitions</u> <ul style="list-style-type: none"> - Certified hair cleanser and conditioner must work in shop with three or more people - No more than 100 persons can be certified as above at any one time 	<u>Responsibilities</u> <u>DIRECTOR OF LICENSING</u> <ul style="list-style-type: none"> - License renewal fees can be prorated and renewal times can be staggered
1975 (64th Regular)	<u>Requirements</u> <u>INDIVIDUALS</u> <ul style="list-style-type: none"> - Any person working as a "facialist, hairweaver or shampooer" must be licensed under specialty category <u>SCHOOLS</u> <ul style="list-style-type: none"> - 300 hours of instruction required for specialty license - 1500 hour course must include 800 hours of haircutting (Public) <ul style="list-style-type: none"> - Non-profit, tax exempt vocational education schools must be inspected and approved 	<u>Exemptions</u> <ul style="list-style-type: none"> - Barbers licensed by Barber Board working in Barber establishment 	<u>Prohibitions</u> <ul style="list-style-type: none"> - No licensed barber can work in establishment licensed by Cosmetology Commission; no licensed cosmetologist can work in establishment licensed by Barber Board. - Felony involving moral turpitude deleted 	<u>Responsibilities</u> <u>Director of Licensing</u> <ul style="list-style-type: none"> - Licenses good for two years

EXHIBIT III-2
(cont.)

Year	Licensing	Enforcement	Administration
1977 (cont.)	SCHOOLS (private) <ul style="list-style-type: none">- Commission can promulgate special rules if enrollment temporarily falls below 15 (2 instructors not required)- Wig specialist 300 hours can be completed in eight rather than 12 weeks		

Criterion 4

The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

The review of this criterion was directed at evaluating the agency's definition of its target population. The existence of other similar populations was explored and the extent of any overlap and duplication of services offered was analyzed. When applicable, the review also dealt with any efforts to establish coordinative relationships between agencies serving similar target groups and to minimize any duplication of services. This information was collected through discussions with agency personnel, review of statutes and rules, and the identification of other agencies with the potential ability to offer these same services.

Target Populations

Duplication of programs generally occurs when services are directed to similar target populations. Target populations may be similar in several ways: age, disability or in the kind of functions performed. In regard to cosmetologists, the functions performed are similar to those performed by the target population of the licensing agency regulating the activities of barbers. While the functions performed by the two occupations can differ, the general aim is to enhance or improve a person's general appearance through cutting or styling of the hair.

Historically, the two activities were ~~separate~~ and distinct by virtue of the training required to perform the services. Initially cosmetologists worked on women and barbers worked on men. Hair styles were distinct and the training

needed to achieve the desired styles was different. As hair fashions have changed over the years, it has become increasingly more acceptable for men to have longer, styled hair and for women to wear various "natural" hair cuts which do not require the extensive dressing or styling techniques exercised by cosmetologists in the past.

As these fashion changes have occurred, legal distinctions have been imposed which have tended to freeze the historical differences based on the sex of the clients. However, these differences no longer hold true, and attempts to mandate such a distinction by statute have been declared **unconstitutional**.

Today the implicit distinctions between the performance of the occupations are still based on training and personal preferences of the client. However, as illustrated by the material presented in Exhibit IV-1 the distinction in the types of services that can be performed by either group has narrowed dramatically.

Analysis of the preceding definitions reveals very few substantive differences. The major difference between the abilities of the licensed cosmetologist and the licensed barber is: the cosmetologist can remove superfluous hair with depilatories and tweezers and the barber can shave the face or trim the beard. Although the mechanics involved in accomplishing the above tasks differ, the end results are remarkably similar. In general, the definitions of the two occupations appear to be identical. However, training for the two occupations appears to differ.

Training

The required curricula of barber and cosmetology schools are similar and both require 1500 hours for graduation. The general topics of shampooing, hair and scalp treatments, cold wave and chemical hair relaxing, hair coloring, wigs and hairpieces, manicuring, facials, hair styling, and haircutting which are presented in cosmetology schools are also presented in barber schools, although cold wave and

EXHIBIT IV-1

Definition of Cosmetology and Barbering

Art. 8451a, V.A.C.S. (Cosmetologists)

Art. 8407a, V.A.C.S. (Barbers)

Sec. 1

(3) "Cosmetology" means the performing or doing, or offering or attempting to do or perform, any, all or any combination of the following acts, services, works, treatments, or undertakings:

(A) arranging, beautifying, bleaching, tinting, cleansing, coloring, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, waving, or otherwise treating the hair as primary services, treatments or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services: cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated herein, or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, as such, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner whatsoever:

(B) cleansing, stimulating, or massaging the scalp, face, neck, arms, bust, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; beautifying the face, neck, arms, bust, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances:

(C) removing superfluous hair from the body by use of depilatories or tweezers;

(D) cutting, trimming, polishing, tinting, coloring, cleansing or manicuring the nails of any person; or attaching false nails or massaging, cleansing, treating, or beautifying the hands of any person;

Sec. 4. In this Act, unless the context otherwise requires:

(a) "barber" shall mean any person who performs, offers or attempts to perform any act of barbering, professes to do barbering or to be engaged in the practice thereof, or who directly or indirectly or in any manner whatsoever advertises or holds himself out as a barber or as authorized to practice barbering;

(b) "barbering," "practicing barbering," or the "practice of barbering" shall mean the performing or doing, or offering or attempting to do or perform, any, all or any combination of the following acts, services, works, treatments, or undertakings:

(1) arranging, beautifying, coloring, processing, shaving, styling, or trimming the mustache or beard by any means or method;

(2) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, waving, or otherwise treating the hair as primary services, treatments, or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services,

(3) cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in Section 4(b) (2), or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, as such, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner whatsoever;

(4) cleansing, stimulating, or massaging the scalp, face, neck, arms, shoulders, or that part of the body above the shoulders, by means of the hands, devices, apparatuses, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

EXHIBIT IV-1

Definition of Cosmetology and Barbering

Art. 8451a, V.A.C.S. (Cosmetologists)

Art. 8407a, V.A.C.S. (Barbers)

Cont.

Cont.

- (E) servicing a wig or artificial hairpiece either on a human head or on a block subsequent to the initial retail sale and servicing by any of the practices enumerated in Paragraph (A) of this subsection;
- (F) administering facial treatments;
- (G) hair weaving;
- (H) shampooing and conditioning hair;
- (I) advertising or holding out to the public by any manner whatsoever that any person is a cosmetologist or authorized to practice cosmetology;
- (J) advertising or holding out to the public by any manner whatsoever that any location or place of business is a beauty salon;
- (K) receiving any fee, salary, compensation, or financial benefit, or the promise of any fee, salary, compensation, or financial benefit, for performing, doing, offering, or attempting to perform or do any act, work, service, or thing, which is any part of the practice of cosmetology as herein defined.

- (5) beautifying the face, neck, arms, shoulders, or that part of the body above the shoulders, by the use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;
- (6) cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person or attaching false nails;
- (7) massaging, cleansing, treating, or beautifying the hands of any person;
- (8) administering facial treatments;
- (9) hair weaving;
- (10) shampooing or conditioning hair;
- (11) servicing a wig, toupee, or artificial hairpiece on a human head or on a block, subsequent to the initial retail sale by any of the acts, services, works, treatments, or undertakings enumerated in Section 4(b)(2) of this Act;
- (12) advertising or holding out to the public by any manner whatsoever that any person is a barber or authorized to practice barbering;
- (13) advertising or holding out to the public by any manner whatsoever that any location or place of business is a barber shop, barber school, barber college, or barber salon.

chemical hair relaxing are not treated specifically in barber schools. On the other hand, barber schools teach taper cuts, shaving, and the trimming of beards which are not included in the curricula of cosmetology schools. Additionally barber schools require course work in anatomy, physiology, and histology, which are not set out as specific topics in cosmetology schools, although some of this relevant information may be presented under other topics.

Comparisons of curricula of the two types of schools also indicate differing emphasis on certain topics. Cosmetology schools place a heavier emphasis on wigs and hairpieces, hair coloring, and cold waving and chemical hair relaxing than do barber schools, while barber schools emphasize haircutting.

Interviews with graduates of barber and cosmetology schools indicate that, stated simply, barber schools emphasize haircutting while cosmetology schools emphasize beauty culture; however, the basic principles are the same in both schools. Based on interviews, it appears that the actual skills that differentiate between barbering and cosmetology are largely acquired after graduation from school. This on-the-job training may result in specializations which common usage labels barbering or cosmetology.

The factors cited above help account for the seeming paradox of having virtually identical statutory definitions of barbering and cosmetology, while the actual working practices may differ significantly. Nevertheless, it is important to note that although the practices of barbering and cosmetology may differ, they may also be the same. In some "progressive" shops, the services provided customers by barbers and cosmetologists are the same. In order to regulate these occupations, distinguishable by minimal statutory differences, the state maintains two separate agencies.

EXHIBIT IV-2
Comparative Regulatory Functions

Barber Examiners	Cosmetologists	Motor Vehicle Commission	Nursing Home Administrators	Public Accountancy	Structural Pest Control Board	
X	X	X	X		X	establish qualification standards independently
			X			qualification standards suggested by national organization
X	X		X		X	develop written examinations
			X	X		utilize national exams
X	X		X	X	X	process exam applications
X	X		X	X	X	evaluate qualifications for examination
X	X		X			prepare and send candidate ID cards
X	X		X	X	X	collect and process exam fees
						administer exams annually
				X		administer exams semi-annually
X	X		X		X	administer exams on multiple occasions
X	X		X		X	administer multiple exams
			X	X		national exam grading procedure
X	X		X		X	agency exam grading procedure
X	X		X	X	X	record and report grades
X	X		X	X	X	prepare and distribute certificates of registration
*	*	X	*	X	X	process annual license renewal *
X	X	X	X	X	X	collect renewal fees
		X		X	X	mail notification of delinquency
X	X		X	X		reciprocal registration processed independently
						reciprocal registration processed thru national org.
X	X		X	X		collect reciprocal registration fees
X	X	X	X	X	X	receive and investigate complaints
X	X				X	field investigation capability
X	X	X	X	X	X	issue warnings
X	X	X	X	X	X	consult legal counsel reference violations
X	X	X		X	X	invoke injunctive powers
X	X	X	X	X	X	arrange agendas for Board meetings
X	X		X	X	X	administer Board meetings
			X	X		prepare roster
			X	X		distribute roster
	X		X	X		coordinate activities with educational institutions

*Biennial renewal

Agency Functions

As depicted in Exhibit IV-2, the two agencies, the Texas Cosmetology Commission and the State Board of Barber Examiners, perform the same general functions of examination, licensing and enforcement. The purpose of these activities is to protect the public health and welfare. The workloads of the two agencies differ as do methods utilized to execute their statutory objectives.

In general, the Commission licenses approximately 100,000 persons over the biennium, and annually examines 6,000 aspirants and makes yearly inspections of the state's 15,000 cosmetology establishments. Major portions of this phase of the Commission's work are supported through data processing.

The Barber Board licenses approximately 25,000 persons over the biennium, conducts 900 examinations yearly in different locations around the state and inspects the 6,500 licensed establishments while conducting approximately 61,000 inspections per year. Major portions of work to execute these objectives are accomplished manually.

Although actual workload and procedures vary for the two agencies, the functions structured to accomplish the regulation of the two occupations are similar. Since the functional execution of regulation of the similar target populations is comparable, potential for consolidation of the agencies appears optimal.

Texas Merger Efforts

Due to previously discussed similarities, past efforts have been made to consolidate the operation of the two agencies. H.B. 1750, introduced during the Sixty-fourth Legislature, would have created the Commission of Cosmetologists and Barbers to regulate the activities of both occupations. H.B. 758, introduced during the Sixty-fifth Legislature would have created a similar single licensing

agency. Neither bill received affirmative committee action during the respective sessions.

Proposals have been made during the Sixty-third and Sixty-fourth sessions (HSR 102 and HSR 99, respectively) to create interim study committees to consider the feasibility of merging the two licensing agencies. Neither resolution has been adopted.

The House State Affairs Committee studied the merger issue following the Sixty-fourth Session and later recommended merger of the agencies. The proposed legislation took the form of H.B. 758 introduced during the Sixty-fifth session. No action was taken on this bill.

Current efforts to distinguish between the two occupations have resulted in the promulgation by the Barber Board of a separation rule requiring the construction of a partition between barbers and cosmetologists working in the same shop. Attorney General Opinion H-1137, issued in March 1978, states that this rule would probably be upheld as a valid exercise of the police power of the state should **it be tested in court.** Currently, the agencies are conferring on the appropriate **height of such a partition.**

Merger in Other States

At least two states, Colorado and Oregon, have recently combined the functions of their barber and cosmetology agencies. Except for minor occupational zoning problems in Colorado, both states report that the combination is working effectively. West Virginia has had combined regulation of the two industries since 1934. In West Virginia, different licenses are issued, and differing hours of schooling are required for barber and cosmetology licenses. Barbers receive 1,800 hours of schooling, while cosmetologists receive 2,000, with the extra hours devoted to permanent **waving**, manicuring, hair structure, tinting and bleaching.

Anything taught in school may be performed on either a man or a woman. Interestingly, officials in West Virginia report no major problems with having beauticians and barbers on the same board. They report that since it has always been that way, it has never become an issue.

Occupational Differences Affecting Merger

Occupational practitioners feel there are differences between barbers and cosmetologists. The differences appear to be derived from differences in training and on-the-job training after graduation from school. The differences in training of the two groups, who by statute can perform almost identical services, appear to need consideration in the event of merger of the two agencies.

Consolidation Potential

As shown in Exhibit IV-1, the functions which may be performed by barbers and cosmetologists are essentially the same. As shown in Exhibit IV-2, the functions performed by the Texas Cosmetology Commission and the Board of Barber Examiners are also essentially the same. One of those functions, inspection, is actually performed in barber and beauty shops, and both agencies inspect for: 1) sanitary conditions, and 2) valid licenses. Thus, theoretically, there is very little to prevent combination of the two agencies.

In Texas, however, barbers and cosmetologists identify themselves separately. A number of factors are likely to contribute to this distinction. One obvious contributing factor is that the licenses are issued by different agencies, and are labeled correspondingly. Other factors may include differences in schooling or experience gained after graduation from school.

A number of areas exist where potential savings could occur if the Board of Barber Examiners and the Texas Cosmetology Commission are merged. Assuming the structure of the resulting single agency would carry out the existing functions

of administration, licensing, examination and enforcement, preliminary estimates show savings could reach \$50,000 for the first year of merger and \$200,000 for each succeeding year.

Summary

The basic principles of barbering and cosmetology are similar. However, differing emphasis during school and later during on-the-job training may lead to specialization of functions so that practices in barber or beauty shops may be quite different. The legal parameters of the occupations are essentially the same; the agencies involved perform similar functions; and the actual inspections performed in barber and beauty shops have the same objectives of protecting the public health by ensuring that licensed personnel are working in sanitary shops. Additionally, in some beauty and barber shops, identical services are provided. Theoretically, no real barriers to merging the agencies exist. Other states are beginning to combine regulation of these two occupations, and West Virginia has had combined regulation since its agency was created in 1934.

Should combination be effected, preliminary estimates indicate slightly over \$50,000 could be saved the first year, and approximately \$200,000 in cost reductions could be realized in succeeding years.

Criterion 5

Whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates.

The review under this criterion centered on statutory changes which affect the operations of the agency. In the period covering the last four legislative sessions, the review focused on both proposed and adopted changes in the law; prior to that period, the staff review was limited to only adopted changes. In analyzing these changes, the approach was taken that a statutory modification must be of clear benefit to the state's citizens to be considered to be in the interest of the public.

Nature of Proposed Changes

The discussion of proposed legislation will cover the past four sessions rather than the past three. The Sixty-second Legislature is included since a comprehensive reorganization of cosmetology regulation occurred during the session in 1971 and established the Texas Cosmetology Commission. The specific measures proposed during these four sessions are depicted in the following exhibit.

Analysis by Session

During the Sixty-second Legislature, the following legislation was proposed.

House Bill 156. This bill created the Texas Cosmetology Commission, to replace the State Board of Hairdressers and Cosmetologists and provided for administration, examination, inspection and licensing functions. These changes were proposed in response to recommendations from an interim committee charged with "studying the existing laws regulating hairdressers and cosmetologists."

EXHIBIT V-II

Synopsis of Proposed Legislative Changes
Texas Cosmetology Commission

Session	Bill	Proposed Change	Action
62nd	H.B. 156	Created Texas Cosmetology Commission - required barber to work only on males; cosmetologists only on females; created licenses related to wiggery.	Adopted
	H.B. 233	Required that haircutter in beauty shop could only be a licensed barber.	Failed
63rd	H.B. 771	Allowed instructor license to be completed through vocational training program in public junior college.	Adopted
	H.B. 1704	Required that two licensed instructors be <u>on duty</u> during business hours of private beauty school.	Adopted
	H.C.R. 109	Commended Ron Resech for his service in the advancement of cosmetology in Texas.	Adopted
	H.S.R. 102	Created an interim committee to study the merger of the Texas Cosmetology Commission and the Barber Board.	Failed
	S.B. 508	Allowed staggering of license renewals; created temporary license.	Adopted
64th	H.B. 255	Allowed barbers and cosmetologists to work on both sexes; established biennial renewals; changed "exam fee" to non-refundable "admin. fee"; created specialty and demonstrators' licenses.	Failed
	H.B. 376	Allowed barbers and cosmetologists to work on both sexes.	Failed
	H.B. 1460	Allowed non profit, tax exempt vocational schools not to be considered private beauty schools.	Failed

EXHIBIT V-II
(cont.)

Session	Bill	Proposed Change	Action
	H.B. 1750	Created Commission of Cosmetologists and Barbers; composed of one licensed barber, one licensed beautician, five lay members, one wig person and one ex-officio member from TEA.	Failed
	H.B. 1966	Made public schools subject to all provisions of cosmetology Act; required proof of "public need" before new school could be licensed.	Failed
64th	H.B. 2133	Specified reasons for denial, suspension or revocation of Barber and Cosmetology licenses; "moral turpitude" deleted from cosmetology statutes.	Failed
	H.S.R. 99	Created House interim committee to study the merger of the Barber Board and Texas Cosmetology Commission.	Failed
	S.B. 86	Allowed cosmetologists and barbers not in the same facility to cut the hair of both sexes; established specialty licenses; required 800 hours of haircutting in cosmetology school curriculum; established biennial licensee renewals; changed "exam fee" to non-refundable "admin. fee"; raised all renewal fees; deleted reference to "moral turpitude" as a ground for denial, suspension or revocation of license; allowed non-profit, tax exempt vocational schools not to be considered private beauty schools.	Adopted
65th	H.B. 758	Created Commission of Cosmetologists and Barbers, composed of two licensed barbers, two licensed cosmetologists and two public members.	Failed
	H.B. 759	Established that no partition could be required to separate Barbers and Cosmetologists in same shop.	Failed

EXHIBIT V-II
(cont.)

Session	Bill	Proposed Change	Action
	H.B. 1593	Exempted out-of-state licensed cosmetologists from temporary licensure to participate in educational activities from which the public is excluded (adopted in S.B. 532).	Failed
	H.B. 1616	Deleted wiggery from curriculum required for instructor license.	Failed
	H.B. 1836	Extended certification time for hair technicians.	Adopted
	S.B. 398	Allowed private schools to have only one instructor if enrollment fell below 15.	Adopted
	S.B. 532	Deleted Wasserman test and allowed itinerant shops under certain conditions.	Adopted

During the committee review, the Board offered no testimony in relation to the changes proposed. These recommendations closely reflected the thinking of the industry. Portions of the Act relating to barbers working on males only and cosmetologists working on females only were later ruled unconstitutional.

House Bill 233. This bill, which did not receive affirmative committee consideration, would have required a haircutter in a beauty shop to be a licensed barber.

During the Sixty-third Legislature, the following proposals were made:

House Bill 771. This bill was passed by the Sixty-third Legislature and allowed the instructor license to be obtained through completion of additional hours of education at a public junior college. Prior to this legislation, the hours had to be obtained at a private beauty school.

House Bill 1704. This bill was passed by the Sixty-third Legislature and required that two instructors be on duty during regular business hours of a private beauty school. This clarified previous language which specified that the school have two licensed instructors on staff.

House Concurrent Resolution 109. This resolution was adopted by the Sixty-third Legislature and commended Ron Resch (now Executive Director of the Commission) for his efforts toward advancement of cosmetology in Texas. At this time, he was president of the Texas Association of Beauty Culture Schools.

House Senate Resolution 102. This resolution was not adopted by the Sixty-third Legislature and would have created an interim committee to study the feasibility of merging the Commission and the Barber Board "to acquire both efficiency and economy in the regulation" of the related occupations.

Senate Bill 508. This bill was passed by the Sixty-third Legislature and allowed the commission to stagger license renewals. Prior to this legislation all licenses expired on August 31. In attempting to renew approximately 100,000 licenses at once, severe backlogs were created and accounting procedures were unreasonably strained. The ability to stagger dates allowed marked improvement in the licensing process.

During the Sixty-fourth Legislature the following proposals were made:

House Bill 255. This bill did not receive affirmative committee action during the Sixty-fourth Legislature. The bill would have implemented many of the provisions of S.B. 86 (below) which did pass and was referred to as "our bill" during a Commission meeting held in February 1975.

House Bill 376. This bill, which received no affirmative committee action, would have allowed cosmetologists and barbers to work on both males and females. This provision was included in S.B. 86, below.

House Bill 1460. This bill, which received no affirmative committee action, would not have required tax-exempt vocational schools to be subject to private school licensing and inspection regulation, but would have required Commission approval prior to operation. This provision was incorporated in S.B. 86 below.

House Bill 1750 This bill which did not receive affirmative committee action would have created the Commission of Cosmetologists and Barbers. From review of Commission minutes it appears the Commission felt that the fate of this bill should be left to the wisdom of the Legislature.

House Bill 1966. This bill which did not receive affirmative committee action would have made public beauty schools subject to all provisions of the Cosmetology Act. The bill would have required the establishment of "public need" prior to

approval of new beauty schools. No mention of this bill could be found in Commission minutes.

House Bill 2133. This bill, which received no affirmative committee action, would have specified reasons for denial, suspension or revocation of barber and cosmetology licenses. The bill deleted reference to the commission of a crime involving moral turpitude as a ground for denial, suspension or revocation. Provisions of this bill were included in S.B. 86 below.

House Simple Resolution 99. This resolution which was not adopted would have created an interim committee to study the manner by which the Commission and the Board of Barber Examiners should be merged in order to accomplish both efficiency and economy in the regulation of the similar occupations.

Senate Bill 86. This bill which did pass made several changes to the statutes relating to the regulation of barbers and cosmetologists. As stated previously, this bill incorporated the provisions contained in H.B. 255, 376, 1460 and 2133, and in addition, required 800 hours of haircutting to be included in the cosmetology school curriculum. This was a result of court action in May, 1974 which held that the cosmetologists did not have haircutting training equal to the barbers' training; therefore, the barbers were not afforded equal protection of the law, as required by the Texas and United States Constitutions. The decision disallowed any cosmetologists from cutting hair as a primary service. The decision was appealed and during the Sixty-fourth Legislature the Cosmetology Commission supported a bill which passed and allowed cosmetologists to cut hair.

The bill also established the following:

1. A biennial renewal system;
2. an increase in fees;
3. a change from "exam fee" to a non-refundable "administration fee"; and

4. a determination that a licensed barber could not work in a beauty facility and a licensed cosmetologist could not work in a barber facility.

The Commission, in cooperation with related trade associations, made several suggestions on amendments to S.B. 86. Review of minutes of Commission meetings during the spring of 1975 reveals that the Commission felt a need to "protect" the industry. It was argued that the court decision which obviated the cosmetologists' right to cut hair would cause severe hardships on the wage earners of the industry.

During the Sixty-fifth Legislature the following proposals were made:

House Bill 758. This bill which did not receive affirmative committee action would have created the Commission of Cosmetologists and Barbers. The Commission did not favor this bill because it would have left intact the individual statutes relating to the cosmetologists and barbers.

House Bill 759. This bill which passed the House and failed in the Senate would have established that no partition could be required to separate barbers and cosmetologists in the same shop. This bill, introduced in response to a proposed partition rule of the Board of Barber Examiners, was favored by the Commission.

House Bill 1593. This bill received no affirmative action by the House **consent calendar** committee and would have exempted persons **licensed by another** state from Texas licensure prior to participation in educational activities from which the public is excluded. These activities occur mainly in beauty shows or demonstrations. The Commission was in favor of this legislation and its provisions were incorporated in S.B. 532 (below) which did pass.

House Bill 1616. This bill proposed by the Texas Association of Beauty Schools, passed the House, but failed in the **Senate** and would have deleted wiggery items from the additional curriculum required to obtain an instructor license. The

Commission was in favor of this legislation.

House Bill 1836. This bill proposed by the Sisters of Notre Dame, passed and extended the certification time available for persons seeking a hair technician's certification. The Commission's position on this proposal is not reflected in the agency's minutes.

Senate Bill 398. This bill which passed allowed private beauty schools to staff only one instructor if school enrollment fell below 15. The Commission was in favor of this legislation.

Senate Bill 532. This bill, proposed by THCA, passed and deleted the Wasserman test from renewal health requirements, and allowed the granting of **temporary permits for demonstrations outside a beauty shop as well as incorporated the provisions of H.B. 1593 discussed above.** The Commission was in favor of **this** legislation.

Summary

In general, it appears that the Commission has strongly advocated passage of legislation only once. During the Sixty-fourth Legislature, it is clear from agency records that the Commission took an active role in the passage of a bill (H.B. 255 **or S.B. 86**) which would protect the cosmetologists' ability to cut hair. **General** trends indicate that the Commission is most amenable to industry proposals and resistant to proposals which might restrict a cosmetologist's ability to make an adequate living.

It is also clear that during the last four sessions a good deal of legislative attention has been given the relationships between barbers and cosmetologists. (Of 22 proposals made, 10 have dealt with this relationship.) Generally, the legislation proposed has attempted to accomplish one of two things: 1) make a final and **definite distinction** between the barbers and cosmetologists, or 2) merge **the two**

licensing agencies, thereby creating one target population and a more economical and efficient method of licensing the similar groups. One such distinction was held unconstitutional and the last definition in this direction is rather circular in that "barbers" are licensed by the Board of Barber Examiners and "cosmetologists" are licensed by the Cosmetology Commission. There is little additional decisive information available from the current statutes.

Aside from the debatable prospect that merger of the agencies might be more economical and therefore in the public interest, only one bill appears to have been of potential benefit to the public. House Bill 1966, introduced during the Sixty-fourth Legislature, would have **required that the commission establish the public** need for additional school facilities before their licensure could be effected. This bill did not pass and seems to have received little consideration by the Commission.

Criterion 6

The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

The review under this criterion centered on: 1) an identification of the type and frequency of complaints received by the agency, 2) the adequacy of administrative procedures used to process these complaints, and 3) the appropriateness and patterns of actions taken to address the complaints. Information for the review was obtained through interviewing agency staff, examining complaint files, and analyzing data presented in the agency's self-evaluation report.

Agency Inspection Procedures

The Texas Cosmetology Commission currently utilizes 31 inspectors stationed throughout the state to enforce the agency's statutes and promulgated rules and regulations. The inspectors are deployed through a regional structure designed to include approximately 500 facilities (shops and schools) in each district. Under the general supervision of the Director of Inspections, officed in Austin, the inspectors are instructed to inspect each shop every four to eight weeks and each school once a month. Combined inspection figures indicate that facilities are inspected 5-6 times per year.

The majority of complaints reflected in the agency's self-evaluation report are identified as "agency vs. licensee". These complaints are filed by the agency's inspectors against licensees concerning deficiencies discovered through the regular facility inspection process. These violations can fall under three broad categories:

<u>Sanitation</u>	<u>General Condition</u>	<u>Licenses</u>
sterilizers	restroom	display of license:
sanitary waste container	walls	facility
clean towel cabinet	floors	employees
soiled towel cabinet	shampoo bowls	
rollers, rods, wigs and equipment	required equipment	

Should a facility "fail" in any two of the above items, the shop or school must be issued a violation. These violations make up the bulk of complaints enumerated in the agency's self-evaluation report.

Should a facility incur three similar violations in a one-year period, a "show cause" hearing is held by the Commission to consider possible suspension or revocation of the license involved.

In addition to the regular inspection/violation process, the agency receives complaints from licensees and the general public.

Complaint Processing

The disposition of complaints received can occur in several different ways.

Judicial Remedy

Under agency statute, an injunction may be brought against a person in violation of the Cosmetology Act (Art. 8451a, V.A.C.S.). This procedure is generally used against unlicensed persons, but is also utilized to deal with persons licensed by the agency who are flagrant violators.

The injunction is followed by a civil court proceeding. The agency can utilize district and county courts and frequently uses Justice of the Peace courts to expedite the disposition of its cases. In these proceedings, the agency can be represented by the Attorney General, or by district or county attorneys. Should the violator be a licensee, a "show cause" hearing may be held by the Commission.

Show Cause Hearings

As mentioned previously, these hearings are utilized to consider possible suspension or revocation of licenses. They are the result of three or more violations of the same type by the same person or facility within a one-year period. Such hearings are held by the Commission members with legal assistance available from the Attorney General's office. A Commission decision may be appealed in the appropriate district court.

Violations

Violations are issued to licensees in response to a deficiency found in a shop or school. The deficiency is required to be corrected within 30 days. Appeals on violations can be made to the Commission administrators (Director of Inspections or Executive Director) and then to the full Commission. As mentioned previously, three similar violations in a one-year period automatically lead to a "show cause" hearing.

Complaint Analysis

Complaints depicted in the agency's self-evaluation report essentially reflect the number of violations issued by agency inspectors. Exhibit VI-1 portrays a breakdown for FY 1977 of complaints received or instigated by the Commission and the resulting action.

Agency action was taken on 1,413 separate incidents during FY 1977. Of the total, 98.6 percent (1,393) were a result of inspector action in response to a problem found in a shop or school. These problems were found during the routine inspection process and approximately 80 percent of the violations relate to sanitary deficiencies.

EXHIBIT VI-1
 Complaint Disposition by Complainant
 Texas Cosmetology Commission - FY 1977

Complainant	Number	Revocation	Suspension	Court Cases	Violations Issued	Warnings Issued	Referred to AG	No Action
Agency (Inspectors)	1393	1		46	1367	31		
Licensee	25*							5*
General Public	50-75*						9	41-66*

*Represents estimated figure. Agency procedures during FY 77 did not adequately account for complaints received by categories above.

Of the total 1,413 incidents handled during 1977, 46 resulted in actions taken through the courts. Approximately half of these cases related to an unlicensed person, shop or school and the other half related to serious sanitation deficiencies. The court process is often utilized when the seriousness of a situation warrants more than a citation for violation but does not warrant the revocation or suspension of a license.

In response to the 1,413 occurrences, one show cause hearing was **held which** resulted in revocation of one shop license for teaching cosmetology in a facility not licensed as a beauty school.

An alternative for inspectors upon discovery of a deficiency in a private beauty school is to issue a warning rather than a citation for violation. A warning, equal to a violation, can be issued only to a private school and in effect extends the number of required violations from three to four before a show cause hearing can be held. This inequitable application of agency enforcement procedures stems from a direct Commission decision. Due to the declining economic prosperity of private beauty schools, the Commission has taken the position that the private schools should not be subject to the same standards as those applied to other facilities. Thirty-one such warnings were issued in FY 1977.

Complaints received from the general public deal almost exclusively with the issue of malpractice or negligence on the part of a licensee. The general nature of these complaints vary. Agency correspondence files contain letters from persons claiming damage to hair and scalp through negligent use of chemicals or cosmetic preparations. Other letters relate to inadequate performance of services and expenditure of considerable sums of money to correct hair problems caused through poor administration of chemicals or hair styling techniques. Since the agency has

no authority to act on such complaints, no formal action is taken. A letter or phone call from the Director of Inspections is directed to the complaining party explaining the agency's lack of authority and suggestions are made to contact the Consumer Protection Division of the Attorney General's Office. Of the 50-75 public complaints made in FY 1977, nine were referred to the Attorney General's office. Of the nine referred, five could be identified by name by the Commission and the Attorney General's office reports that action could be taken on two of these. This action usually takes the form of a letter to the facility in question informing the owner or operator of the complaint and asking for a response.

The preceding exhibit and description reveals that the agency keeps adequate records relating to violations issued by its inspectors. However, information relating to action taken on complaints received from licensees or the general public is difficult to isolate and in most cases the figures presented are based on "ball park" estimations. The review indicates a need for more complete data concerning the origin, nature and final disposition of complaints processed.

Complaint Records

Until March 1978, agency complaint records consisted primarily of violations filed by the Commission inspectors. General correspondence files contain many letters and memos relating to complaints or inquiries from various persons but no systematic efforts have been made to document that each complaint or inquiry received is followed through to its disposition.

Recently, the Director of Inspections has implemented a new system to account for and document all complaints received (by phone, letter, etc.) in addition to the violations filed by the inspectors. This system should remedy the problems encountered during this review.

Summary

The workload of the inspectors indicates that adequate efforts are being made to enforce the agency's statutes and rules and regulations. However, agency records do not allow adequate tracing from inception to disposition of complaints or inquiries filed by persons other than inspectors. Attempts have recently been made to rectify the documentation problems encountered in the review of the agency's complaint processing system.

An area of concern exists in the agency's ability to respond to public complaints relating to services received in cosmetology establishments. Of the estimated 50-75 public complaints received in FY 1977, nine were referred to the Attorney General's office and action on those complaints cannot be adequately documented.

Although the judicious handling of public complaints can be difficult, a considerable number of public inquiries or complaints are received each year. The general nature of these complaints relates to negligent or incompetent services rendered in cosmetology establishments. Currently, the agency has no authority for action in such cases.

A final concern is the use of warnings in lieu of violations for private beauty schools. This appears to unreasonably favor the private schools in relation to objective administration of enforcement statutes. In effect, this system allows a private beauty school to receive four violations before a show cause hearing can be held. A show cause hearing in the case of other facilities is instituted when there has been three violations.

Criterion 7

The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The review under this criterion began with a determination of the statutory requirements regarding public participation both in the agency's enabling law and general statutes. The agency's procedures were reviewed to determine compliance with these statutes. The agency files and self-evaluation report were reviewed to determine the nature and extent of public participation and any results which might be attributed to public participation.

Public Hearings

Prior to the issuance of new or amended rules and regulations affecting the operations of the Commission, the agency must hold a public hearing to receive public testimony for or against the proposed measures. The agency self-evaluation report reveals that two such hearings have been held during the past three fiscal years. Public notification of these hearings has been accomplished through notification of the Secretary of State or Texas Register and certain "interested groups". Those included in the interested group category are six industry persons (five school owners), a judge and a representative of the Attorney General's Office. No other measures are taken to publicize the hearings.

Although industry representatives did offer input at the hearings, the self-evaluation report reveals that no consumer groups or members of the general public offered any testimony during the hearings.

Agency Publications

The Commission does prepare documents related to its general rules and regulations and sanitary rulings which are distributed to all beauty schools and are available to others on request. The Commission has also prepared copies of the civil statutes which apply to the agency. These are distributed to the inspectors and are available upon request. The latest publication also available on request, combines these three elements. None of these publications are bilingual in nature.

Commission Meetings

Actions taken by the Commission to provide notification of Commission meetings are in accord with the Open Meetings Act. Review of agency minutes reveals that members of the general public do not attend. Agency licensees or out-of-state licensees do attend some meetings, but their attendance is generally requested by the Commission for show-cause hearings, reciprocity review, etc.

Commission Composition

The Commission membership includes two members of the general public. One of the members is a former state representative who chaired the interim committee created by the Sixty-first Legislature in 1969 which proposed the comprehensive recasting of cosmetology regulation to the Sixty-second Legislature. These proposals were enacted and founded the basic operating structure of the present Commission. The other public member is an attorney. A representative of the public vocational schools from TEA serves as an ex-officio, voting member in addition to the two public members. Attendance for the last three fiscal years of members by the categories they represent is shown in Exhibit VII-1.

EXHIBIT VII-1

Texas Cosmetology Commission
Attendance by Category Represented 1975-1977 (FY)

	Operator	Shop	School	Wig	Public	Public	TEA
1975	89%	100%	100%/100%*	77%	66%	33%	100%
1976	100%	100%	100%	75/100%*	75%	50%	75%
1977	100%	80%	80%	80%	100%	40%	100%

*Two members represented this category during FY depicted.

Summary

The agency feels the general public has shown "a distinct disinterest" in the operations of the Commission. It is likely that members of the public know little of the Commission unless they must resort to use of its complaint procedures. It is evident that little general public input is achieved through current procedures used to publicize hearings or meetings. These procedures appear to comply with applicable laws and any increase in activity in this area could result in additional expense to the Commission.

Public interests can be represented by the public members of the Commission. The attendance of the two specific public members, however, does create an area of concern.

Criterion 8

The extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals.

The review under this criterion centered on an identification of agency Equal Employment Opportunity reporting requirements and policies regarding the rights and privacy of individuals. Federal and state statutes were reviewed; agency policies and procedures were documented; and appropriate agency files were inspected to determine the adequacy of records maintained to verify the data presented under this criterion. The Governor's Office of Personnel and Equal Employment Opportunity was consulted. The general procedures regarding personnel actions and protection of the rights and privacy of individuals were examined through interviews and review of files.

Affirmative Action

The Commission's Affirmative Action Plan (AAP) was first developed for the calendar year 1974. The plan, developed with the assistance of the Governor's Equal Employment Opportunity Office and the Attorney General's Office, contains elements deemed vital for an effective AAP. The plan has been updated twice since its inception; in January 1977 and January 1978.

Staff Utilization

Ethnic Representation

The current agency work force yields the following ethnic representation:

	White	Spanish-Surnamed	Black	Total
Male	8	2	3	13
Female	32	4	9	45
Total	40	6	12	58

In comparison with the general ethnic work force availability for the Austin Standard Metropolitan Statistical Area (SMSA):

As of Dec. '77	White	Spanish-Surnamed	Black	Male	Female
Austin	75.8%	14.2%	10.0%	49.7%	50.3%
Commission	69.0%	10.0%	20.7%	22.4%	77.6%

There are two areas of concern evident after reviewing the above figures. The first is the under-utilization of Spanish-surnamed persons. While the agency is deficient in its use of Spanish-surnamed individuals, it is aware of the problem and has made the recruitment and hiring of Spanish-surnamed persons one of its affirmative action goals. In September 1973, the agency had three Spanish-surnamed persons employed. As of September 1977, six Spanish-surnamed persons are employed by the agency.

The second area of concern is the under-utilization of males in the agency. The deficiency is understandable. The cosmetology occupation has been and remains a field dominated by women. Of the agency's licensees, 79,956 (95.3%) are women and 3,963 (4.7%) are men (as of December 22, 1977). Over the years (1973-1977) the agency has increased the number of men in its work force from six to thirteen. While males are under-represented in the several ranks of the agency, the problem has been addressed and improvement is evident.

When the agency work force is broken down further into minority representation among different job types, the following picture is revealed for the last five fiscal years. (Exhibit VIII-1).

A review of the figures in this exhibit shows relatively good progress in all categories. One area of concern is found in the administrative category. The employees in this category are the Executive Director, the Director of Licensing, the Director of Examinations and the Director of Inspections. Personnel holding all of these positions are hired by the agency's commissioners and all, except the Executive Director (who must have "knowledge of the beauty industry"), are required to have been a licensee under the Cosmetology Act (Art. 8451a, V.A.C.S.) for at least five years.

It is incongruous that these positions which require affiliation with the cosmetology industry for at least five years prior to employment, should be 75 percent filled by white males which make up only four percent of the current licensed population. The general lack of males in the agency's overall work force widens the disparity between expected and actual.

Since the employment of administrative staff is performed by the commissioners, the commissioners are responsible for addressing this issue. Commission members do receive a copy of the AAP as it is reviewed and updated.

Personnel Satisfaction

It is difficult to determine the degree of personnel satisfaction in the area of affirmative action. In an attempt to quantify "satisfaction," a review of the agency's turnover rates for the past four fiscal years is presented.*

*State Auditor's Office: Classification Division

	1974	1975	1976	1977
Average No. Employees	61	60	61	58
Terminations	19	13	20	11
Turnover Rate	31.15%	21.67%	32.79%	18.97%

To gain a perspective on the meaning of these figures, it is useful to review the statewide average turnover for all state agencies for the years above.

	1974	1975	1976	1977
Statewide Average	27.12%	22.16%	24.31%	23.68%
TCC	31.15%	21.67%	32.79%	18.97%

For the four years presented the average statewide turnover rate is 24.32%. The average turnover rate at the agency for the past four years is 26.15%.

Another index of general personnel satisfaction is the number of years on the job for persons presently employed of the 58 **agency employees:**

<u>4</u>	have less than one year with the agency
<u>32</u>	have 1-5 years with agency
<u>14</u>	have 6-10 years with agency
<u>3</u>	have 11-15 years with agency
<u>3</u>	have 16-20 years with agency
<u>2</u>	have over 20 years with agency
<u>58</u>	TOTAL

From this perspective, it appears that the staff is relatively well satisfied with conditions in the agency. Approximately 38 percent of the staff have been with the agency over five years, and only seven percent have been with the agency less than one year.

An additional variable in determining personnel satisfaction is found in the number and nature of complaints filed against the agency in the area of discrimination.

Charges of Discrimination

Agency records indicate only one complaint has been filed against the Commission in the area of discrimination. A brief summary of the details of the complaint and its disposition follows.

In August of 1973, the Federal Office of Equal Opportunity on the behalf of **the complainant** filed a male **discrimination case** against the **Cosmetology Commission**. It was charged that the plaintiff was denied employment as an inspector on the basis of sex. It was further charged that the agency's recruitment efforts were not reaching a sufficient number of licensed male operators. (Inspectors are statutorily required to have been licensed under the Cosmetology Act five years prior to employment as an inspector).

The case was settled in December 1973 through a conciliation agreement in which the agency agreed to make additional efforts to recruit qualified male applicants for future inspector openings through utilization of newspaper advertisements in major metropolitan areas in the state. In addition, job openings were to be published in a beauty salon newspaper (Beauty Culture Digest). Applications received from such advertising efforts were to be kept indefinitely active, if the applicant indicated that such was his/her wish.

The agency did comply with the above provisions and of the 31 inspectors presently employed, 3 (9.7 percent) are males. Since only 4.7 percent of the licensees are males, the agency seems to be making adequate efforts in the area brought to question by the discrimination charge.

Summary

Review of agency operations in relation to affirmative action and equal opportunity employment indicates the agency is performing adequately in this area. The only area of concern, as mentioned earlier, is the over-utilization of males in the administrative area.

EXHIBIT VIII-1

Texas Cosmetology Commission
 Minority Employees by Job Category

<u>September 1973</u>		<u>September 1974</u>		<u>September 1975</u>		<u>September 1976</u>		<u>September 1977</u>	
<u>Administrative</u>	4	<u>Administrative</u>	4	<u>Administrative</u>	4	<u>Administrative</u>	4	<u>Administrative</u>	4
White Male	2	White Male	2	White Male	3	White Male	3	White Male	3
White Female	1	White Female	1	Black Female	1	Black Female	1	Black Female	1
Black Female	1	Black Female	1						
<u>Examiners</u>	2	<u>Examiners</u>	3	<u>Examiners</u>	3	<u>Examiners</u>	3	<u>Examiners</u>	3
White Male	1	White Male	1	Sp. Male	1	Sp. Male	1	Sp. Male	1
Sp. Male	1	Sp. Male	1	White Female	2	White Female	2	White Female	2
		White Female	1						
<u>Inspectors</u>	33	<u>Inspectors</u>	35	<u>Inspectors</u>	34	<u>Inspectors</u>	32	<u>Inspectors</u>	31
Black Female	4	White Male	1	White Male	2	White Male	2	White Male	2
White Male	2	White Female	27	White Female	25	White Female	23	Black Male	1
White Female	27	Black Female	5	Black Female	5	Black Female	4	White Female	21
		Sp. Female	2	Sp. Female	2	Sp. Female	3	Black Female	4
								Sp. Female	3
<u>Office</u>	23	<u>Office</u>	27	<u>Office</u>	32	<u>Office</u>	24	<u>Office</u>	20
Black Male	1	White Male	1	White Male	4	White Male	3	White Male	3
Black Female	1	Black Male	2	Black Male	1	Black Male	2	Black Male	2
White Male	1	White Female	19	White Female	21	Sp. Male	1	Sp. Male	1
White Female	18	Black Female	2	Black Female	3	White Female	13	White Female	9
Sp. Female	2	Sp. Female	3	Sp. Female	3	Black Female	3	Black Female	4
						Sp. Female	2	Sp. Female	1

Criterion 9

The extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees.

The review under this criterion centered on an identification of documented agency practices and procedures regarding the filing of individual financial statements and affidavits with the Office of the Secretary of State. The provisions of the statute (Article 6252-9b, V.A.C.S.) were reviewed and agency interpretations of the nature and intent of the provisions of the Act were sought. Records maintained by the agency and the Secretary of State under the authority of the legislation concerned with conflict of interest were reviewed to determine the extent of agency compliance with the letter and intent of the Act and to verify the accuracy of the data presented under this criterion. In addition, inquiries were directed to selected areas where conflicts of interest might exist that could not be discerned through review of official documents.

Administrative Procedures

Section 10 of the Act creating the Texas Cosmetology Commission (Article 8451a, V.A.C.S.) requires that "no employee of the Commission may be a member of, affiliated with, or have any financial interest in the beauty industry during the period of his employment." Currently, the agency requires that each new employee receive and sign a receipt for: 1) the section of the current General Appropriation **Act** relating to political aid and legislative influence; 2) a copy of H.B. 753, 1951, **providing** for the accounting and responsibility for, and use of, state property and 3) **a copy** of H.B. 3, 1957, commonly referred to as the "Code of Ethics". **Commission** members receive a copy of Article 6252-9b, V.A.C.S., relating to the standards of

conduct of state officers and employees. This act, passed in 1973, repealed and **incorporated** the provisions of the "Code of Ethics" mentioned **above**.

Financial Disclosure

In compliance with Article 6252-9b, Section 3, the executive director of the agency has filed with the Secretary of State a financial statement. This financial statement is current and appears to satisfy legal requirements. Although the executive director was associated with the beauty school industry prior to employment by the Commission, direct financial interests in the cosmetology industry appear to have been severed.

Affidavits

In compliance with Article 6252-9b, Section 5, five of the six members of the Commission have filed with the Secretary of State an affidavit indicating the nature of their business interests and the manner in which their business is subject to regulation by a state agency. The one member who has not filed is a public member of the Commission who appears to have no business interests regulated by the state.

A review of the affidavits on file reveals that the make-up of the Commission is in compliance with the law as set out in Section 2, Article 8451a, V.A.C.S. This section specifies: one member shall hold a beauty shop license and have no financial interest in a private beauty school; one member shall hold a private beauty culture school license and have no financial interest in a beauty shop; one member shall hold an operator's license; one member shall hold a license related to wiggery and have no financial interest in a beauty shop or school; two members shall represent the general public and have no financial interest or any affiliation with the beauty industry and one ex-officio member shall represent TEA. The intent of this section is to insure that public concerns are addressed and that all facets of the cosmetology industry are equally represented.

Industry Affiliation

As mentioned earlier, agency statutes specifically prohibit employee affiliation with the cosmetology industry. Measures to detect such affiliations, however, appear to be inadequate.

It is likely that interviews conducted by the executive director with potential office employees can be used to screen out persons who might be in violation once employed. Materials provided to employees do speak to the concern of industry affiliation but do not specifically address the issue through legislative documents currently in effect. (H. B. 3, Chapter 100, Acts of the Fifty-fifth Legislature, the "Code of Ethics," has been repealed and replaced by Article 6252-9b, V.A.C.S.). In addition, employee application forms currently used by the Commission do not include a section on previous employment which might indicate industry attachment.

Agency procedures for employment of inspectors appear to be sufficient for detecting conflicts relating to industry affiliations. An indepth interview is conducted by the executive director and the director of inspections and relations with the industry are discussed. Anyone who does have financial interests in the industry is directed to dispose of such interests before employment can be effected.

Agency interpretation of industry affiliation references in the cosmetology statutes is primarily based on the premise that financial interest in any facet of the industry is prohibited. Membership in industry associations is permitted for office employees and inspector staff. This is allowed to help keep Commission operations in accord with changing hair fashions.

Summary

Review of agency activities in relation to applicable conflict of interest statutes reveals that the Commission is in compliance. However, certain areas of concern do remain.

In relation to administrative practices in effect to insure agency compliance with Section 10, Article 8451a, V.A.C.S., the following concerns are evident. Material provided employees, while related to the conflict of interest issue has not been updated. Employee application procedures do not insure adequate screening of persons with possible industry attachment. Membership by employees in industry associations is allowed even though a strict interpretation of Section 10, Article 8451a, V.A.C.S. appears to prohibit such affiliation.

The above administrative concerns are currently under review by the executive director and steps have been taken to improve the employee application system.

Criterion 10

The extent to which the agency complies with the Open Records Act and the Open Meetings Act.

Examination of elements under this criterion was separated into components dealing with responsibilities for making agency documents available to the public under open records requirements and responsibilities for public notification of proposed agency actions. Under the area of open records, statutes were reviewed in relation to written or unwritten policies used by the agency. Where written policies did not exist, interviews were conducted to determine actual compliance. Materials contained in the self-evaluation report were verified and open records decisions reviewed. Open meetings compliance was verified through review of agency written and unwritten policies to determine if they accurately reflected statutory requirements. Interviews with agency personnel were conducted in instances where written policies were lacking or information contained in minutes of meetings was incomplete or unclear. Records in the Office of the Secretary of State were reviewed on a selected basis to determine compliance with posting and informational requirements.

Open Records

All records maintained by the Commission are open to public inspection except:

1. Written examinations ; and
2. Names of students enrolled in private cosmetology schools.

The agency feels that prior access to the written exam for licensure would obviate its usefulness as a valid selection tool. The names of students of private cosmetology schools are not considered open due to the competition between the schools. It is felt that publication of the names of students in attendance at one

school would allow another school owner to contact those students and offer them a less expensive course of study. While the restriction placed on exams prior to administration is reasonable, the failure to disclose names of students attending cosmetology schools is questionable under provisions of the Open Records Act, Article 6252-17a.

All other information maintained by the Commission is open for review and no requests for such information have been denied by the agency.

Open Meetings

The Texas Cosmetology Commission is required by statute to meet at least four times per year. The number of meetings held over the last three years number 22 (1975-9; 1976-8; 1977-5).

The topics discussed at the meetings vary. Meetings are held for such reasons as show-cause hearings, review of Commission expenditures, and discussion of needed legislation. Executive sessions are held to discuss personnel actions requiring Commission action or consideration. Review of Commission minutes reveals no information which indicates that activities of the agency are in conflict with the requirements of the Open Meetings Act, Article 6252-17, V.A.C.S.

Those in attendance usually include Commission members, the Executive Director, assorted staff, and any persons directly involved in the proceedings of the meeting. A representative of the Attorney General's office is present at agency hearings involving the review of licensees for possible revocation or suspension and at meetings which require the discussion of pending litigation against the Commission.

Notification Procedures

Scheduled Commission meetings are publicized through the Texas Register

Division of the Secretary of State. Review of notices placed in the Register reveals that agency notification practices exceed the required time periods for regular meetings, emergency meetings and additions to meeting agendas.

Persons who have requested to be notified of meetings are mailed a written notice. These include industry representatives, a judge and a representative of the Attorney General's office. Agency licensees are not notified directly unless needed for specific Commission review.

Accessibility

Most (73 percent) of the Commission's meetings are held in Austin due to its central location. The remainder of the meetings are held in Dallas. It is likely that the frequency of the Dallas meetings will increase due a shift in the location of Commission members and the increasing number of licensees concentrated in North Texas.

Rule Changes

The Commission may issue rules and regulations consistent with its statutes after a public hearing. The notice of the public hearing must be made through the Texas Register 20 days prior to the date set for the hearing. Two such hearings have been held in the period covered by the last three fiscal years. The first, in November 1975 accomplished a general update of all **rules** and **regulations** promulgated by the agency. The second, in December 1976, was held to update the sanitary rulings issued by the Commission. Notification procedures followed by the Commission were timely in both instances.

Summary

Commission activities in regard to Open Records appear to be adequate. The withholding of private school rosters, however, does not appear to be under the definition of confidential materials in Article 6252-17a, V.A.C.S.

Although little public interest is generated by the procedures followed by the Commission to publicize its meetings, such procedures do comply with applicable statutes.

Criterion 11

The impact in terms of federal intervention of loss of federal funds if the agency is abolished.

The licensing of occupations is a function which the federal government has left to the states to initiate. Although the rulings of the Federal Drug Administration can impact the cosmetics industry, no federal standards have been identified which would affect the licensing of cosmetologists in the State of Texas if the agency is abolished or reorganized.

Federal funds are not involved in the administration of the Act as administration costs related to the licensing and regulatory function of the Commission are financed through the state appropriations acts.

CONCLUSIONS

Since 1935, the cosmetology industry in Texas has been regulated by a state licensing agency. Originally, the State Board of Hairdressers and Cosmetologists administered licensing statutes requiring minimal education, cosmetology training, examination, licensure and regular renewal of licenses. Since 1971, the Texas Cosmetology Commission has operated as the licensing agency and currently regulates approximately 100,000 persons and establishments through 16 different types of licenses. The need for regulation has primarily been based on the protection of the public health and welfare.

The Commission currently operates as a policy-making body and execution of administrative duties has been delegated to an executive director, three department directors and assorted staff.

Licensing procedures, supervised by the director of licensing, are generally well organized and data processing equipment is used for issuance and renewals of 80-85 percent of the agency's licenses. Past problems related to slow turn-around time have been corrected and solutions to the uneven renewal workload are being sought.

Examinations, supervised by the director of examinations, are conducted 15-20 days a month for approximately 6,000 students yearly. Written portions of the examination are generated by computer and the content of the written and practical parts are prescribed by the Commission. The exam yields an acceptable pass/fail rate of 80/20 percent.

Inspections, supervised by the director of inspections, are conducted by the agency's 31 inspectors deployed throughout the state by districts. Approximately 80,000 inspections are made yearly of the 15,000 licensed establishments. Enforcement of agency statutes is accomplished through issuance of violations,

prosecution of individuals through the court system and revocation or suspension of licenses through agency show-cause hearings. Problems encountered during the review relating to tracking of all complaints from receipt to disposition have recently been addressed by the agency.

An area of concern related to the enforcement provisions of the cosmetology statute relates to the agency's inability to respond to public complaints related to the incompetency or negligence of a licensee. Although agency records have only recently been revised to reflect such complaints, it is estimated such complaints number 50-75 per year.

The agency is basically self-supporting and revenues exceed expenditures by roughly \$300,000 for FY 1977. Past problems in fiscal accountability have been corrected and deposits are made daily to the State Treasury. Unattended renewal workloads, however, will cause uneven revenue generation over future biennial periods.

Concerns relating to interpretation or implementation of statutory authority deserve consideration. Agency employee affiliation with the cosmetology industry is specifically prohibited by agency statutes. Until March 1978, however, no documentation procedures had been developed to insure employee compliance with the statutory provision. Presently, membership in industry associations is permitted although such membership is apparently prohibited by statute.

Additional concerns relate to instances noted of an apparent trend towards favoritism of the private beauty schools. Exam applicants are required to have paid, or to have arranged to pay, tuition for private schooling prior to being approved for examination by the agency. Rosters of private school students are considered confidential to diminish the effects of competitive pricing between the schools. Warnings, instead of violations, are issued only to private beauty schools upon discovery of an inspection deficiency.

In relation to the above concerns, the make-up of the membership of the Commission is weighted towards private beauty schools. Review of documents filed with the Secretary of State indicate that the "operator" representative or the Commission has financial interests in a private beauty school. Although this is not prohibited by statute, it does appear to contradict the intent of the Act to insure equal representation of the major facets of the beauty industry on the Commission.

A final concern relates to the issue of duplication of effort. It is evident from the review that another state agency, the State Board of Barber Examiners, performs essentially the same functions for an almost identical target population. As discussed in the body of the report, the evolution of the definition of barbers and cosmetologists has yielded two identifiable occupations with no essential operational differences. In addition, considerable savings could accrue to the state should the two agencies combine their operations.

If the ~~Legislature~~ determines that the functions of the Texas Cosmetology Commission should continue, the following organizational and operational changes could be considered to increase the efficiency and effectiveness with which these functions are performed:

THE LEGISLATURE COULD CONSIDER MERGING THE FUNCTIONS OF THE STATE BOARD OF BARBER EXAMINERS WITH THOSE OF THE TEXAS COSMETOLOGY COMMISSION.

It is apparent that the two agencies duplicate the functions of licensing, examination and enforcement of regulations related to two similar target groups. Reorganization by merger could result in significant reduction of state expenditures while maintaining current revenues generated by the licensing efforts. More efficient and timely issuance of barber licenses could be achieved through utilization of ADP services already in use by the Cosmetology Commission.

Should the present structure of the agencies be maintained, additional steps could be taken to clarify statutory intent and authority and strengthen the administrative effectiveness of the Commission:

THE LEGISLATURE COULD CONSIDER RESTRICTING THE PARAMETERS OF MEMBERSHIP FOR THE OPERATOR REPRESENTATIVE ON THE COMMISSION TO INSURE EQUAL REPRESENTATION OF THE MAJOR FACETS OF THE COSMETOLOGY INDUSTRY.

Current statutes do not restrict the financial interests of the operator representative. This currently allows two persons with private beauty school interests to serve on the Commission. This could be a factor in the special administrative policies currently applied to regulation of private school operations.

THE LEGISLATURE COULD CONSIDER DELETION OF THE STATUTORY REQUIREMENT FOR TUITION PAYMENT PRIOR TO EXAMINATION OF PRIVATE SCHOOL STUDENTS.

This requirement appears unusually protective of private school interests and burdensome for the students of those establishments.

THE LEGISLATURE COULD CONSIDER MODIFYING THE LANGUAGE OF THE COMMISSION'S STATUTORY PROVISIONS RELATING TO GROUNDS FOR LICENSE REVOCATION OR SUSPENSION TO INCLUDE "INCOMPETENCY OR NEGLIGENCE".

Due to the complaints received by the agency in this area each year, it appears the agency needs some authority to pursue these public concerns. In addition, such authority would help round out the agency's objective of protecting the public's health and welfare.

THE TEXAS COSMETOLOGY COMMISSION COULD CONSIDER AND IMPLEMENT A REVISED STAGGERED RENEWAL SYSTEM TO INSURE BALANCED WORKLOADS AND REVENUES OVER THE BIENNIAL PERIODS.

Currently, the agency is renewing approximately 30 percent of its licenses in even-numbered years and 70 percent in odd-numbered years. The current system, implemented prior to establishment of effective licensee density figures by district, does not provide balanced workloads or revenues for the two years of the biennial renewal period.

THE TEXAS COSMETOLOGY COMMISSION COULD SEEK CLARIFICATION FROM THE ATTORNEY GENERAL'S OFFICE ON CURRENT IMPLEMENTATION OF STATUTORY DIRECTIVES.

The agency currently allows employee membership in industry associations although this appears to be prohibited by the Commission's statutes. In addition, the agency considers rosters of students attending private schools to be confidential. Provisions of the Open Records Act (Art. 6252-17a, V.A.C.S) do not appear to categorize such records as confidential.

THE TEXAS COSMETOLOGY COMMISSION COULD CONSIDER ELIMINATION OF THE ISSUANCE OF WARNINGS TO PRIVATE BEAUTY SCHOOLS FOR INSPECTION DEFICIENCIES.

This practice is only allowed for private beauty schools and effectively extends the number of violations permitted prior to the holding of a show-cause hearing.