STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

A PERFORMANCE AUDIT
OF THE

BOARD OF BARBER EXAMINERS

MARCH 1983

A REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 83-6

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STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

March 30, 1983

Members of the Arizona Legislature
The Honorable Bruce Babbitt, Governor
Mr. Sam B. LaBarbera, Chairman
Board of Barber Examiners

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Board of Barber Examiners. This report is in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset Review set forth in A.R.S. §§41-2351 through 41-2379.

The blue pages present a summary of the report; a response from the Board of Barber Examiners is found on the yellow pages preceding the appendices.

My staff and I will be pleased to discuss or clarify items in the report.

Respectfully submitted,

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OFFICE OF THE AUDITOR GENERAL

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TABLE OF CONTENTS

	Page
SUMMARY	i
INTRODUCTION AND BACKGROUND	1
SUNSET FACTORS	5
FINDINGS	
FINDING I	11
State licensing of barbers and barbershops is unnecessary.	
CONCLUSION	21
RECOMMENDATION	21
FINDING II	23
Changes in Board structure could enhance State regulation of barbering.	
CONCLUSION	32
RECOMMENDATIONS	32
FINDING III	33
Board regulation of barber schools can be reduced.	
CONCLUSION	36
RECOMMENDATIONS	36
FINDING IV	39
Requirements for entry into the barbering occupation can be reduced.	
CONCLUSION	45
RECOMMENDATIONS	45

	Page
FINDING V	47
The Board can improve its shop inspection and license renewal procedures.	
CONCLUSION	51
RECOMMENDATIONS	51
OTHER PERTINENT INFORMATION	53
WRITTEN RESPONSE TO AUDITOR GENERAL'S REPORT	55

LIST OF TABLES

			Page
TABLE 1	-	Board Activities Fiscal Years 1978-79 through 1981-82	2
TABLE 2	-	Board Revenues and Expenditures Fiscal Years 1978-79 through 1982-83	3
TABLE 3	-	Statutory Duties for the Barber and Cosmetology Boards	24
TABLE 4	-	Statutory Scope of Practice for Barbering and Cosmetology	25
TABLE 5	-	Annual Operating Cost per Licensee	28
TABLE 6	-	Years of Formal Education Required for Barber Licensing in the 50 States	43
TABLE 7	-	Ratings Given Barbershops versus the Number of Violations Found	48

SUMMARY

The Office of the Auditor General has completed a performance audit of the State Board of Barber Examiners in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

Regulation of barbering began in Arizona in 1929. Today, the three-member State Board of Barber Examiners continues to exercise broad authority over the occupation of barbering. The Board currently licenses barbers, apprentice barbers, barbershops, barber schools and barber instructors. The Board also inspects barbershops and barber schools, investigates complaints and approves applicants for barber schools.

State licensing of barbers and barbershops can be eliminated because the practice of barbering does not pose a sufficient risk to public health and safety to justify regulation. Licensing is not justified because of possible harm from the use of barber implements or chemical solutions because such items are readily available to and routinely used by the general public. Similarly, licensing is not justified by health and sanitary concerns because the types of diseases which could be spread in barbershops are minor and not prevalent in our society. The minimal threat of the spread of disease is reinforced by the fact that barbers are not currently practicing health and sanitary procedures which would be effective to combat the spread of disease, and the Board cannot conduct effective health and sanitary inspections of barbershops (see page 11).

Because consumers possess adequate ability and knowledge to evaluate barber services in the absense of licensing, the Legislature should consider allowing the State Board of Barber Examiners to terminate on July 1, 1984.

If the Board is not allowed to terminate, several changes could be made to improve current regulation. First, changes should be made in the Board's structure. The State Board of Barber Examiners and the State Board of Cosmetology should be combined into a single regulatory agency because 1) both occupations provide many of the same services to consumers, 2) Board administrative functions are identical and 3) significant cost savings can be realized (see page 23). Regardless of whether the two Boards are merged, barber Board members should cease to act as full-time staff leaving administrative functions to Board employees. This is necessary to avoid potential problems created when administrative duties and decision making are not separated and to avoid possible Open Meeting Law violations (see page 30).

Second, Board statutes and rules and regulations currently impose an excessive and unnecessary regulatory burden on barber school operators (see page 33).

Third, many requirements for entry into the barbering occupation are too restrictive, do not serve a valid public purpose and could be eliminated. The most prominent of these unnecessary requirements is the 18-month apprenticeship which should be eliminated for applicants graduating from a barber school. Requirements relating to the practical examination of applicants, education, moral character and medical certificates should also be eliminated. In addition, the statutes should be amended to provide for licensing by endorsement without an examination for applicants who have been licensed in another state (see page 39).

Finally, if the Board is retained, improvements can be made in two administrative areas. First, when inspecting shops the Board does not rate barbershops in a fair and consistent manner and has not developed criteria and guidelines to use in assigning ratings. The shop inspections are also ineffective in correcting problems discovered (see page 47). Second, the efficiency of the Board's license renewal process can be improved and a small savings realized ($5,300 every two years) by changing to a biennial renewal cycle (see page 50).

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the State Board of Barber Examiners in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

The art of barbering has been regulated in Arizona since 1929 when the Legislature created the State Board of Barbers and Cosmeticians. The 1929 legislation provided for the licensing of barbers, apprentices and barber schools. Two years later barber establishments and school instructors were also required to be licensed. Regulation of barbering and cosmetology was split in 1935 when legislation created two separate boards.

Since 1935 the State Board of Barber Examiners has been composed of three members, two of which must be barbers. The third member, since 1973, is required to be a lay person. The law also requires that two of the Board members devote their full time to the business of the Board. One other full-time employee is employed by the Board, an office secretary.

Requirements for licensure as a barber have become more stringent since 1929 when one had to be 18 years old, of good moral character, free from infections or contagious disease and able to pass an examination. Now a barber candidate has to have a tenth grade education, graduate from a barber school with 1,250 hours of instruction, pass an examination to be licensed as an apprentice, serve an 18-month apprenticeship and then pass another examination to be licensed as a barber.

At one time the Board held a power which is almost unique among regulatory agencies. The Board was given the authority in 1939 to establish minimum prices for barbering throughout the State. This price fixing law was held unconstitutional by the Supreme Court of Arizona on May 10, 1951.

The Board has other duties in addition to its licensing authority. The Board inspects barber establishments and barber schools on a regular basis. This authority was granted in 1929 and is an optional duty of the Board. In 1939 the Board was given authority to act as mediator and arbitrator in any issue relating to barbering. Authority was granted in 1968 to specify by rules and regulations what services and merchandise can be sold in barbershops. These last two powers have not yet been exercised by the Board. However, the Board intends to soon promulgate rules and regulations regarding the services and merchandise that can be sold in barbershops. The Board also investigates complaints, although the statutes are silent regarding this responsibility. Table 1 details specific Board activities for the last four fiscal years.

TABLE 1

BOARD ACTIVITIES
FISCAL YEARS 1978-79 THROUGH 1981-82

ACTIVITY		FISCAL YEAR 1978-79	1979-80	1980-81	1981-82
Examinations:					
Apprentice	- Failed	2	5	12	6
	- Passed	111	85	111	107
	Total	113	90	123	113
Barber	- Failed	0	1	0	2
	- Passed	137	144	143	185
	Total	137	145	143	187
Complaints Received		14	27	32	14
Inspections		1,100	2,154	2,380	2,145
Licensees (as of August 24, 1982*):					
Barbers					2,420
Apprentices					280
Shops					750
Schools					4
Instructors					24
					3,478

* The Board could not provide us with a breakdown of licensees for past years.

Revenues are obtained from examinations, licenses, renewal licenses and initial inspections of new or relocated barbershops and schools. Table 2 details the Board's revenues and expenditures for fiscal years 1978-79 through 1982-83. As shown in Table 2, Board expenditures have increased from $56,255 in fiscal year 1978-79 to an estimated $91,100 in fiscal year 1982-83.

TABLE 2

BOARD REVENUES AND EXPENDITURES
FISCAL YEARS 1978-79 THROUGH 1982-83

	Actual 1978-79	Actual 1979-80	Actual 1980-81	Actual 1981-82	Projected 1982-83
No. of employees	3	3	3	3	3
Revenues (90%*)	$59,811	$98,294	$98,672	$100,190	$100,800
Expenditures:					
Personal services	37,062	45,000	45,300	54,918	56,900
Employee related	7,060	8,065	8,800	11,112	11,700
Professional services		200	100	546	800
Travel -					
In-State	4,882	5,700	8,300	7,020	8,500
Out-of-State			600		500
Other operating	7,251	7,900	5,900	8,650	9,900
Equipment			800	1,263	2,800
Total	$56,255	$66,865	$69,800	$ 83,509	$ 91,100
EXCESS 90% REVENUE	$ 3,556	$31,429	$28,872	$ 16,681	$ 9,700

* 10% of Board revenues is deposited to the State General Fund while 90% is available for Board use.

Scope of Audit

The scope of our State Board of Barber Examiners audit included all Board operations and functions. Our major audit objectives were to determine:

1. Whether termination of the Board and related licensing provisions would significantly harm the public health, safety or welfare;

2. If the Board is not terminated, whether (a) the Board should be combined with the Cosmetology Board to improve efficiency and effectiveness and (b) Board members should continue to serve as full-time staff;

3. Whether the Board is operating in an effective and efficient manner; and

4. Whether the degree of regulation can be reduced if barber licensing is not terminated.

The Auditor General and staff express appreciation to the Board members and staff for their cooperation and assistance during the course of our audit.

SUNSET FACTORS

In accordance with A.R.S. §§41-2351 through 41-2379, 11 factors are considered to determine, in part, whether the State Board of Barber Examiners should be continued or terminated.

1. Objective and purpose in establishing the Board

According to the Board's original 1929 legislation, the objective and purpose in establishing the board was "...the preservation of the public welfare and health...." More recently, the Board has provided the following statement of its purpose:

> "The Arizona Board of Barber Examiners was established to inspect and enforce compliance by barber students, apprentices, barbers, barber shops and schools to the health and sanitary laws established in...A.R.S. §32.301 et seq., and regulations promulgated thereunder, to protect the consuming public."

The Board also states its objective to include (1) assuring that a practitioner in the trade has a minimum level of competence and (2) protecting the public from fraudulent and dishonest practices and practitioners.

2. The effectiveness with which the Board has met its objective and purpose and the efficiency with which the Board has operated

The Board has not been effective in enforcing compliance with health and sanitary laws and regulations established in A.R.S. §32-301 et seq and regulations promulgated thereunder. However, Board ineffectiveness is of little consequence as there appears to be minimal threat to the public in this area (see page 13).

If the Board is not allowed to terminate on July 1, 1984, the Board's efficiency can be improved by 1) adopting a biennial or triennial license renewal system (see page 50) and 2) combining administrations of the Barber and Cosmetology Boards (see page 23).

3. The extent to which the Board has operated within the public interest

The State licensing of barbers and barbershops does not serve the interest of the general public. The nature of barbering services does not justify regulation of the occupation. Instead, regulation appears to protect the economic interests of the profession. The costs to the public outweigh the benefits (see page 20).

4. The extent to which rules and regulations promulgated by the Board are consistent with the legislative mandate

Several Board rules and regulations relating to barber schools are unreasonable and over-restrictive (see page 33). The Board is currently in the process of reviewing and revising its rules and regulations.

5. The extent to which the Board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

The Board has not promulgated any rules since 1975. However, the Board is currently revising its rules and regulations and has involved the barber community in this process. According to the Board chairman, a public hearing will be held before promulgating new rules and regulations.

6. The extent to which the Board has been able to investigate and resolve complaints which are within its jurisdiction

The Board has received 102 complaints over a 5.5-year period. Only two complaints dealt with alleged harm to the public. More than half the complaints are against unlicensed persons performing barber services. The remaining complaints are of various natures, none relating to harm to the public. The Board has investigated each complaint to determine its valdity. Most complaints are handled quickly due to their insignificant nature.

The Board needs to improve its complaint handling procedures and documentation. The Board does not adequately document actions taken to investigate complaints and reasons why a particular resolution was reached. Complaints are resolved by individual Board members and not by a quorum of the Board. As a result complaint dispositions are not recorded in the Board minutes and a record is not available for the public.

7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation

The Board's enabling legislation lists acts which are classified as misdemeanors and may be enforced by the County Attorney.

In addition, the Attorney General has authority to seek injunctive relief against violations of the Board's statutory provisions.

8. The extent to which the Board has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate

The Board has identified many deficiencies in the statutes, however it has withheld special legislative proposals in anticipation of the "Sunset Review" process. The Board feels that all needed statutory changes can be made at that time.

The Board would support the following statutory changes:

a. Deleting A.R.S. §32-308 which requires the Board to act as mediator in any issue or controversy related to barbering.
b. Amending A.R.S. §32-328.E. to allow more students for each barber school instructor.
c. Expanding the definition of barbering to include permanent waving and other chemical processes.
d. Defining good moral character for the purposes of licensing applications.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the subsection

If the State Board of Barber Examiners is not terminated on July 1, 1984, the Legislature should consider making the following statutory changes:

a. Combine Barber and Cosmetology Boards' administrations under a single regulatory board (see page 23).
b. Remove Board members from the day-to-day operations of the Board and provide for office administration by professional administrative staff (see page 30).
c. Eliminate the apprenticeship requirement for barber applicants graduating from a barber school and retain the apprenticeship only as an option for those persons not wishing to attend a barber school (see page 39).
d. Amend A.R.S. §32-328.E. to remove the requirement of one instructor for each 12 students.
e. Provide licensing by endorsement without an examination for applicants licensed by other states which have comparable standards (see page 41).
f. Deleting or reducing the requirement that barber applicants possess a 10th grade education and "good moral character" (see page 42).
g. Eliminate the practical examination for all applicants for licensure (see page 41).
h. Amend A.R.S. §§32-330 and 32-331 to provide for the biennial or triennial renewal of licenses issued by the Board (see page 50).

10. The extent to which the termination of the Board would significantly harm the public health, safety or welfare

Termination of the State Board of Barber Examiners would not harm the public health, safety or welfare. The practice of barbering does not pose a serious risk to the consumer's life, health and safety or economic well-being. Consumers can be expected to possess the knowledge needed to properly evaluate barbering services. The benefits of regulation do not outweigh its costs to the public (see page 11).

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate

If the State Board of Barber Examiners is not terminated on July 1, 1984, the level of regulation exercised by the Board can be made less restrictive (see Sunset Factor number 9). In addition, several rules and regulations are unreasonable and serve no valid public purpose.

FINDING I

STATE LICENSING OF BARBERS AND BARBERSHOPS IS UNNECESSARY.

State licensing of barbers and barbershops can be eliminated because the practice of barbering does not pose a sufficient risk to public health and safety to justify regulation. Licensing of barbers and barbershops is not justified because of health and sanitary concerns or possible harm from the use of barber implements and chemical solutions. Moreover, consumers possess adequate ability and knowledge to evaluate barber services. Because barber services do not pose a serious risk to public health and safety, the benefits of regulating barbers and barbershops do not outweigh the costs to the public.

Assessing the Need for Regulation

Licensing of an occupation or profession is justified if unlicensed practice of the occupation could cause significant harm to the public. To assess the potential for harm, the Council of State Governments in its publication Occupational Licensing: Questions a Legislator Should Ask has established three questions which should be addressed. These questions are:

1. Whether the unlicensed practice poses a serious risk to the consumer's life, health and safety or economic well-being;
2. Whether users of the service can be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services; and
3. Whether licensing benefits to the public clearly outweigh any potential harmful effects such as the price for services or availability of service providers.

In evaluating the risk to the public, both the seriousness of potential harm which could be caused and the probability or likelihood that such harm would actually occur should be considered.

The State Board of Barber Examiners indicates that licensing of barbers and barbershops is needed for four reasons: (1) to prevent the spread of communicable diseases and infectious organisms; (2) to protect barber patrons from harm caused by barber implements used around the head, neck and face; (3) to protect customers from harm caused by various chemical applications; and (4) to ensure against possible fraudulent and dishonest practices. If barber licensing is justified, however, it must be demonstrated that these concerns pose a sufficiently serious and likely risk to warrant State regulation.

Health and Sanitary Concerns Are Unfounded

Barbershop licensing cannot be justified on the basis of health and sanitary reasons. The types of diseases which could be spread in barbershops are minor and not life threatening or prevalent in our society. If they were more serious or prevalent, it would be readily apparent because 1) barbers are not currently practicing health and sanitary procedures which would be effective to combat the spread of disease in their shops, and 2) health and sanitary inspections of shops conducted by the Board are ineffective.

Health and Sanitary Requirements - Diseases could be spread in a barbershop setting by either direct physical contact or contact with fomites. Fomites are such inanimate objects as towels, combs, clippers and scissors. If the barber's hands or tools were infected by providing service to a diseased person, the disease could be transmitted to other persons served by the barber if his hands and infected tools were not cleaned and sterilized.

Acceptable health and sanitary procedures for barbers are outlined in the Statutes and Board rules and regulations. Board rules require barbers to wash their hands with germicidal soap before each patron and sterilize all instruments before and after usage. The Statutes further provide that it is a class 3 misdemeanor for barbers to use implements unless they are kept in a closed compartment and immersed in boiling water or a solution

of 2 percent carbolic acid or its equivalent for at least 20 minutes before each use. After sterilization barber tools are to be stored in a cabinet sterilizer serviced by either vapor sterilizing fumes or ultraviolet light until used to maintain their sterilized condition.

Disease Threat Is Minimal - The types of diseases which could be spread in a barbershop are not life threatening and cause only minor discomfort. According to the Department of Health Services, four kinds of communicable diseases could be spread in a barbershop: (1) head lice, (2) ringworm, (3) scabies (a parasite) and (4) staphylococcus infections. Treatment for these diseases is simple and readily available. Head lice is treated by washing and applying a topical medication. Ringworm is treated by oral or topical medication. Scabies is treated by a combination of bathing and applying a topical ointment. The types of staphylococcus infections which could be transmitted in barbershops are generally not treated because they are so common and minor in nature.

The spread and incidence of these diseases may have declined from rates at the time the Board was created. Barbers interviewed by our auditors have seen no cases of these diseases in their barbershops with the exception of isolated cases of head lice. Incidence rates are not available, however, because the diseases are not considered sufficiently serious to require monitoring by the Department of Health Services.

Ineffective Sanitary Procedures - If the type of diseases which could be spread by barbershops were more prevalent, it would be apparent because barbers may not be practicing sanitary procedures sufficient to control their spread. Auditors from our Office visited 16 barbershops in the Maricopa County area and interviewed barbers to determine if adequate health and sanitary procedures were being used. None of the barbers we interviewed were disinfecting their implements before and after each patron. Instead implements were being placed in dry cabinet sterilizers between customers or were often dipped in a liquid disinfecting solution. Neither method is effective to disinfect barber implements.

The dry sterilizers are either serviced by formaldehyde tablets which release fumes or by an ultraviolet light. Scientific studies have shown that it requires more than 20 hours and as many as 72 hours to disinfect contaminated instruments by using formaldehyde tablets in an airtight container. In like manner ultraviolet light is not effective as a disinfectant because 1) an excessive exposure time is required, 2) only surfaces directly exposed are disinfected, 3) bacteria is resistant to ultraviolet light, and 4) although ultraviolet light reduces the degree of contamination, it does not utterly destroy it. Therefore, using either method of sterilization between customers will not stop the spread of disease.

Barbers also have a "wet sterilizer" which consists of a container filled with a liquid disinfecting solution. This is generally used to disinfect combs and sometimes other barber implements. However, most barbers we visited just dip combs and implements into the solution. This is ineffective since implements need to be immersed for at least 10 minutes to be properly disinfected.

Ineffective Shop Inspections - Inspections of barbershops by the Board are also ineffective, again suggesting the actual danger of disease is minimal. The Board cannot feasibly inspect for health and sanitary procedures which are most critical in eliminating the spread of disease in barbershops, and problems discovered during shop inspections are not found corrected on as many as five subsequent inspections.

Barbershop inspections do not focus on procedures most affecting the spread of disease; instead, shops are inspected for general cleanliness. The critical procedures which cannot be feasibly inspected by the Board are:

- Using barber tools unless they have been sterilized before and after each patron,
- Barber washing hands before each patron,

- Failing to place a neck band or towel on the patron so that the hair cloth does not contact the patron's skin, and
- Failing to provide a clean towel or paper on the barber chair head rest for each patron.

Further, when inspections find problems which could ostensibly affect the spread of disease, corrections are often not made. Problems discovered during shop inspections are sometimes found on as many as five subsequent inspections. Two examples serve to illustrate this problem.

Example 1:

A barbershop was found to have dirty floors and dirty hairbrushes and dusters on four consecutive inspection dates. On three of these occasions, the shop also had inadequate dry sterilization equipment.

Example 2:

A barbershop was found to have inadequate dry sterilization equipment on four consecutive inspection dates. On three of these dates, it also was found to have dirty work stations.

We also noted that shops with a history of problems are not reinspected with greater frequency than shops without a history of problems.

The health and sanitary conditions of barbershops can best be facilitated by other means than Board inspections. A survey of licensed barbers indicated that 80 percent of the individual barbering services are provided to return customers. This is an incentive for barbers to keep their shops in a healthful and sanitary condition; otherwise, their customers may go elsewhere for services.

Barber Implements and Chemical Solutions Do Not Pose a Serious Risk to the Public

The uses of barber implements and chemical solutions do not pose a sufficient risk to public health and safety to warrant licensing of barbers. There is no evidence that barbers have caused significant harm to customers through misuse of their tools. Likewise, the uses of chemical solutions do not pose a serious danger to the public.

Use of Implements - Barber licensing cannot be justified by the use of barber implements around the head, neck and face of a customer. Instruments commonly used by barbers include electric clippers, scissors and razors. Under normal circumstances persons other than barbers may be expected to use clippers and scissors with reasonable care without inflicting harm. Further, we could not find any evidence that barbers had caused any serious harm to customers by the use of their implements. The Board has received only two complaints in over five years against barbers alleging harm resulting from the use of barber implements. In one complaint, the customer alleged the barber was rude, the shop was dirty and the barber nicked him. The other complaint involved a cut on the ear. The Board took no action against either barber's license. In our opinion the possibility of significant harm to customers resulting from the use of barber implements is remote. Even in the case of using a straight razor, nicks or cuts are the worst potential harm.

Use of Chemicals - Chemical solutions used by barbers also do not pose a danger to the public sufficient to justify State regulation. The Board has not received any complaints alleging harm caused by barbers in applying chemicals to the hair. Moreover, an Auditor General survey of licensed barbers indicated that barbers seldom use chemicals for services they provide to consumers. Although chemical solutions are sometimes used by barbers to provide services of permanent waving, hair straightening and hair dyeing or tinting, other factors exist indicating barbers do not need to be licensed because of these chemicals. First, during our Sunset Review of the Board of Cosmetology we determined that cosmetologists perform many more chemical hair processing services than barbers. We also concluded that the use of these chemical solutions did not pose a probable risk to the patron. Potential harm which could be caused through the

misuse of these chemical solutions is minimal.* Second, customers can purchase on a retail level permanent waving, hair straightening and dyeing solutions which contain toxic chemicals. Third, products available and marked "for professional use only" are sold to the general public. Fourth, the Federal Food and Drug Administration requires warning statements on all products that could cause a health hazard. In addition, it appears from our review that all retail products contain directions for use. A review of selected "professional use only" products showed that they also contain use instructions with the exception of some hair coloring products.

Users of Barbering Services Possess Knowledge Needed to Evaluate Qualifications of Barbers

Consumers of barber services possess adequate ability and knowledge to evaluate the quality of services offered. Services provided by barbers are not extremely complex and can be understood by consumers. The concept of return business is sufficient to regulate the market. If a consumer is injured, remedies are available through the Justice Court system.

Licensing may be justified when a condition of "market failure" exists. This condition is characterized by the following elements: (1) the tasks or service provided is extremely difficult or complex so as not to be easily comprehended by the consumer, (2) the service is of a nature where the consumer must rely on the provider to inform him of his needs, or (3) the consumer is unable to judge the adequacy or competency of service provided. Barbering does not meet any of these criteria.

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* See page 14 of our report #83-5, A Performance Audit of the Board of Cosmetology for more details.

Consumers Understand Services - Services provided by licensed barbers are not extremely difficult or complex and can be understood by consumers. The practice of barbering as defined in the Statutes includes 1) shaving or trimming the beard; 2) cutting, clipping or trimming hair; 3) giving facial or scalp massages or applications of oils, creams, lotions or other preparations; 4) singeing, shampooing or dyeing the hair or applying hair tonics; and 5) applying cosmetic preparations, antiseptics, powders, oils, clays or lotions. These services in and of themselves are easily comprehended by the consumer. While a degree of skill may be required by the barber to provide aesthetic value, consumers nonetheless understand services offered.

Although some consumers may ask barbers for advice, consumers do not have to rely on barbers to inform them of their barbering needs. Unlike a visit to the dentist or doctor where the professional determines what service is required, the consumer of barbering services dictates his own needs and wants to the barber. Consumers of barbering services are more qualified to determine their barbering needs than barbers as a matter of personal preference.

The consumer is able to judge the quality and adequacy of services provided by a barber. In most cases the service can be judged prior to leaving a barbershop, thereby enabling modifications to be made at the consumer's discretion. The consumer does not have to depend on his judgement only but has the benefit of friends, relatives and others to provide him with feedback regarding the adequacy and competency of barbering services provided.

Assessing the competency of barbering services before they are provided is not a difficult task. The consumer may question friends or relatives to locate a barber providing quality and competent service. In the absence of this help, the concerned consumer may observe the barber providing service to others. Lacking both these means, the consumer can yet question the barber as to his training and experience. All of these methods and others which could be cited do not impose a costly burden to

the consumer. The Board concedes that even with licensure a consumer must still evaluate the alternatives and quality of services provided by barbers.

Return Business - The concept of return business is sufficient to regulate the quality of barbering services provided in the marketplace. Economists studying the field of regulation believe that any long-run ability of consumers to reward high-quality practitioners and penalize low-quality practitioners will result in market ability to monitor and guarantee product quality. One economist states:

> "Markets can and will impose penalties for supply of low-quality professonal services....Self-interested professionals are motivated to control their own and their colleagues' levels of quality because of future quasi-rent returns [fees for services] from currently satisfied customers."

Another economist contends that because services of the same quality are supplied continually over time by a particular barber, customers have information from past experiences, friends and relatives in which to evaluate barbering services. The repeat sales concept is even applicable to one-time purchasers who through their satisfaction offer word-of-mouth advertising. We found that barbers responding to an Auditor General survey rely on return customers for at least 80 percent of their barbering business. Therefore the barber profession should be self-regulating for that reason.

Remedy for Damages - In those cases where a consumer is injured by a person providing barbering services, means other than licensing are available to act both as a deterrent and to recover damages. Anyone injured in any way by another may seek to recover damages through civil court proceedings. This method is inexpensive to the injured person and will cost no more than $20 if damages less than $2,500 are sought through a justice court system without an attorney's aid.

Benefits of Regulation Do Not Outweigh Costs

Since no serious risk to the public's health and safety exists, and consumers possess the ability to properly evaluate the quality and competency of barbering services offered, the benefits of regulation do not outweigh the costs to the public. These costs are incurred through restrictions on barbering to licensed barbers only and through the imposition of high entry costs on those wishing to become barbers.

The current regulatory scheme restricts the practice of barbering to only those practitioners who have met all of the requirements for barber licensing. The barber statutes state that it is illegal to practice barbering without a license. The statutory definition of barbering includes "cutting, clipping or trimming hair by the use of scissors, shears, clippers or other appliances." Taken literally, the statutes prohibit a mother from cutting her child's hair. In like manner this same mother would be prohibited from cutting other children's hair if their parents requested such service be provided with or without compensation.

Similarly, barber services can only be provided in barbershops licensed by the Board. This restricts the availability of barber services. It also prohibits a barber from performing barbering services in a patron's home. However, although not technically permitted by barber statutes, the Board states they will allow barbers to provide services to patrons confined in their homes if the barber leaves from and returns to a licensed barbershop.

The current regulatory scheme further restricts opportunities for individuals to practice barbering by imposing high entry costs. A person who desires to become a barber must meet the Board's minimum education and other requirements and graduate from a barber school. Average tuition cost is about $1,500. The barber student must then complete 1,250 hours of training (approximately 8 months work), pay the Board fee of $25 and take an examination, following which the annual license fee is $20. After passing the Board examination, the barber must serve an 18-month apprenticeship under a licensed barber. After serving the apprenticeship an additional fee of $75 must be paid and another Board examination must be passed by the barber. The annual license fee is then $25. Only then

can the barber legally practice on his own. If the barber wishes to set up his own shop, more fees must be paid and other Board requirements must be met. Since barber regulation is not needed to protect public health and safety, it can be argued that these entry restrictons only serve the economic interests of licensed barbers by protecting them from unwanted competition. (For a related discussion regarding the level of regulation see Findings III and IV.)

CONCLUSION

State licensing of barbers and barbershops can be eliminated. The practice of barbering does not pose a sufficient risk to public health and safety to justify regulation, and consumers possess adequate knowledge to evaluate barber services.

RECOMMENDATION

The Legislature should consider allowing the Board of Barber Examiners to terminate on July 1, 1984.

FINDING II

CHANGES IN BOARD STRUCTURE COULD ENHANCE STATE REGULATION OF BARBERING.

If the State Board of Barber Examiners is not allowed to terminate on July 1, 1984, changes are needed in Board structure and composition. First, combining the Barber and Cosmetology Boards would improve regulation of these occupations and result in substantial cost savings. Board operations could be further improved by removing Board members from day-to-day administrative functions.

Combining the Barber and Cosmetology Boards

The Barber and Cosmetology Boards can be consolidated to improve regulation and increase administrative efficiency. Several factors favor such a combination. First, both Boards perform the same administrative functions. Second, the practices of barbering and cosmetology are very similar making it feasible to regulate both occupations under a single board. Third, problems and inequities created by separate regulation of similar occupations could be eliminated by combining the regulatory functions under one board. Finally, Arizona can realize a substantial cost savings by combining the Barber and Cosmetology Boards.

Similarity of Functions - The administrative functions of the Barber and Cosmetology Boards are almost identical. As shown in Table 3, both Boards issue and renew licenses to schools, shops and individual practitioners; inspect schools and shops; handle complaints and perform similar office administrative functions. The only duty both Boards do not have in common is that the Barber Board may act as a mediator for controversies. This duty has not been used by the Barber Board and the Board has suggested that it be repealed.

TABLE 3

STATUTORY DUTIES FOR
THE BARBER AND COSMETOLOGY BOARDS

Duty	Barber	Cosmetology
Conduct exams	Yes	Yes
Issue licenses	Yes	Yes
Conduct hearings	Yes	Yes
Revoke/suspend licenses	Yes	Yes
Inspect shops and schools	Yes	Yes
Collect and deposit fees	Yes	Yes
Enforce rules and regulations	Yes	Yes
Maintain records	Yes	Yes
Act as mediator for controversies	Yes	No

Similarity of Barber and Cosmetology Practices - Barbers and cosmetologists also provide many of the same services to consumers making it feasible to regulate both occupations under one board. The statutory definitions of barbering and cosmetology are very similar. Moreover, current industry trends indicate historical differences between services provided by each occupation are diminishing.

Table 4 illustrates the similar statutory scopes of both practices. With the exception of manicuring and make-up artistry (arching eyebrows or tinting eyelashes and eyebrows), barbers and cosmetologists perform the same tasks. Barbers are technically excluded from providing permanent waving and related services; however, they are nonetheless providing these services to customers.*

* Although the Board told us its Attorney General representative informally advised them that licensed barbers could perform these services, a formal memorandum by the Arizona Legislative Council dated September 21, 1982, stated that

> "Permanent waving, hair straightening and roller hairsetting are not permitted under the definition of the practice of barbering prescribed in A.R.S. §32-302."

However, because there is little or no risk of public harm from these procedures (see page 16 of this report and page 14 of the Cosmetology report) there appears to be little reason to retain or enforce this restriction.

TABLE 4

STATUTORY SCOPE OF PRACTICE FOR BARBERING AND COSMETOLOGY

Type of Practice	Barber	Cosmetology
Shave or trim beard	Yes	No
Cut, clip or trim hair	Yes	Yes
Give facial or scalp massage	Yes	Yes
Apply:		
Oils, creams, lotions or other preparations	Yes	Yes
Cosmetic preparations, antiseptics, powders, oils, clays or lotions	Yes	Yes
Singeing, shampooing, dyeing the hair or applying hair tonics	Yes	Yes
Styling, arranging, dressing, curling, waving, permanent waving	No*	Yes
Arching eyebrows or tinting eyelashes and eyebrows	No	Yes
Manicuring	No	Yes

* Some barbers are nonetheless providing these services.

Historical differences between the practices of barbering and cosmetology are diminishing. The differences between these occupations originated because barbers worked on men while cosmetologists worked on women. However, today industry trends are closing the gaps between the two practices. Barbers and cosmetologists are providing their services to both men and women. A review of the Metro-Phoenix phone book yellow pages indicates that at least 50 barbershops and 140 beauty shops are advertised as serving both men and women. Some of these "unisex" shops may be licensed by both Boards because they employ both barbers and cosmetologists.

Recognizing this trend and the convergence of the two occupations, seven states have recently combined barber and cosmetology regulation under a single board. Connecticut, for example, which performed a job analysis of

both barbering and cosmetology practices, found that barbers who graduated within the last ten years were performing the same tasks as cosmetologists. The National Hairdressers and Cosmetology Association (NHCA), which has developed a model bill which includes provisions for the regulation of barbering and cosmetology under a single board, has noted the convergence of both occupations:

> "...we must face the reality that one day we [barbers and cosmetologists] will all be cosmetologists performing cosmetological services."

The increasing similarities of barbering and cosmetology is further evidenced by the fact that barber schools are teaching and barbers are providing services to the public which had been historically reserved for cosmetology. These services include roller setting, permanent waving, hair straightening and hairstyling.

Differences in Regulation Cause Inequity - Inequity created by separate regulation of similar occupations can be eliminated by combining administrative functions of the Barber and Cosmetology Boards. Differences in laws and regulations have created unnecessary and overrestrictive barriers between the barbering and cosmetology practices which are burdensome to shops and practitioners, students and school owners.

Dual licensure is burdensome on shops and practitioners because it restricts employment. Barbers can only work in shops licensed by the State Board of Barber Examiners and cosmetologists can only work in shops licensed by the State Board of Cosmetology. For a shop wishing to employ both barbers and cosmetologists this means 1) purchasing two separate establishment licenses 2) duplicating sanitation inspections by both Boards and 3) following two different sets of regulations on shop, equipment and practice. As a further example of these problems barbers require an apprenticeship which means a barber graduate cannot work in a cosmetology shop unless there is a journeyman barber on the staff. In one

case noted during our audit, a cosmetology shop wanted to employ a recent graduate of a barber school. However, in order to have done so, the shop would have had to obtain both a barbershop license and another barber to satisfy Barber Board requirements. The barber school graduate was not hired by the cosmetology shop even though it was felt he was qualified.

The existence of dual standards and requirements for barbering and cosmetology may become an increasing problem in the future because of the trend to employ both barbers and cosmetologists in the same shop. The Barber Board indicated that approximately 13 percent of all barbershops already have dual licenses, and, according to both Barber and Cosmetology Board members, the trend to employ both barbers and cosmetologists in the same shop is growing.

The differences in educational requirements between barbering and cosmetology create burdensome restrictions on students. While barbers are only required to receive 1,250 hours of schooling before licensure, cosmetologists must receive at least 1,800 hours. Part of the increased hours may be justified because cosmetologists receive training in make-up application and manicuring. However, for the cosmetologist who wishes to provide only hair care services, this requirement is unnecessarily restrictive. Also, barber school hours are not accepted for cosmetology licensing and vice-versa except that a licensed cosmetologist enrolling in barber school is given 400 hours credit. Oregon has solved this educational reciprocity problem by consolidating the barber and hairdresser licenses into a single license.

Differences in requirements for barber and cosmetology schools also create unwarranted burdens on school owners. A barber school must have a sink for every student while a cosmetology school only needs six sinks per school. The instructor/student ratio for barbering is 1 to 12 while for cosmetology it is 1 to 20. These and other unique requirements of each law are overrestrictive and cause frustration and economic hardships to shop and school owners. In addition, these economic burdens are likely to be passed on to students and consumers.

Cost Savings - Combining the Barber and Cosmetology Boards would provide cost savings and increased efficiency. As previously noted, the Barber and Cosmetology Boards perform the same functions. However, we are unable to estimate cost savings through merging the Boards because of factors which affect the amount of savings.

Cost savings by combining Board functions will result for several reasons. First, an economy of scale should provide savings. This can be shown by comparing annual administrative costs per licensee for both Boards. As shown in Table 5, the Barber Board expended $24 in administrative costs for each licensee while the Cosmetology Board expended only $12, yet both Boards provide a similar level of regulation.* The difference in annual operating cost per licensee is probably due to an economy of scale because there are many more licensed cosmetologists than barbers. If the Boards were merged and the annual operating cost per licensee could be maintained at the Cosmetology Board cost of $12, then at least $40,000 could be saved by such an economy of scale.

TABLE 5

ANNUAL OPERATING COST PER LICENSEE

	Barber 1981-82	Cosmetology 1981-82
Total Board expenditures	$83,509	$213,333
Total number of licenses	÷ 3,478	÷ 17,333
Annual administrative cost per licensee*	$24.01	$12.31

* The annual administrative cost per licensee includes Board costs for all Board functions including conducting exams, issuing and renewing licenses, inspecting shops and schools and all other Board functions.

Second, combining Boards will provide savings by reducing duplication such as the inspection of shops which employ both barbers and cosmetologists. Travel costs could be saved by one inspector inspecting both cosmetology shops and barbershops in outlying areas rather than each Board sending an inspector. Finally, other expenditures such as office rent and telephone service may be reduced by merging the Boards.

We did not attempt to estimate cost savings through merging the two Boards because several other factors contribute to the amount of savings which can be realized. First, we recommend both Boards eliminate the practical examination for all candidates of licensure (see page 41). This is estimated to save at least $8,800 annually for the Cosmetology Board alone. Second, we recommend a biennial renewal for licenses of both Boards for a combined savings of $31,300 every two years. Third, we recommend that Board members cease to function as full-time employees and that all administrative functions be handled instead by Board employees. Finally, the Barber Board inspects shops approximately three times annually while the Cosmetology Board inspects less frequently. All of these factors individually and collectively affect the amount of cost savings to be realized by merging the Boards of barbering and cosmetology.

However, experience with combined boards in other states indicates that substantial cost savings can be achieved. Seven states have recently combined the two boards and at least four report efficiencies by job sharing, reducing rent payments and number of personnel. Oregon reported that combining the Barber and Cosmetology Boards in 1977 resulted in the following advantages.

- Entry level fees for barbers and hairdressers were reduced by as much as 40 percent for the first time in Oregon history.
- The number of full-time Board personnel was reduced from 14 to 7.
- Administrative costs were reduced by streamlining the examination operation and requiring biennial licensure.

Oregon further reported that productivity increased 300 percent with a combined board at a time when the average annual growth rate in licenses was 10 percent. This resulted in an estimated cost savings of $93,500 in the 1981-83 biennium and projections estimate a $140,000 cost savings in the next biennium. Colorado, which also has a recently combined board, similarly estimates a first-year cost savings of between $39,000 to $45,000 by reducing personnel and rent payments.

Board Members Serving as Full-time Staff

Regardless of whether the Barber and Cosmetology Boards are combined, Board operations could be improved by removing Board members from day-to-day administrative functions. Having Board members serve as administrative staff creates potential legal problems with separation of functions and violation of the Open Meeting Law. Professional administrative staff can perform the administrative functions now performed by Board members, thus eliminating these problems.

The Boards of barbering and cosmetology are the only Arizona occupational licensing boards whose members act as full-time administrative employees. Two of the three Barber Board members are required to serve as staff pursuant to A.R.S. §32-305.A. which states in part,

> "The chairman and secretary of the board shall devote their entire time to the business of the board...."

Other occupational licensing boards are composed of only part-time board members who act as decision makers and leave administrative functions to professional staff.

Separation of Functions Needed - The functions of complaint handling which include investigation, prosecution and judgment should be separated. Currently one Board member receives complaints, investigates them and decides final action to be taken. This lack of separation of functions violates fundamental notions of fairness and may be unconstitutional as suggested in case law. The U.S. Supreme Court stated in Withrow v. Larkin, 421 U.S. 35, 46-55,

> "...under a realistic appraisal of psychological tendencies and human weakness, conferring investigative and adjudicative powers on the same individuals poses such a risk of bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented."

This idea is supported by the National Association of Attorneys General which stated that

> "...While the courts have not clearly defined the degree to which a board may combine the duties of a prosecutor and a judge, such combination should be avoided; the board's primary role is that of decision-maker."

Potential Open Meeting Law Violations - The potential for violation of the Open Meeting Law is increased if the Board members work together daily on Board business. All legal actions of the Board must be conducted in an open meeting. Legal action is defined as a collective decision, commitment or promise made by a public body pursuant to its specified scope of authority. Legal actions taken by the Board not in an open meeting could be later declared null and void. Casual day-to-day conversations regarding Board business by the working Board members could be construed as a violation of the Open Meeting law. Therefore, to avoid potential legal problems, Board members should not serve as full-time staff.

Administrative Functions Can Be Performed by Other Than Board Members - Professional administrative staff can perform the administrative functions now performed by the full-time Board members. Board members currently proctor the practical exam for licensees, answer policy questions of the public, perform inspections of barbershops and schools and handle complaints. However, the practical portion of the examination can be eliminated (see page 41) thus allowing other staff to administer the written portion of the examination. Staff could also be trained to answer most questions regarding Board rules, regulations and policy. Barber school and shop inspections could also be performed by staff inspectors.

Therefore, the problems associated with Board members serving as full-time staff outweigh any benefits. As stated by the National Association of Attorneys General, a board's primary role is that of decision maker. This is further supported by the fact that the Barber and Cosmetology Boards are the only two licensing boards in Arizona which have board members acting as full-time administrative staff.

CONCLUSION

Regulation of barbering can be improved by changing the structure and composition of the State Board of Barber Examiners. The Barber and Cosmetology Boards can be combined to improve administration and effectiveness of regulation for these occupations at a substantial cost savings. Board members should not serve as full-time administrative staff. This will eliminate potential legal problems and violation of the Open Meeting Law.

RECOMMENDATIONS

If the State Board of Barber Examiners is not allowed to terminate on July 1, 1984, the legislature should consider making the following statutory changes.

1. Combine administration and regulation of barbering and cosmetology under a single regulatory board.

2. Repeal statutory requirements of Board members serving as full-time staff and provide for all administrative functions to be performed by professional staff.

FINDING III

BOARD REGULATION OF BARBER SCHOOLS CAN BE REDUCED.

The Board of Barber Examiners statutes and rules and regulations currently impose excessive and unnecessary regulatory burdens on barber school operations. The current degree of regulation requires barber schools to meet excessive financial, enrollment, instruction ratio, curriculum, facility and equipment and other requirements which do not seem justified as serving a valid public purpose.

School Regulation

The Board of Barber Examiners has licensed barber schools since 1929. Four barber schools are currently licensed and regulated by the Board. Three schools are located in Phoenix and one in Tucson. The State Board of Private Technical and Business Schools (PTBS) was established in 1970 and licenses approximately 235 proprietary vocational schools enrolling approximately 110,300 students annually. Barber schools were excluded from PTBS Board regulation because they were already regulated by the Board of Barber Examiners.

Financial Requirements - The Board restricts the entry of barber schools into the marketplace by excessive financial requirements. A new school, under Board Regulation R4-5-15.d, is required to show evidence that

> "...finances are available to provide for operation of the proposed college for a minimum period of 24 months without income."

This requirement appears excessive and unreasonable. For example, the fourth and most recent barber school in the State opened on December 12, 1980. The school owner estimated that approximately $130,000 in expenses would be incurred over a 24-month period. Therefore, the owner had to show that $130,000 was available to operate the school before it could be licensed regardless of any anticipated income that would be received. By contrast, the Board of Private Technical and Business Schools requires instead that schools maintain a $10,000 surety bond while the Board of Cosmetology requires a $5,000 surety bond for cosmetology schools (the Board of Cosmetology is the only other occupational licensing board besides the Board of Barber Examiners that licenses schools). According to the Board, this regulation is not currently being enforced and the Board plans to require a $5,000 bond instead.

Approval for Enrollment - Board rules excessively restrict the barber school enrollment system by requiring Board approval before students can enroll in a barber school and before licensed barbers and apprentices can take refresher courses. Board Regulation R4-5-26 requires that before a school can enroll a new student and the student receive instruction, Board approval must be obtained. If the student is not approved by the Board, he cannot receive instruction from the school. In like manner, a licensed barber or apprentice is prohibited by Regulation R4-5-19.A from enrolling in a barber school except in certain circumstances and then only if approved by the Board. These requirements are unique in Arizona. No other occupational licensing board in the State requires Board approval before students can be trained in the occupation it licenses. Also, A.R.S. §32-328.D. allows barber schools to offer postgraduate courses if the courses are approved by the Board. Further, the Attorney General in legal opinion No. 60-25 held that barbers licensed in Arizona or out-of-state barbers could enroll in Arizona barber schools for postgraduate or refresher courses. Therefore, the Board rule prohibiting licensed barbers to enroll in barber schools may be invalid as well as unreasonable.

According to a Board official, the Board does not "approve" students, but only reviews enrollment materials and issues an educational card. By reviewing enrollment materials, the Board knows who is attending schools and when instruction started so that hours of school are kept accurately. However, this appears to be more appropriately a school function and not a Board function. A Board official stated that the Board has not denied anyone entry into barber school. He also stated that the Board rule prohibiting barbers or apprentices from enrolling in barber schools is not enforced by the Board.

Instructor/Student Ratio - The barber school instructor/student ratio required by the Statutes also appears too restrictive. The Statutes require an instructor ratio of 1 instructor to each 12 students or fraction thereof. By comparison, the Board of Cosmetology allows 1 instructor to each 20 cosmetology students while the PTBS Board has no specific restrictions on the ratio of instructors to students. The Board of Barber Examiners agrees that the ratio can be changed to the 1:20 ratio of the Board of Cosmetology.

Curriculum Requirements - The Statutes may also unnecessarily restrict barber school curriculum. Barber school curriculum contents have been defined by A.R.S. §32-328.C., thus technically restricting schools in the courses offered. Barber schools, however, are currently teaching subjects which are not included in the statutory scope of barbering (see footnote, page 22, for Legislative Council memorandum on scope of barbering).

When the three barber school owners were asked how they selected their curriculum, two stated that the curriculum followed the barber textbook, and one stated that curriculum was based on public demand. The Board of Private Technical and Business Schools (PTBS) monitors school curriculum while allowing schools flexibility in choosing courses. Schools under the PTBS Board can choose their curricular programs, rather than having a defined program, with the stipulation that the course be of sufficient comprehension and length to enable a graduate to demonstrate a level of knowledge and skill to be employable.

Facility Requirements - Board equipment and facility requirements for barber schools are also too restrictive. Equipment regulations require schools to have at least 10 barber chairs with a sink for each chair. School premises must also have a practical workroom at least 14 feet wide for 1 row of barber chairs or 22 feet wide for 2 rows of chairs. These regulations do not allow flexibility for different circumstances. For example, if an individual in a small town wished to open a school with five chairs, he would be denied on the basis of Board regulations. Also, the Board of Cosmetology does not require one sink for each chair. The Barber Board regulations, thus, result in increased costs for opening a school. The PTBS Board, on the other hand, provides flexibility for schools as its rules require only "adequate" facilities and equipment to serve teaching and student needs.

License Fees - Board initial license fees may be restrictive. The Board of Barber Examiners charges barber schools higher fees than are charged by the cosmetology and PTBS boards. The Board of Barber Examiners requires a fee of $1,000 for initial licensing of schools and a minimum renewal fee of at least $350. Board of Cosmetology fees are only $175 for initial licensing and $150 for renewal,* and PTBS Board fees are $350 and $300, respectively.

CONCLUSION

Board statutes and rules and regulations currently impose excessive and unnecessary regulatory burdens on barber school operations.

RECOMMENDATIONS

If the State Board of Barber Examiners is not allowed to terminate on July 1, 1984, the following recommendations should be considered:

1. The Board should amend Regulation R4-5-15.d to discontinue its requirement that a proposed barber school show evidence that finances are available for a minimum of 24 months without income.

* Effective July 1, 1983, the Board of Cosmetology fees will be $350 for an initial school license and $300 for renewal.

2. The Board should delete Regulations R4-5-19.A and R4-5-26 which require a student to receive Board approval before enrolling in school and before licensed barbers and apprentices can take refresher courses.

3. The Legislature should consider amending A.R.S. §32-328.E. to remove the requirement of 1 instructor for each 12 students.

4. The Board should amend Regulations R4-5-16 and R4-5-17 to delete excessive and restrictive facility requirements.

5. The Legislature should review the initial $1,000 barber school license fee to determine its restrictiveness.

FINDING IV

REQUIREMENTS FOR ENTRY INTO THE BARBERING OCCUPATION CAN BE REDUCED.

If licensing of barbers is retained, changes are needed in the requirements for entry into the occupation. Many requirements for entry into barbering are too restrictive, do not serve a valid public purpose and could be eliminated. The 18-month apprenticeship requirement is unnecessary and should be eliminated for applicants graduating from a barber school. In addition, the Statutes should be amended to provide for licensing by endorsement without an examination for applicants who have been licensed in another state. The Board's practical examination of applicants is unnecessary and the written examination should include only those items relating to protection of the public. Finally, requirements relating to education, moral character and medical certificates should also be eliminated.

Currently before a person can be licensed in Arizona as a barber, he/she has to meet certain qualifications. Applicants must 1) have graduated from a registered barber school with at least 1,250 hours of instruction, 2) pass a Board examination, 3) practice as a registered apprentice for 18 months under the supervision of a licensed barber, 4) pass another Board examination, 5) be of good moral character, and 6) possess a tenth grade or equivalent education. In addition, Board rules require a medical certificate be obtained before entry into barber school.

Apprenticeship Is Unnecessary

The 18-month apprenticeship requirement is unnecessary and should be eliminated for applicants who graduate from a barber school. The apprenticeship does not ensure any additional level of competency, and persons who can pass the exam to become an apprentice demonstrate equal or greater competency than that currently required for full licensure. Further, the apprenticeship may impose a financial hardship on some applicants. Thirteen other states which license barbers do not require an apprenticeship period.

The apprenticeship period serves no useful purpose for barber applicants who graduate from a barber college. These applicants have spent 1,250 hours in barber college. During this time, a skill level is developed by providing complete barbering services to the public. For example, barber school students perform an average of almost 700 haircuts, 25 shaves and 100 permanents while in school. Further, when licensed as an apprentice, barber candidates are not restricted in any manner as to the type of services they can provide. In most cases, apprentices receive the same wages as barbers for their services. Apprentices are not required to work a set number of hours nor perform a set number or type of services during their apprenticeship. Under these conditions, the length of the apprenticeship cannot be justified.

Persons who can pass the examinations to become apprentices demonstrate sufficient competency to obtain a full license without an apprenticeship. Both barbers and apprentices are required by the Board to take an oral, written and practical exam before licensure. Oral questions for both apprentice and barber exams are identical. A review of the barber written exam showed that 60 percent of the questions were contained word for word on apprentice exams. Further, the practical exam to become an apprentice is more difficult than the exam for a full license because apprentices are required to give two different style haircuts and to roll permanent wave rods while barbers are only required to give one haircut of their choice of style. In addition, Arizona cosmetologists who perform many of the same services as barbers are not required to serve an apprenticeship period before being licensed.

The apprenticeship requirement may pose a financial hardship to some applicants. An apprentice is required to work under the supervision of a licensed barber and may not own or operate his own barbershop. This may restrict the apprentice's ability to earn a living. In addition to the undue inconvenience of taking both an apprentice and an almost identical barber examination a candidate must pay $45 for the apprentice examination and apprentice license and then an additional $100 for the barber examination and barber license.

We found 13 states which do not require an apprenticeship period before applicants can be licensed as barbers. Some states provide candidates with an option to serve an apprenticeship in lieu of graduation from a barber school. These states allow individuals to receive training from barbers and then take the Board examination for licensure.

Licensing by Endorsement Should Be Provided

Entry requirements imposed on out-of-state barbers are too restrictive and should be reduced. All applicants desiring to be licensed as barbers in Arizona must take an examination regardless of their prior experiences. This means that a barber who has been licensed in some other state for 20 years and has successfully operated a barbershop must take and pass an Arizona barber examination before he can provide service as a barber in Arizona. The Board recognizes a need to allow barbers from other states to receive an Arizona license without an examination. This can best be provided by ammending the barber statutes to provide for licensing by endorsement. Under the endorsement approach, applicants from other states would be granted licensure without examination if the licensing standards of their states were equal to or greater than the licensing standards of Arizona.

Board Practical Examination Should Be Discontinued

The Board's practical examination of applicants should be discontinued and the written examination should include only those items which relate to protection of the public. The practical examination is unnecessary because most tasks tested are not critical to public protection, and all barber applicants are already required to have graduated from a licensed barber school. It is reasonable to presume that graduates of these schools possess the requisite performance skills. If not, the marketplace should function adequately to eliminate those who are unqualified or otherwise unsuited to practice barbering. The state of Oregon has discontinued the requirement of a practical exam for these same reasons.

Experts in the field of occupational licensing stress that items on tests should be related to the purpose of licensure, protection of the public. The written exam should assure that it measures the critical or important knowledge, skills and abilities prerequisite to performance of the job at the minimum level of competence deemed necessary for the public's protection. This means the applicants for licensure need not be tested on aspects of the practice of barbering (for example, shop management and hairstyling techniques) but only on those tasks or subject areas which are directly related to protection of the public. Currently, the test includes questions on good business practices and techniques and methods of performing barber services.

Miscellaneous Licensure Requirements That Can Be Eliminated

The licensing requirements of a tenth grade education, a good moral character and the obtaining of a medical certificate before entry into barber school can be eliminated. These requirements cannot be justified and are not directly related to protection of the public.

Educational Requirements - The tenth grade educational requirement for barbering applicants is unjustifiable for the following reasons. First, the chairman of the Board could provide no justification for a tenth grade educational level although he felt some level of education was needed so barbers could read product labels and follow instructions. Second, we found that 28 states have an educational requirement for barbers which is lower than Arizona's tenth grade requirement. Eight of those states have no educational requirement at all. Table 7 shows educational requirements for barber licensing in the 50 states.

TABLE 6

YEARS OF FORMAL EDUCATION REQUIRED
FOR BARBER LICENSING IN THE 50 STATES

Years of Schooling Required	Number of States with Requirement
None	8
7	2
8	16
9	2
10	14
12	8
	50

Finally, the tenth grade requirement does not allow flexibility although no clear purpose for it has been established. According to Benjamin Shimberg, a noted authority on occupational licensing,

> "...once minimum educational requirements are incorporated into licensure law, they establish an inflexible standard to which boards must adhere even when the standard serves no clear public purpose."

Although the Board will accept a Graduation Equivalency Diploma (G.E.D.), the Board has no authority to accept less than a tenth grade education or its equivalent. This requirement may cause entry into the profession to be delayed or even cause an additional financial hardship if applicants must take additional school or special courses in order to obtain a G.E.D.

Good Moral Character - The Board's method of assessing good moral character serves no clear useful purpose and is not enforced. The Board requires applicants to declare their criminal records concerning past crimes and to state any habitual drug or alcohol use. However, this information is not used by the Board. For example, if an applicant has committed a crime, he will not be excluded from entry into barber school nor denied a barber license.

Further, the Board has not developed any guidelines regarding the definition of a habitual drug or alcohol user nor as to what types of crimes would warrant barring an individual from the profession. The lack of such guidelines offers the potential for misuse. Benjamin Shimberg, in a report on occupational licensing, cites an American Bar Association decree on the absence of such guidelines and possible harm to the license applicant which can result:

> "In the absence of guidelines, there is often a failure by licensing agencies to take into account whether the crime committed by the applicant relates to the occupation sought, the age of the individual, and the surrounding circumstances at the time of the offense, the length of time that has elasped since the unlawful activity, and the subsequent rehabilitative efforts of the individual. The result is that without such guidelines, broad discretion is left to persons on the licensing board or agency to exercise their authority in such a manner as to arbitrarily reject any applicant, particularly the former offender, whom they consider unfit." (emphasis added)

In the absence of specific guidelines the Board's method of assessing moral character should be discontinued.

Medical Certificate - Finally, the Board's requirement of a medical certificate for entry into barber school is also unnecessary. The medical certificate must be signed by a medical doctor and therefore involves an additional expense to the applicant. The medical certificate only certifies that the applicant is free from infectious or contagious diseases on the date of examination. The certificate does not assure that a barber student will remain free from disease as a disease could be contracted at any time prior to licensure. The Board does not require a medical certificate for barber or apprentice licensing nor for the renewal of licenses. The Board agrees that this requirement for barber school applicants can be eliminated and reports that it has already notified all barber schools that medical certificates should no longer be required.

CONCLUSION

Some requirements for licensure are too restrictive, do not serve a valid purpose in protecting the public and could be eliminated to provide greater ease of entry into the barbering occupation.

RECOMMENDATIONS

If the State Board of Barber Examiners is not allowed to terminate on July 1, 1984, the following recommendations should be considered.

1. Board statutes should be amended to eliminate the apprenticeship requirement for barber applicants graduating from a barber school and retain the apprenticeship only for those applicants not wishing to attend barber school.

2. Board statutes should be amended to permit licensing by endorsement without an examination for those applicants licensed in other states with comparable standards.

3. The practical examination should be eliminated as a licensing requirement.

4. The Board's written examination should be revised to include only those items relating to protection of the public.

5. The statutory requirement that barber applicants have at least a tenth grade education should be eliminated or reduced.

6. The Board should discontinue its current method of assessing moral character or develop sufficient guidelines to avoid potential misuse of this requirement.

7. The Board should amend its regulation to remove the requirement that applicants for barber school submit a medical certificate prior to enrollment.

FINDING V

THE BOARD CAN IMPROVE ITS SHOP INSPECTION AND LICENSE RENEWAL PROCEDURES.

If the Board of Barber Examiners is not terminated on July 1, 1984, improvements should be made in two administrative areas. First, barbershop inspections should be conducted in a fair, objective and effective manner. Second, the efficiency of the Board's license renewal system could be improved by initiating a biennial or triennial renewal cycle.

Board Inspections Are Not Fair, Objective or Effective

Board procedures for inspecting and rating barbershops need improvement. The Board does not rate barbershops in a fair and consistent manner and has not developed criteria and guidelines to determine under what conditions each type of rating should be given. In addition, the shop inspections are not effective in correcting problems discovered.

Barbershops are inspected by the Board an average of three times each year. The inspection report form used by the Board lists 12 items which are inspected by Board members. Marks are made on the form next to each item if in the inspector's opinion a problem exists. The shops are then given an overall rating of A, B or C. At a November 10, 1980, meeting the Board decided that one demerit would be given for a "B" rating and two demerits would be given for a "C" rating. If the shop accumulated six demerits in a year's period, then the owner would be called in for a hearing.

Shop Ratings Are Arbitrary - Board members performing shop inspections do not assign shop ratings in a consistent and fair manner but do so arbitrarily. A review of 1,650 shop inspection report forms shows:

1) Ratings are not based on the number or type of problems noted on the inspection form.

Table 8, which shows the number of shops given A, B or C ratings versus the number of violations found by inspectors, illustrates that ratings are not based on the number of violations found.

TABLE 7

RATINGS GIVEN BARBERSHOPS
VERSUS THE NUMBER OF VIOLATIONS FOUND

Number of Violations Found on Inspection	Number of Shop Inspections with Each Rating A	B	C	Total Shop Inspections
One	143	69	18	230
Two	33	52	4	89
Three	1	19	8	28
Four	1	1	4	6
Total shops inspected with violations noted on inspection report forms				353

As shown by the table, of 230 shops which had one violation, 143 were given an A rating while 69 were given a B rating and 18 shops received a C rating.

2) Shops with the same problems are given different ratings by inspectors.

Of 52 shops whose only violations were dirty work stands, 23 were given A ratings while 28 were given B ratings and 1 was given a C rating. Another example is eight shops that were given A ratings while five shops were given B ratings for the same two problems of inadequate dry and wet sterilization equipment.

3) Shops are rated lower than other shops which not only have the same problems, but additional problems as well.

The following four cases serve to illustrate this problem:

Case 1: A shop was given a B rating for an inadequate dry sterilizer and dirty brushes and dusters while another shop with the same conditions plus a license violation was given an A rating.

Case 2: A shop with dirty walls, dirty restrooms, inadequate dip sterilizers and inadequate dry sterilizers was given an A rating while numerous other shops received B ratings for only the last two conditions.

Case 3: Two shops were given C ratings for dirty work stations and inadequate wet sterilizers while two other shops found to have the same conditions plus inadequate dry sterilizers were given B ratings.

Case 4: A shop was given a C rating for dirty floors and work stations while two other shops with the same conditions plus dirty or inadequate sinks were given B ratings.

4) Inspectors give many shops "B" ratings (worth one demerit) without any justification.

At least 89 of 1,650 shops inspected by the Board were given B ratings when no reasons were given on the inspection forms to justify a rating below an A. In fact, 17 of these 89 shops were given B ratings on the basis of an "outside inspection" where the inspector inspected the shop through a window because the shop was closed. Also, some other shops were given A ratings based on the same type of outside inspection.

Inspections are arbitrary and inconsistent because the Board has not developed objective criteria to guide the inspection process or determined the relative seriousness of each type of problem that could be discovered.

Because inspection ratings are arbitrary and inconsistent, any Board decisions based on them could be open to legal challenge. In a May 20, 1981, memorandum involving a similar situation, the Arizona Legislative Council stated:

> "...equal protection requires that different treatment of persons similarly situated be justified by an appropriate State interest...."

We fail to see a legitimate State interest in arbitrarily assigning shop inspection ratings.

Shop Inspections Are Not Effective - Barbershop inspections performed by the Board are also not effective because timely corrective action is not taken when problems are discovered. Problems discovered during shop inspections are cited again on as many as five subsequent Board inspections. Further, the Board does not conduct follow-up inspections to assure that problems are corrected.

Efficiency of Board Can Be Improved

The efficiency of the Board's license renewal process can be improved by changing to a biennial or triennial renewal cycle. This would require a legislative change, however, as A.R.S. §32-330 requires that licenses issued by the Board should be renewed on an annual basis.

If the statutes were amended to provide for a biennial renewal period, the Board could save $5,300 every two years in processing costs. In addition Board members and employees would be able to devote more time to other Board business. Approximately 560 hours are consumed in processing the 3,300 annual license renewals. (A triennial renewal period would provide even greater cost and time savings.) An Auditor General survey of licensed barbers revealed that 75 percent of the survey respondents favor a change to a biennial renewal cycle.

Changing A.R.S. §32-330 to provide for a biennial or triennial renewal cycle would necessitate a change in A.R.S. §32-331 to allow the Board to collect a renewal fee equal to two or three times the annual renewal fee depending on whether a biennial or triennial renewal period was established.

CONCLUSION

Two improvements need to be made in Board operations. First, the Board does not conduct fair, objective and effective inspections of barbershops. Second, Board efficiency can be improved by adopting a biennial or triennial license renewal cycle.

RECOMMENDATIONS

If the State Board of Barber Examiners is not allowed to terminate on July 1, 1984, as recommended in Finding I, the following recommendations should be considered.

1. The Board should establish objective guidelines, criteria and procedures for assigning ratings on shop inspections and should be consistent in their use.

2. The Board should establish specific follow-up procedures to assure that problems found through inspections are corrected by barbershop owners.

3. The Legislature should consider amending A.R.S. §§32-330 and 32-331 to provide for the biennial or triennial renewal of licenses issued by the Board.

OTHER PERTINENT INFORMATION

During the audit, other pertinent information was developed regarding barber school regulation.

The Board of Barber Examiners licenses and regulates barber schools. However, barber school regulation could be provided by another existing State agency. The Board of Private Technical and Business Schools (PTBS) was established in 1970 and licenses approximately 235 proprietary vocational schools enrolling approximately 110,300 students annually. The different schools licensed by the PTBS Board provide training and instruction to students in as many as 60 different occupational areas. Many of these schools are similar to barber schools in that they provide both theoretical and practical training to students. Also, some of these schools provide vocational training in occupations which are regulated in some manner by some other State or local governmental agency. Barber schools were excluded from PTBS Board regulation because they were already regulated by the Board of Barber Examiners. Currently the Board of Barber Examiners licenses and regulates four barber schools. Barber and cosmetology schools are the only vocational schools not regulated by the PTBS Board. If the barber and cosmetology boards are allowed to terminate, regulation of the respective schools will automatically be vested in the PTBS Board.

STATE OF ARIZONA
STATE BOARD OF BARBER EXAMINERS
1645 WEST JEFFERSON, ROOM ~~XXX~~ 418
PHOENIX, ARIZONA 85007

MAR 1983
AUDITOR GENERAL

March 25, 1983

Mr. Douglas Norton, Auditor General
111 W. Monroe, Suite 600
Phoenix, Arizona 85003

Dear Mr. Norton:

We are submitting our response to the performance audit conducted by your Sunset Review staff.

The Board wishes to thank the Arizona Legislature for the Sunset Review Program and we appreciate the cooperation and consideration of your staff during this audit.

If you have any further questions, please feel free to contact us.

Sincerely yours,

ARIZONA STATE BOARD OF BARBER EXAMINERS

Sam B. LaBarbera

Sam B. LaBarbera, Chairman

SBL/bsp

encl.

INTRODUCTION

The State Board of Barber Examiners has been functioning effectively since 1935. This agency is a 90/10 agency and has contributed more than $90,000 over the past 5 years to Arizona's general fund. All fifty states currently have some regulation of barbers. Most other states, including Arizona, utilize a Barber Board to administer their barber statutes.

Some regulation of the barber profession should be continued for the health, safety and welfare of the public. Complete and sudden deregulation of the barber profession would cause economic chaos for the public much like the problems caused when cabs and ambulance services were recently deregulated. To this end, some agency combination would be preferable to complete abolishment of all barber oversight.

The Barber Board is necessary and should be continued as presently constituted. The present legislative delegation of authority to the Board of Barber Examiners is the most effective means of monitoring the barber profession to provide the public with the measure of protection which they deserve.

RESPONSE TO FINDING I

STATE LICENSING OF BARBERS AND BARBERSHOPS IS NECESSARY. (Page 11)
State Licensing of barbers and barbershops is necessary and should be continued for the benefit and protection of the citizens of Arizona. The consuming public needs at least some state regulation of the barber industry for protection of its health and safety from the risk of harm caused by untrained barbers or the untrained use of barber tools and instrumentalities. An additional risk of harm to the public resulting from the presence of unhealthy and unsanitary conditions within barber establishments is minimized through inspections by the Barber Board for establishment license compliance with appropriate health and sanitary regulations. The use of the market system cannot be an effective regulator of the barber profession due to the nature of the industry, the needs of the consuming public and the ineffectiveness of the return of business theory in this particular set of circumstances.

HEALTH AND SANITARY CONCERNS. (Page 12)
The Barber Board should continue to license barbers and inspect barber establishments since licensing and inspecting is a minimal, rational and necessary means of protecting the public from the spread of communicable diseases and infectious organisms. While many of the diseases that could be contracted in an unsanitary barber establishment are admittedly minor, many other diseases and organisms are communicable and extremely unpleasant. For example, the public occasionally hears of the rapid spread of head lice, among significant proportions of school children from various areas of town. This fact has been confirmed by Kay Krouse, R.N. of the Maricopa County Health Department. Not only are these diseases and parasites time consuming to treat and cost money to cure, but the infection carries with it a social stigma and possible recurring psychological burdens.

HEALTH AND SANITARY PROCEDURES UTILIZED BY THE BARBER PROFESSION ARE EFFECTIVE AND ARE IMPROVING. (Page 14)
The Board insures compliance with health and sanitary conditions through the promulgation of regulations. The barber examiners are constrained to act within the dictates of the Legislature. However, the Board retains the power and authority to initiate the process to propose new regulations or alter existing regulations which are no longer effective

or practical. To this end, a recently drafted set of proposed rules and regulations address most of the valid criticisms voiced by the Auditor General. For example, in response to page 14 of their report, a minimum number of combs will now be required so that each barber will have enough totally disinfected combs to use on a succession of patrons. (Combs must be immersed for at least 10 minutes in a "Barbisol" disinfectant solution for total disinfection.) This is a minimal requirement since combs cost less than one dollar. This is also an effective requirement since combs are the instrumentality which directly contacts each patron's scalp and thus is one of the most likely instruments to communicate diseases and infection. Some recent scientific findings regarding the effectiveness of various disinfection procedures are being reviewed by the Board to determine whether their use in the industry is feasible. This insures that consumers will have continued protection consistent with technological advances. Barber implements now will also be immersed in a disinfectant solution to eliminate any chance of disease and infection.

Further, contrary to the Auditor General's statement on page 14, barber implements are placed in a dry sterilizer or under ultraviolet light to prevent contamination AFTER the instruments are sterilized in a wet sterilizer rather than as an initial disinfection procedure.

CRITICAL PROCEDURES ARE A PART OF THE INSPECTION PROCESS. (Page 15)
The Auditor General's report lists on pages 14 and 15 several "critical procedures" which cannot be feasibly inspected by the Board. These criticized procedures are the most basic procedures taught to barber students. A great majority of operators habitually follow these procedures since these procedures comprise a substantial part of the barber exams. The inspection forms and procedures are currently being revised, however, for an increased focus on these criticized procedures. Although the Board cannot feasibly insure minute by minute compliance with the health and sanitary regulations by inspections, the present level of inspections is enough to give a measure of protection to the public which would not otherwise be present.

SHOP INSPECTIONS ARE EFFECTIVE AND ARE BEING IMPROVED. (Pages 15-16)
Inspection procedures are presently effective, however, the Board admits

that improvements are presently feasible. As a result the Board has endeavored to improve the inspection procedures. First the Board, in its proposed rules and regulations has promulgated standardized criteria necessary to receive an A, B or C on the inspection certificates. Next, the Board is amending its procedures to inspect the deficient establishments more frequently while inspecting consistently clean and sanitary establishments somewhat less frequently. Also, the critical procedures enumerated above are soon to be included as a specific part of the inspection procedures. For further information regarding inspection procedures, please see Finding #V.

UNTRAINED OR IMPROPER USE OF BARBER INSTRUMENTS AND CHEMICAL SOLUTIONS POSES A SIGNIFICANT DANGER TO THE CONSUMING PUBLIC. (Pages 16-17)

Barber instruments, including shears, razors, combs etc., are potentially dangerous instruments utilized on some of the most vulnerable areas of the body--eyes, ears and neck. A small child is usually extremely nervous in a barber's chair and often fidgets. A disaster could be caused by the untrained use of shears in this situation. The improper use of razors or use of a razor by an untrained individual, is obviously a dangerous proposition since this extremely sharp instrument is being used on your head, face and neck. The use of razors as a shaving instrument has declined in most shops since the total number of shaves has declined. The use of a razor for haircutting has, on the other hand, become increasingly prevalent with the continued popularity of razor cut hairstyling. Further, a razor is used on nearly every barber patron to shave around his head, neck and ears. Thus, the statement that a barber should be expected to use a razor as a reasonable person would use a razor is oversimplified. The reasonable (i.e., average) citizen probably has never used a straight razor to shave himself nor has he/she cut hair with a razor but a barber uses a razor on a daily basis. Without the proper training of barbers ensured by the Board of Barber Examiners through its licensing procedures, the public would be forced to assume, unnecessarily, a great risk of serious harm with possible irremedial consequences.

BARBERS USE OTHER POTENTIALLY DANGEROUS ITEMS ON THE CONSUMING PUBLIC.

Other dangerous instrumentalities frequently used by barbers include strong chemical hairdyeing, hair straightening and permanent wave solutions. A substantial harm to the public could occur through the untrained use of these chemicals. The Board has attached letters at the conclusion of this response from experts who agree that the solutions

obtained by barbers from distributors are stronger and more dangerous than those which are generally obtained by the consuming public.

Although if solutions and chemicals obtained by the public for use in a home environment are marked "For Professional Use Only", an examination of their ingredients indicates that these chemicals are not as strong as the solutions sold only to professionals. Further, no one questions the proposition that even these weaker home preparations can cause severe hair and skin damage if not properly used.

The distinction here between a home permanent and a professional permanent is that the home user has some degree of control over procedures done at home, although that home user assumes the inherent risk present in this procedure. On the other hand, a barber patron has little or no personal participation in performing a professionally done permanent or hair straightening job. Even if the permanent is performed on a fellow barber who knows the instructions on the permanent solution and who knows the application procedures intimately, the chances are great that mistakes or damages would be unnoticed by the individual as he reclines in the barber chair.

BARBERS SHOULD CONTINUE TO BE LICENSED FOR THE PROTECTION OF THE CONSUMING PUBLIC. (Pages 17 thru 19)

A further degree of barber competence for public protection should be continued through Board licensure of barbers and barber establishments. The Auditor General advances the theory of return of business as being a potentially more effective regulatory device than the Barber Board. Patrons harmed by a barber establishment will not return there for barber services, thereby driving the inept establishment out of business. This theory sometimes works as a regulator of the quality of business services. A close examination of what will actually occur with the barber industry will indicate the flaws in this theory and thus the ineffectiveness of using it as a regulatory device.

First, a barber who operates in an environment with a highly transitory population has no incentive to cultivate return business. A barber in an airport, for example, will probably never again see a larger proportion of his customers. THose customers could, however, be seriously harmed by improper or inept barber services and not even possess the weak remedy of never again patronizing this particular establishment and operator.

Consider next the citizens who reside in small or isolated towns where there are few, if any, barbers. If the barber(s) in that locality don't possess the minimal degree of professional competence assured by Board licensing, the citizens in that town will be harmed. They will be forced to return to the inept local practitioner's shop or ask a layperson to cut their hair, since most people will not cut their own hair. Arguably this individual could go to the next town for barber services but this is not a fair and adequate alternative. It is unreasonable for these citizens to be forced to expend extra time and money for barber services.

The return of business theory assumes that the lack of return business will eventually force the inept, inadequate barber out of business. How is the public protected until this barber actually does go belly-up? In all likelihood many more people will be harmed until economic realities force the inept barber out of business. The inept operator can then move to a new location and start the procedure all over again. The citizens of this state should not be forced to assume this risk of harm and the duty of regulating the barber industry through their market place behavior.

The Attorney General is under severe budget constraints and thus has neither the time or money to prosecute these relatively minor (i.e., not criminal, life threatening or outrageously expensive) violations of the barber code. Neither will the injured individual consult his attorney for appropriate remedial legal action for harm caused by barbers due to these same constraints of time and money. Further, even if a member of the public is aware of the potential remedy of small claims court, general ignorance of court procedures and case presentation, as well as time expenditures, prevent the small claims court from being an effective remedy. The violations of the barber code and protection of the public therefore are properly and wisely delegated to an administrative agency. This delegation of authority by the Legislature to an administrative agency, the Barber Board, is the least expensive, most effective and widely accepted means of dealing with a necessary reasonable framework and should be continued as presently constituted.

CONCLUSION

The consuming public both wants and requires continued licensure of barbers, their establishments and schools. This is necessary to protect the public from untrained operators and unhealthy, unsanitary conditions.

RESPONSE TO FINDING II

ADMINISTRATIVE COMBINATION OF BOARD FUNCTIONS IS A PREFERABLE ALTERNATIVE FOR INCREASING BOARD EFFECTIVENESS. (Page 21)

The State Board of Barber Examiners is a necessary and effective means of protecting barber students and consumers of barber services within Arizona, however administrative efficiency and the resulting cost savings could be achieved through combining the admistrative functions of the Barber and Cosmetology Boards. These two boards originally existed as one until the Legislature separated the regulation of barbers and cosmetologists in 1935. In addition to combining offices, telephones and other basic administrative functions, the boards could easily be served by the same inspection pool. This inspection pool would assure uniformity between barbers and cosmetologists in both establishment and school inspections. A common pool of inspectors would also cut the expense of both boards on out-of-county inspection trips.

DUAL LICENSURE BURDENS CAN BE MINIMIZED. (page 26)

The burdens of dual licensure could be diminished by using the common inspection pool mentioned above. Only one inspection, instead of the two presently required for a combination cosmetology/barber shop, would then suffice to allow the establishment the required license. The burdens of dual licensure would also be diminished through combination of the two boards. A single establishment license issued by a combined Barber and Cosmetology Board could designate the establishment as either a barber or cosmetology establishment or as a combination of both. Further, in contrast to the present system, only one set of regulations would govern these establishments and the professionals who work in them.

UNIQUE BARBER EDUCATIONAL REQUIREMENTS ARE STATUTORY. (Page 27)

The different educational requirements that exist between barbering and cosmetology are a result of statutes enacted in the wisdom of the Legislators serving at the time of the enactment rather than as a result of any Barber Board action. The Board is thus constrained to administer the laws as they are written. The Barber Board concedes that some standardization of school hours required for barbers and cosmetologists would be helpful. Further, some increased reciprocity between barber and cosmetologist school hours for the same training should also be considered. Full reciprocity between barber and cosmetology schools

should not be allowed, however, because of fundamental differences in barber and cosmetology training. Barbers, for example, give shaves and otherwise use a razor more often than cosmetologists, while barbers do no manicures at all.

(See also Page 33) Differences in instructor/student ratio requirements for barber and cosmetology schools can also be changed to reduce the chances of unequal treatment between reasonably similar professions. This is another change which must be made by the Legislature since the 1 to 12 instructor/student ratio requirement is a statutory requirement. The Board has no objection to legislative revision for consistency with the cosmetology requirement of a 1 to 20 instructor/student ratio. Also, the 1 sink per student requirement had its origins in practicality: the difficulties and dangers from 3 students shaving 3 barber school patrons with a straight razor from the same sink should be obvious. Many times a sink is a necessity for barbering services. The Board has proposed, in its current rules revision, that this 1 sink per student requirement be relaxed.

<u>BOARD MEMBERS SERVING AS FULL-TIME STAFF SHOULD BE CONTINUED</u>. (Page 28) Even if the Cosmetology Board and Barber Board are combined, the current practice of using full-time board members as staff can be continued without any problem. An administrative organization can be developed in which the board member investigator has neither voice nor vote in any board adjudication situation. The board member/inspector practice has been criticized as violation of the separation of powers doctrine. There has never been a complaint nor any other allegation that any board member has ever treated any person unfairly in the pursuit of his/her duties. The fact that a board member served as an inspector helps to alleviate unhealthy conditions and prevent complaints before they actually occur. The reason that most complaints are not severe is a result of the close personal interaction between the Board and members of the profession. Complaints, though few in number or severity, do not necessarily result from an ineffective job. The lack of complaints is the result of extremely competent and conscientious attention to legislatively mandated, delegated duties. Furthermore, as discussed above, consumers often have no other remedy to voice complaints. The Attorney General's written complaint procedure also prevents many individuals from making complaints

since the personal participation of the complainant is required.

THE BOARD COMPLIES WITH OPEN MEETING LAWS. (Page 31)
The Barber Board has enacted new measures to alleviate any chance of an open meeting law violation. A standing board meeting date of Monday has been set and permanently posted. The State Attorney Gneral's Office has advised the Board regarding open meetings, agenda availability and other like matters and is presently acting to prevent any future violations.

Although many administrative functions could conceivably be delegated to employees, the board members still provide services that could not be obtained from an employee. The Board also provides services which should not be delegated. The practical examination, for example, could not be graded by someone who has not had the special skill and training possessed by an experienced barber. Further, the practical exam is necessary and should be continued since it is the most effective means of ensuring minimal barber competency. The small cost of the practical exam is less than $1,000 per year and is clearly outweighed by the benefits of giving the exam. The Cosmetology Board maintains its own testing facilities while the Barber Board does not. A small cost consideration is no basis to discontinue the practical barber exam. (Pages 27 & 41)

RESPONSE TO FINDING III

BARBER BOARD REGULATION OF BARBER SCHOOLS SHOULD BE CONTINUED. (Page 33)
The Board of Barber Examiners is the most effective body to monitor the 4 barber schools within Arizona. Logically, the best barber instruction and apprentice supervision will be provided by professionals in the areas being taught. The State Board of Private Technical and Business Schools, however, has a great number of establishments which it regulates more strictly than is necessary. The Barber Board imposes only those requirements necessary to achieve the state objective of protecting the consuming public and does so in the least burdensome way possible to achieve the desired effect.

Many of the burdensome requirements criticized by the Auditor General are being revised or are no longer in effect. The 24 month financial requirement criticized by the Auditor General on Pages 33 and 34 is in the process of repeal. In addition, the newly proposed barber rules and regulations require only a $5,000 surety bond, the same amount as existing cosmetology regulations require. Further, the Board fails to see how this $5,000 bond requirement is more burdensome than the annual review of C.P.A. audited financial statements required by the PTBS. The Barber Board thus has the minimum requirements necessary for effective regulation regarding the financial stability of barber schools.

ENROLLMENT APPROVAL. (Page 34)
Board policies presently require that the schools notify the Board when new students enroll. Notice is not an overly burdensome requirement and only minimal costs are imposed. The Board has adopted this policy for the protection of students rather than to restrict their enrollment in any manner. Often disputes arise over the number of hours accrued by the student. These disputes are compounded by conflicts which exist between students and schools. If the Board has notice of when the student began barber training, any dispute can be easily settled.

CURRICULUM REQUIREMENTS ARE STATUTORY AND NECESSARY. (Page 35)
The curriculum requirements of barber schools are statutorily restricted. The Board thus cannot review or alter the subjects taught by barber schools. Even if the statement advanced by the Auditor General, on Page 35, that barber schools are teaching outside the

the statutory scheme is accurate, they are most emphatically teaching within subjects covered in the statutory definition of barbering.

The curriculum flexibility purportedly allowed by the PTBS might be detrimental to the student. If too much flexibility is allowed regarding subject matter, the student cannot pass the licensing examination. One would suspect as a practical matter that all schools are constrained to teach the subject areas tested by the licensing examination otherwise their graduates would not pass the exam.

FACILITY REQUIREMENTS. (Page 36)
The reasons for the facility requirements have already been stated on Page 8. The Board agrees that cosmetology and barber school requirements could be standardized. For example, California, often considered to be one of the most statutorily progressive states, recently amended its occupational licensing scheme and left standing many barber school facility requirements which are more burdensome than Arizona's requirements. This is but one example. The specificity which is attempted in the Arizona barber regulations stands in stark contrast to the vague PTBS requirement of "adequate" facilities. Contrary to the PTBS requirement, the Barber Board does not require an applicant to submit costly blueprints before a facilities license is issued.

The Board agrees that the minimum number of chairs required for barber schools can be lowered. Practicality and common sense should indicate that a small (5 chairs or less) school is not financially feasible. The fact that few new barber schools have been opened in the past two decades shows that the population of barber students is limited and that present facilities are adequate to train enough barbers. If board restrictions were as great as the Auditor General implies, either prices would drastically increase or no new schools would have been opened and a shortage of barbers would occur. No shortages of either barbers or barber schools have been noticed since three new barber schools have been opened in the past 5 years. Also, barber prices are presently obtainable for approximately the same prices which existed 10 years ago, given an inflation factor, although some barber services have changed and the charges for these services have escalated.

THE BARBER BOARD IS THE MOST EFFECTIVE REGULATOR OF BARBER SCHOOLS. (Page 1

The PTBS has been advanced by the Auditor General as the most effective regulator of barber schools since they presently regulate vocational schools teaching important curriculums such as dog grooming. One wonders whether the expertise gained by PTBS from the regulation of casino dealers will also enhance their concern for the health, safety and welfare of the public.

While the Cosmetology and Barber Boards are the only two state agencies which license schools, other state agencies rely on national and state accreditation groups. For example, the State Board of Technical Registration relies upon the inspection facilities and accreditation reviews of the NCEE of which it is a member to determine whether an engineering school is of a sufficient quality to give a potential engineer credit for attending classes in that engineering school. The Arizona Bar Association depends on the Arizona Board of Regents for law school curriculum requirements.

The PTBS rules specify that an instructor be qualified by reason of skill and preparation. This is precisely the same requirement for instructors that the Barber Board specifies. The course offerings are reviewed and graded by one who has contracted to review whether the course is academically sufficient. One wonders whether this individual (or a PTBS board or staff member) can possess a knowledge of barbering superior to the knowledge already possessed by a licensed barber. Thus, this PTBS requirement would require having a trained barber: an expense in addition to the cost of the contract for course sufficiency review. The Barber Examiners regularly ensure that the required courses are being taught and taught effectively through periodic examination of barber school graduates.

RESPONSE TO FINDING IV

PRESENT BARBER APPRENTICE LICENSING TESTING IS A NECESSARY AND REASONABLE REQUIREMENT. (Page 39)

Present barber apprentice requirements are a reasonable and necessary means of assuring a minimum degree of competence for barber apprentices. Fulfillment of some type of an apprentice program is presently a requirement in 37 states. The Arizona requirements are not unduly burdensome when one considers that an individual must study from 2 to 2½ years to become an Arizona certified court reporter, i.e., more time than most spend in law school becoming an attorney. Also, the cost of electrolysis training ranges from $2,000 to $3,000 for only a few weeks while barber school tuition costs are substantially less. Apprentice barbers are not prevented from working during their apprenticeship and most make the wages of professional barbers. Furthermore, the Barber Board is currently discussing an innovation which would allow a barber student the opportunity to take the practical exam before completing the 1,250 hours now required. If that student passes the practical exam, a license is issued. If not, the student is sent back to school for the remainder of the statutorily required hours. The rationale is that if an individual can effectively cut hair he/she should be allowed to practice as a professional barber. A survey conducted by the Barber Board indicates that apprentice training is necessary and 85% of the barber professionals believe that the program should be retained.

THE APPRENTICE PROGRAM COULD BE CHANGED.

Barber apprentices are presently required to undergo an 18 month apprenticeship, however, no specific requirements have been established for that apprenticeship since the statutes specify only that the apprenticeship be served under the supervision of a registered barber in a licensed barber establishment. The Barber Board is currently discussing specific requirements which would, in plain language, define all the necessary steps for successful completion of a barber apprenticeship.

37 OTHER JURISDICTIONS HAVE RETAINED AT LEAST SOME OF THE REQUIREMENTS FOR APPRENTICE LICENSURE.

37 other states, including some that recently reviewed their barber statutes, presently require barber apprenticeship. In Assembly Bill #429, effective January 1, 1980, the State of California, a legislatively innovative state, instituted a new apprenticeship program to replace the existing program. Among the innovations instituted were a 24 month practical apprenticeship with a required school session one night per week. After a completion of this apprenticeship requirement under the supervision of a registered barber approved by the Board, the candidate for a barber license is allowed to take the barber exam. Those apprentices which choose instead to go to school to satisfy the apprentice barber licensure requirements must complete 1,500 hours of training before they are allowed to take the barber exam compared to the 1,250 hours now required in Arizona. If they are successful on the barber exam, the candidate is issued a barber license and can then practice as a professional barber.

The Board would consider an apprenticeship program, which has almost no school requirements, and which tests a prospective barber after serving an apprenticeship under the direct supervision of a registered barber approved by the Board. A practical apprenticeship will not, however, be a common practice in the real world among members of the barber profession because licensed barbers are adverse to taking the time, responsibility and risk inherent in training an apprentice who is not a relative or a close friend. Further, not all barber establishments regularly perform all the barber services required by the barber exam.

A reasonable revision of the law then would allow the apprentice to fulfill the apprenticeship requirement by completing an apprenticeship of 24 months in a licensed barber establishment under the direct supervision of a licensed barber approved by the Board. A further requirement for a practicing apprentice should be a minimal amount of training in a licensed barber college. Even California requires night school training for those individuals who choose to undergo an on-the-job apprenticeship.

MINIMUM EDUCATION REQUIREMENTS. (Page 42)

A minimum educational requirement of high school completion or a G.E.D. has been supported by the National Association of Hairdressers and Cosmetologists. Although barbers are only a minority of the constituency of that organization, the basic similarities of the barber and cosmetology professions are obvious and the Board wholeheartedly concurs with some minimal educational requirement. Further, Arizona is but one of 22 other states which by statute require at least a 10th grade education.

EXAMINATION REQUIREMENTS. (Page 41)

The examination requirements presently in effect are a result of statutory enactments and the Board has absolutely no discretion or ability to alter, amend, modify or revoke existing laws regarding examinations. The Board asserts that the oral examination is an effective means for testing the applicant's personal knowledge of the barber laws. Even the PTBS requires an instructor to be qualified by reason of skill and preparation much the same as the present Barber Board requirement for barber instructors.

The practical exams are, however, the most effective means of determining whether or not the prospective barber is proficient in the trade. The proposed deletion of the practical exam should be carefully considered by the Legislature. Elimination of the practical exam has been defended solely on the basis of an $8,000 cost to the Cosmetology Board. The Barber Board does not maintain a separate testing facility as does the Cosmetology Board but utilizes a closed barber shop or school on Mondays, at a reasonable and minimal expenditure. The Barber Board has calculated the cost of its practical exams to be less than $1,000 annually. The Chairman of the Board coordinates his trips to administer and proctor the Tucson exams with his inspection duties there. The presence of board members at practical exams is necessary to determine whether or not a professional quality haircut has been given by the prospective barber during the examination.

SCHOOLS CANNOT ADMINISTER BARBER EXAMS EFFECTIVELY SINCE CONFLICTS BETWEEN SCHOOLS AND STUDENTS EXIST.

A basic conflict of interest exists between barber schools and their students. Thus, the barber schools cannot effectively administer barber tests. First, the school is personally interested in the graduation of most, if not all, of its students as an advertising point for the future enrollment of new students. Also, the schools want to get the failing student out of school after his time has expired unless he is charged an additional fee to continue lessons there. On the contrary, if a student is a great haircutter, the school would also have the vested interest of failing the excellent student on the exam instead of passing the student so that the student can continue to make profits for the school through his haircutting ability. Also, personality conflicts between students and instructors may exist.

RECIPROCITY RATHER THAN ENDORSEMENT.

Out-of-state candidates for Arizona barber licensure by endorsement should not be allowed to have an Arizona license. If the out-of-state applicant's jurisdiction is unable or unwilling to provide full faith and credit to Arizona applicants we should reciprocate and not follow the doctrine of endorsement, thus not giving those out-of-state individuals an Arizona license. This no licensure by endorsement policy was adopted by the recent California enactment mentioned above and should be followed in Arizona. On the contrary, the recent California enactment has retained the doctrine of reciprocity. Reciprocity should be adopted by Arizona for barber licensure if the requirements for licensure in the other state are substantially the same as the requirements in Arizona.

MISCELLANEOUS REQUIREMENTS. (Page 42)

The statutory requirement of 10th grade education is reasonable and necessary and is addressed at the top of Page 15. This is the minimum amount of education necessary for an individual to grasp the import of barber school textbooks and potentially dangerous chemical solution ingredient label instructions and warnings. Literacy should then be an obviously necessary and minimal requirement for being licensed as a barber.

The practical training could suffice for most of the student school hours required and alleviate a potential restriction of barbers. The requirement of a medical certificate has also been eliminated. Further, the requirement of good moral character and repute is considered only if an individual is convicted of the conspiracy or sale of narcotics or other moral turpitude. Almost every licensed profession and occupation in this state requires good moral character from the licensee. The Board is only following its statutory duty by requiring good moral character.

In conclusion, the exams are currently being revised to eliminate redundant obviously oral exam questions since this remains in effect. The practical examination is necessary and should be continued. Further, the Board of Barber Examiners should be the entity to administer the practical exam.

RESPONSE TO FINDING V

INSPECTIONS ARE FAIR AND CURRENTLY UNDER REVISION. (Page 47)
The current inspection procedures are neither unfair nor subjective, are effective and most problems are stopped before they become serious since the Board Members can act through their close personal knowledge of each establishment and licensee. The fact that complaints are usually not of a severe nature further indicates that the Board has been fulfilling its duties of proper licensure and inspection. The trend of the number of establishment inspections has been rising and complaints have dropped, thus indicating the conscientiousness and perserverance of the Board inspectors.

IMPROVEMENT OF INSPECTION PROCEDURES.
The complaints voiced by the Auditor General in his report on Pages 47-50, regarding arbitrary inspection procedures, are valid to an extent. As previously mentioned, the Board has a close working relationship with both barber licensees and barber establishments. As a result, there has not yet been a need for specifically standardized inspection procedures. The Board Member merely points out any problem with the shop or the professionals therein and the problem is usually corrected. No allegation of unequal treatment nor arbitrariness has ever been validly leveled at any Board Member in pursuit of his duties. Further, this informal problem solving procedure is another reason why the past inspection forms have few serious allegations. In addition, most complaints regarding establishment licenses, in addition to individual licensee complaints, come over the telephone and thus are of an anonymous nature. When a complaining caller voices his objections or complaints and is thereafter told of the Attorney General's requirement of a personal written complaint, the citizen usually declines any personal involvement. The Board, however, investigates each complaint regardless of whether there is any personal involvement by the complainant.

Nevertheless, the Board is currently, in its newly proposed rules and regulations, revising its "A", "B" and "C" inspection ratings as well as the demerit process, to define the precise criteria necessary to receive an A, B or C rating. Many times the barber establishment is

marked down in its ratings due either to categories not specified on the inspection forms or problems not set forth on the forms which are solved informally. No establishment license has ever been suspended or revoked due to Board action, a further indication of the efficacy of the Board in rectifying problem situations. Another reasonable revision the Board is attempting to adopt is increased reinspection of deficient establishments while consistently clean, healthy and sanitary establishments are inspected on a regular but less frequent basis. These alterations of the inspection procedures of the Board will make inspections definite and objective.

In conclusion, the Board of Barber Examiners concurs with the Auditor General's suggestion on Page 50 that a biennial licensure renewal system would be beneficial.

CONCLUSION

All the other states currently have some laws which pertain to barbers. Most of these states use a Barber Board to administer these laws much as Arizona currently does. Arizona's Barber Board has been effective and profitable since 1935 and should continue as presently constituted.

Some regulation of the barber profession is necessary for the health, safety and welfare of the public. Even those states which have abolished the Barber Board per se have continued to oversee the barber profession by one means or another. Usually these abolishing states combine their Barber and Cosmetology Boards however, state monitoring of the respective professions is usually not substantially curtailed. Even Oregon, a state frequently referred to with approval in the Auditor General's report, increased some requirements for barber licensure.

Arizona is clearly among the majority of states with its barber licensure laws. Only 13 states have no apprentice law. Arizona has the same length of apprenticeship as 17 other states. Seven states require more time than Arizona while eight require at least one year of apprenticeship. Arizona's minimum educational requirement is also among the majority of states, five states have increased this educational requirement during the past five years. 42 states require at least as many barber school hours as Arizona.

The Barber Board is the best available method of the administration and enforcement of reasonable regulations on the barber industry. This is a necessary regulation for the protection of the public and should be continued as it presently exists.

REDKEN LABORATORIES, INC.

February 15, 1983

Re: Sunset Review
State Boards

Dear State Board:

Redken Laboratories, Inc. is a Delaware corporation which develops, manufactures and markets hair and skin care products, hair coloring, and cosmetics for use and resale in beauty and barber styling salons.

Redken is vitally concerned with the possible deregulation of "cosmetology" in the various states and the possible elimination of State Boards of Cosmetology which have the responsibility for testing and licensing professional cosmetologists. Redken believes that the State Boards of Cosmetology must be allowed to continue their role of regulating the cosmetology profession so that the public's health, safety and welfare will be ensured. One of the ways in which the State Board fulfills its mandate is to make certain through its licensing procedures that all cosmetologists have the necessary training and skill to competently and safely provide professional services.

The reasons for continued regulation of the cosmetology profession are compelling. Fundamental training and a working knowledge of sanitation and hygienic care coupled with scientific knowledge of human anatomy and the dynamics of chemical treatments must be integrated into the cosmetologist's practice in order that treatments may be safely administered. The licensed cosmetologist, in addition to special training and satisfaction of licensure requirements to ensure competence, is a "second person applier" who may observe and take necessary action to ensure that the professional services are safely performed. These facts are important because, as discussed in greater length below, cosmetologists regularly use potentially dangerous chemical treatments and electrical instruments on the skin, hair, nails and face, frequently around the area of the eye.

/cont.

Recognition must be given to the distinction between professional products, designed and tested for use by professionally trained persons, and consumer cosmetic products which may be purchased through retail outlets for consumer's self application in their homes. Many professional products contain potentially dangerous chemicals and may cause moderate or even severe injury if used by untrained persons or, even in the hands of a trained professional, if the professional products are used improperly. Potential physical injuries that may occur include severe damage to or loss of the hair, thermal or chemical burns to the skin which could result in permanent scarring, and damage to the eyes which in some instances could potentially cause irreparable loss of vision.

Hair straightening products, permanent waves, hair colors and bleaches are all examples of cosmetics which contain potentially dangerous chemicals. Most creme relaxers that are used by cosmetologists to straighten hair contain sodium hydroxide which is highly alkaline. Many kitchen and drain cleaners also use sodium hydroxide as an active ingredient e.g. lye is substantially composed of sodium hydroxide. Sodium hydroxide is used in a creme relaxer to relax the chemical bonds in curly hair so that the hair may be straightened. Depending on many factors such as the strength and condition of the hair, the time required for the straightening process may vary from one to sixty minutes. It is important that the person applying the relaxer be adequately trained, as are licensed cosmetologists, because it is difficult to gauge the length of time that a relaxer must remain on the hair to be effective. If the creme relaxer remains on the hair for too great a period of time, the hair can be severely damaged. Many creme relaxers that contain sodium hydroxide may also cause some degree of burning of the scalp. If burning does occur, it is crucial to have a trained cosmetologist present to identify the problem and initiate remedial action.

Permanent waves can also prove to be dangerous in the hands of unskilled persons. Most alkaline cold-wave permanent waves include a waving lotion which contains thioglycolic acid and ammonia and a bonding solution or neutralizer which contains hydrogen peroxide or a bromate solution. If the waving lotion, which is referred to as a reducing agent, is accidentally combined with the bonding lotion, which is referred to as an oxidizing agent, the chemical reaction generates a tremendous amount of heat which could cause severe burning, or even ignite into open flame. There is also the potential that these chemicals in permanent waves may cause damage to skin, hair or eyes. By way of example, if a patron had recently used a metallic dye (such as lead acetate) to color her hair to eliminate gray hair and then applies a permanent wave, her hair will likely be damaged and may even begin to smoke.

If waving lotion is allowed to remain on the hair for too great a period of time, it may cause hair damage. A licensed cosmetologist is trained to monitor the speed at which the chemical restructuring of the hair is taking place by utilizing a "test curl". A great deal of training and experience is required in order to properly interpret the "test curl".

/cont.

Permanent waves that are sold for use by individuals in their own homes often contain thioglycolic acid. However, the home permanent wave products contain a lower percentage of thioglycolic acid than is used in professional permanent waves designed to be administered by licensed cosmetologists. Because the home permanent waving product is less "potent", permanent waves designed for home use do not last as long and usually do not provide the same degree of curl as do professional salon administered permanent waves. Therefore, a licensed cosmetologist can provide a more efficacious and safe permanent wave service to their patrons than the patron could expect to obtain by using a home permanent wave.

The use of hair color and bleaches also require proper training and experience in order to apply them safely and obtain the desired results. Most permanent hair colors contain derivatives of a chemical called para-phenylenediamine. Although this chemical gives excellent results and long lasting color, it may induce severe allergic reactions in some persons. This result may be avoided by using a "patch test" to determine if a patron may exhibit an allergic reaction to the hair color. A licensed cosmetologist is aware of the importance of using the "patch test" and is trained in the proper technique of giving and interpreting the results of the "patch test".

Both hair color and bleaches have the potential to cause severe eye damage. It is, therefore, important that the person applying the hair color or bleach be properly trained to take the steps necessary to prevent these agents from coming into contact with the eyes. This is an example where "second party" application is highly beneficial. The cosmetologist applying the agents is able to ensure that the hair color and bleaching agents are kept away from the area of the eyes. This relatively simple objective may be difficult for an untrained individual attempting to apply these products to themselves.

Licensed cosmetologists are called upon to utilize their skill and judgment in determining whether a particular chemical process should be recommended and may be safely performed. Licensed cosmetologists integrate their education, experience and professional judgment to determine the existing condition of the hair and/or skin and whether additional conditioning treatments should be applied prior to a chemical treatment. Although "unseen", a trained cosmetologist's professional recommendation is an important, perhaps the most important, service provided to the patron.

A salon patron is of course concerned not only that the professional service is safely provided, the salon patron also wants the most efficacious result. By way of example, in order to obtain a desired hair color, the person applying the hair color must be educated in the "law of color" and experienced in working with hair color. The same bottle of hair color can produce different shades on different types of hair. There have been numerous cases of inexperienced persons applying hair color at home who are rudely surprised at the final result. These persons usually then require the services of an experienced cosmetologist for corrective work. This again illustrates the benefit of competent licensed professionals to provide these services.

/cont.

Manufacturers such as Redken are constantly improving products and methods. Many manufacturers' products carry directions which specify "dos" and "don'ts" and many products require caution notices. All insist on "following directions carefully". For the customer's satisfaction and protection, the cosmetologist must be able to understand and strictly adhere to these directions, many of which are written for the trained professional. As discussed above, merely following directions may not be enough. Pretesting and monitoring may be required, professional judgment based on training and experience is often necessary, and "second party" application makes it possible to achieve improved results with greater safety. The professional cosmetologist must keep up with the "state of the art" through continuing education in an effort to upgrade the profession and provide services with the greatest efficacy and safety.

For the reasons discussed above, Redken emphasizes the need for State Boards of Cosmetology to effectively regulate the cosmetology profession. State Boards of Cosmetology serve a vital function in enforcing the state's licensing and regulation of a profession which affects the health and safety of the public. Licensing standards not only ensure minimal competence of licensates, these standards foster a sense of professional responsibility among professionals who are licensed.

An effectively administered professional licensing system furthers each state's interest to ensure that safe and effective services are provided to the state's consuming public. Redken believes that only skilled and licensed cosmetologists possess the specialized training to provide routine service as well as deal with unusual or unexpected situations where knowledge and training may make the difference between a successful treatment and a potentially hazardous failure.

Very truly yours,

REDKEN LABORATORIES, INC.

Ronald A. Kvaas

RAK:la

RONALD A. KVAAS, PhD.
Director of Technical Services & Compliance

Richard A. Plumb
International Vice President
Director, Barbers and Cosmetologists Division

March 15, 1983

Sam LaBarbera
Arizona State Board of
Barber Examiners
1645 W. Jefferson, Rm. 418
Phoenix, AZ 85007

Dear Mr. LaBarbera:

The reasons for the continuation and strengthening of the Board of Barber Examiners is more important today than ever before.

At the present time, there is an alarming amount of pediculus capitis (head lice) among children, and unsanitary, uninspected shops are one of the chief spreaders. I am sending you a study of this growing problem for your information.

I am also enclosing another brochure on the dangers to the public of six different items in use in all shops, which unlicensed, incompetent, and uninspected barbers use.

Barber services are personal services rendered on the bodies of persons who patronize barber shops. Persons who receive barber services are subject to the possibility of personal and physical injury, the marring of the physical appearance, spread of disease from patron to patron, or spread of disease from barber to patron. The consuming public may also be subject to distress by receiving unsatisfactory barber services from an unskilled or improperly trained person. It is essential to license barber colleges, barber shops, and persons performing barber services, and to approve apprentice training programs for the following reasons:

1) To assure the public that all persons receiving barber services are adequately protected from the spread of disease.

2) To insure that persons entering the field of barbering are properly trained in all phases of barbering and are adequately trained to perform barbering services requiring the use of caustic chemicals so that tht public is protected from the chemicals used in the barber shop.

3) To provide an effective inspection and enforcement program to insure that licensed barber shopsand barber colleges are maintained in a sanitary condition, maintain minimum equipment,

and that barber colleges furnish satisfactory instruction instruction and maintain acceptable student records.

4) To review and approve training programs for apprentices entering the barber industry to insure that persons using this method of entry into the industry are properly supervised and trained.

5) To review barber licensing programs of other states and countries for the purpose of determining which states or countries have substantially the same qualifications for licensing barbers as in this State in order that the board may determine which states or countries may be approved for reciprocal licensing programs for barbers.

The objectives of the Board of Barber Examiners are listed below in order of significance:

1) To assure that there adequate standards of training for persons entering the barber industry.

2) To see that all persons licensed to offer barber services to the public possess the required skills and knowledge to furnish acceptable services in clean and sanitary barber shops.

3) To insure than an enforcement program is effected which will insure that the public is not harmed by unlicensed persons performing barber services.

4) To mediate complaints from the public with regard to barbering services.

5) To provide information to licensees and to the public.

6) To implement an adequate enforcement program within the barber industry and provide a continuous educational program for persons licensed by the board.

7) To approve and monitor programs for licensing apprentices to insure that the training classes and on-job training are adequate to properly train persons entering the barber industry through an apprentice program.

The United Food and Commercial Workers, representing 1,300,000 workers, and their Barber/Cosmetologist Department, urges you to present this message to the Arizona State Legislature.

Sincerely,

Richard A. Plumb

Richard A. Plumb
Vice President UFCW
Barber-Cosmetologist
Division Director

Enclosures

The Barbers, Beauticians and Allied
Industries International Association
7050 W. Washington Street
Indianapolis, IN 46241

Statement from The Barbers,
Beauticians and Allied Industries
International Association

The Barbers, Beauticians and Allied Industries International Association (AFL-CIO) vigorously supports the retention of the Barber State Boards as vital to the health and general welfare of all customers of barber shops. We strenusously oppose any attempts to terminate the barbering boards or to eliminate their authority to inspect and license barber shops, to conduct licensing examinations for barbers, to license, inspect and establish curricula for schools of barbering, and such other activities pertinent to regulating the practice of barbering.

In the performance of their duties, incompetent barbers can directly affect the physical health and well-being of their customers. Thus it is essential that the practice of barbering be regulated by a state board with specific authority and sufficent expertise to insure that high standards of trade skills are established and maintained.

The professional barber deals with the human body on a daily basis. To meet the requirements of their customers, barbers must use razor sharp instruments and apply a variety of chemical compounds, many of which may be potentially dangerous to the health and safety of the customer. An unskilled practitioner could possibly inflict serious damage to the customer's skin and hair.

Thus, it is obvious that an unqualified barber presents a potential danger because he/she must necessarily apply strong chemicals and use razor-sharp instruments or electrically wired instruments on the customer. The Barber State Board is absolutely essential to prevent such dangers to the public by ensuring that practicing barbers meet certain minimum standards of competency. This is accomplished by supervising curricula and training in the schools, and by comprehensive and up-to-date examination of all applicants for licensure. Applicants filing to meet certain minimum standards of competency are not permitted to work on the public and thus jeopardize their health and well-being.

It should be noted that although the Barber State Board performs the very important and often arduous duties of protecting the health, safety and welfare of the public, the continued performance of this board does not require any appropriations from the state treasury.

The license fees received provide adequate funds for the general operation of the board and the administration of its critically needed programs. Thus, the Barber State Boards not only contribute to the health and safety of the public, but also continue to their financial well-being.

For all the reasons stated above, the Barbers, Beauticians and Allied Industries International Association emphasizes the need for the Barber State Boards to regulate the barbering industry. This is of critical importance to the safety and welfare of all those patronizing barber shops. Without the protection provided by the boards, customers of barber shops may unknowingly risk serious injury because they cannot be sure that the practitioner serving them has the minimal knowledge and skill to competently perform the required services. For all of these reasons, we wholeheartedly and completely support the retention of the Barber State Boards.

RECEIVED
MAR 15 1983
STATE BARBER BOARD

March 11, 1983

Mr. Sam La Barbera
Arizona State Barber Board
1645 W. Jefferson #418
Phoenix, AZ 85007

Re: Sunset Review, State Board of Barber Examiners

Dear Mr. La Barbera:

Roffler Industries is a Pennsylvania based corporation which manufactures and distribu haircare and haircoloring products for use and resale in beauty and barber styling salons.

Roffler is concerned with the possible deregulation of barbering in your state, and the possible elimination of your State Board of Barbering. Roffler supports and believes in the importance of the State Boards of Barbering which regulates the barbering profession to ensure the public's health, safety and welfare.

One of the many benefits of the licensing procedure is the training and skills developed in the areas of permanent waving, haircoloring, hair straightening and bleaching. Roffler maintains that these areas require a mandated level of proficiency because of the potential harm to the consumer if violatile ingredients within products are misused or misapplied.

Permanent waving is a relatively easy procedure when performed by a skilled, licensed stylist. However, the potential for damage when used by the unskilled and uninformed ranges from the destruction of the hair (when overprocessed) to severe and sometimes irreparable eye damage if the solution is allowed to come in contact with the eyes.

Hair straighteners, if misused, also have the potential to cause irreparable damage to the hair and eyes.

Hair coloring and bleaching also may prove to be dangerous when in the hands of unskilled persons. Coloring, by its nature, is the complicated process of matching and/or creating new color shades. Knowledge of color application is a learned skill which the average unskilled person can not possibly master by trial and error. Also, both haircolori and bleaching have the potential to cause severe eye damage, but the process is recognized safe when applied by a stylist trained to take the steps necessary to provent these agents from coming into contact with the eyes.

For the reasons above, Roffler believes in maintaining a distinction between professio products designed for use by professionally trained and licensed stylists, and consumer products which are purchased from retail outlets for home use.

Roffler manufactures and distributes products designed for use by professionally train and licensed stylists. State Boards of Barbering effectively regulate the Barbering profession, and Roffler feels that to reduce or eliminate the professional licensing system is a mistake which will result in a potential hazardous environment to the general (unaware public consumer.

Very truly yours,

Anthony J. Sangermano, President

James Vlasic, Chemist

ROFFLER INDUSTRIES, INC. 400 CHESS STREET CORAOPOLIS, PA 15108 412 771-4333

ROFFLER® OF ARIZONA
"Your Professional Supply Co."

449 South 48th Street #103 • Tempe, Arizona 85281
Telephone (602) 966-1887

RECEIVED
MAR 8 1983
STATE BARBER BOARD

Sam LaBarbera
Arizona Barber Board
1645 West Jefferson #418
Phoenix, AZ 85007

March 7, 1983

Dear Mr. LaBarbera

Roffler of Arizona is a Beauty & Barber Supply Company serving the entire state of Arizona. We service Barber and Beauty Salons with hair care products and educational programs. We have been in business here in Arizona since 1970.

I'm writing to you to express my concern about the possible deregulation of the Beauty & Barber Industry and the elimination of the Barber & Beauty Boards. The elimination of the boards I feel would be harmful in protecting the consumer in knowing whether their stylist is really fully qualified to preform a professional service. It's the state boards who make certain that the stylists have a working knowledge of human anatomy and proper training in chemical treatments and services. The professionaly trained stylist is regularly working with potentially dangerous chemicals. Products such as Hair Straightners, Hair Colors, Bleachs and Permanent Waves can if not properly applied cause servere damage to the skin and even greater damage to the eyes. Permanent scarring and in some instances possible loss of sight are enough reason to make sure that every stylist is properly trained before offering these potentially dangerous services.

It is because of these reasons that someone who is not a professional licensed stylist, without a proper education, should not preform the above mentioned services. The consumer deserves this kind of protection.

Sincerely

George Ferguson
Roffler of Arizona

ljn

National Association of
Barber Schools
304 S. 11th Street
Lincoln, NE 68508

Statement from the
National Association of
Barber Schools, Inc.

The National Association of Barber Schools supports the idea of public safety through required licensing of barbers and barber shops. A Barber State Board, established in every state, is the only practical way this licensing can be done.

Protection of the public is a most significant function of the barber boards. By establishing examinations that all new barbers must pass, the board awards a license to practice only to competent people. This means that only those who understand the basic skills of hair styling, the use of chemicals, and the operation of appliances can actually work on the public. By inspecting shops and schools for sanitation practices, the public health is again safeguarded.

These services are of utmost importance and cannot be discarded. It is therefore logical to support the Barber State Boards which were designed to serve these needs.

Each member of the NABS recognizes that it benefits from the legal requirements placed upon it by the boards and, therefore, supports and adheres to the rules, regulations, and laws that affect the operation of a school. We feel that the public benefits too.

Beauty and Barber Supply Institute
155 N. Dean Street
Englewood, NY 07631

Statement from The Beauty
and Barber Supply Institute

The Beauty and Barber Supply Institute, representing some 700 wholesale-distributor members employing over 20,000 people, supports the continuance of state boards for the licensing and regulation of cosmetologists and barbers. These boards are essential for the protection of the health and welfare of the American people.

The boards were originally founded when it was realized that the use of chemicals by unqualified practitioners could cause irreparable harm. With the advent of new technology in both the chemical and electrical field, this protection is needed more than ever.

The wholesale-distributors recognize that, as new products are developed, the cosmetologists and barbers need continuing education and updating. At considerable costs, the wholesale-distributor holds educational seminars to accomplish this, as do the cosmetology association, barber association, manufacturers and schools. It is evident that all segments of the industry recognize the necessity of continuing education for the upgrading of the industry and the protection of the public.

If a person could practice cosmetology or barbering without being tested and approved by a state regulatory board, the public would be subjected to the use of potentially harmful chemicals and electrical equipment by practitioners unfamiliar with their proper use.

We realize the economic problems that state administrations face, but, unlike other regulatory agencies, the cosmetology and barbering boards are self-supporting because of fees received.

The Beauth and Barber Supply Institute feels that, for the protection of the health and welfare of the American public, there should be a continuance of state boards of cosmetology and barbering.

APPENDIX XI

TABULATED RESULTS OF QUESTIONNAIRE SENT TO 500 "CITIZENS" SELECTED AT RANDOM

1. a. Do you believe that the practice of barbering, as you observe it, is of such a nature that the State needs to "license" those who perform this duty?

   [68] Yes [37] No *3 "NO" Responses*

   b. Do you believe that the practice of cosmetology, as you observe it, is of such a nature that the State needs to "license" those who perform this duty?

   [78] Yes [27] No *3 "NO" Responses*

2. If you believe that regulation is necessary, which of the following current regulatory practices are most necessary in your view? Check those you believe necessary.

BARBERING	YES	NO	COSMETOLOGY	YES	NO
Registering Students	41	25	Registering Students	46	27
Requiring specific number of hours of barber school attendance	58	14	Requiring specific number of hours of cosmetology school attendance	67	10
Practical Exam	68	8	Practical Exam	73	7
Written Exam	61	11	Written Exam	67	10
Annual License Renewal	48	22	Annual License Renewal	58	19
Shop Licensing	60	14	Shop Licensing	65	11
Shop Inspections	67	11	Shop Inspections	67	11
Requiring continuing education in profession	59	28	Requiring continuing education in profession	47	27

NOTE: The references to Cosmetology (cosmetologists) refer to beauty operators and hairdressers.

STATE OF ARIZONA
STATE BOARD OF BARBER EXAMINERS
1645 WEST JEFFERSON, ROOM ~~212~~ 418
PHOENIX, ARIZONA 85007

BARBER SCHOOL HOURS REQUIRED

1000

Massachusetts
Missouri
New Jersey
New York
Oklahoma
Washington, D.C.

1200

Maryland
New Mexico

1248 - 1250

Arizona
Colorado
Hawaii
Pennsylvania
Washington
Wisconsin
Wyoming

1350

Oregon

1500

Alabama
Alaska
Arkansas
California
Connecticut
Delaware
Florida
Georgia
Idaho
Indiana
Kansas
Kentucky
Louisiana
Maine
Minnesota
Mississippi
Montana
Nevada
New Hampshire
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia

1528

North Carolina

1550

North Dakota

1800

Ohio
West Virginia

1872

Illinois

2000

Michigan

2100

Iowa
Nebraska

Average hours for 50 states and Washington, D. C. is 1460 hours