

## A Review of the Mississippi State Board of Cosmetology

**CONCLUSION:** The Mississippi State Board of Cosmetology (MSBC) regulates schools, salons, and individuals engaged in the teaching, demonstration, and practices of cosmetology, manicuring, and esthetics. MSBC experiences several issues that decrease the effectiveness and efficiency of the Board: issues with Board composition, structure, and responsibilities, issues with regulatory activities, issues with financial management and controls, and other administrative issues. Additionally, the overlap in the scopes of practice regulated by MSBC and the Mississippi Board of Barber Examiners is significant and makes differentiating between the jurisdictions of the two boards difficult.

### Background:

MISS. CODE ANN. § 73-7-1 (1972) establishes MSBC. MSBC is composed of five members appointed by the Governor with the advice and consent of the Senate. As of October 1, 2021, MSBC had nine full-time staff members.

MSBC is a special fund agency supported by funds collected from licensing, inspection, and examination fees and fines collected for disciplinary actions as set forth in MISS. CODE ANN. § 73-7-29 (1972). From FY 2019 to FY 2021, the Board's expenditures increased from approximately \$580,000 to \$884,000, an increase of 52%.

The nature of cosmetology presents a risk to the public if practitioners are not properly trained and regulated. Risks include transmission of communicable disease or infection and physical harm resulting from improper use of equipment. Because of these risks, all states regulate the practice of cosmetology.

### Licensed Schools, Salons, and Practitioners in Mississippi (as of October 12, 2021)

License Type	# of Licenses
Schools	43
Salons	4,602
Practitioners	
<i>Cosmetologists</i>	15,389
<i>Manicurists</i>	2,438
<i>Estheticians</i>	805
<i>Instructors (Cosmetology)</i>	367
<i>Instructors (Manicuring)</i>	8
<i>Instructors (Esthetics)</i>	10
<b>Total Practitioners</b>	<b>19,017</b>

### MSBC Issues

- MSBC, in its current form, does not ensure Board representation of consumers or all Board-licensed persons;
- Board member terms are not staggered and qualifications for Board service are higher than those of similar boards;
- MSBC Board members are involved in day-to-day responsibilities that should be handled by the staff;
- MSBC's meetings are disorganized and inefficient;
- On 10 occasions in FY 2021, a quorum of the Board met but did not provide meeting minutes;
- Universal licensing requirements create an imbalance between in- and out-of-state license applicants, resulting in a competitive disadvantage for Mississippi residents;
- In FY 2021, MSBC completed only 63% of its mandated inspections and is unlikely to finish inspections in FY 2022 due to current staffing levels;
- Inspectors give warnings to licensees for most first-time violations, contravening the Board's rules and regulations;
- MSBC does not have a consistent complaints investigation process and does not schedule a regular, standard time to hold hearings;
- MSBC maintains a large cash balance while continuing to collect fees and fines from licensees;
- MSBC has not assessed its own efficiency in the operation of inspector vehicles to maximize its financial resources;
- Weaknesses in the Board's segregation of duties compromise MSBC's accounting records;
- MSBC Board member policies for claiming per diem, meals, and travel reimbursements are inconsistent and insufficient for expanding public funds in a cost-effective and prudent manner; and,
- Administrative issues including: the lack of expertise to perform critical Board functions, oversight of Executive Director leave and comp time, and issues related to agency work environment.

### Other Administrative Issues

- Due to a lack of staff, the Board has increasingly relied on contractors to perform several core administrative tasks (e.g., budget development, accounting, IT), which could result in an inefficient use of funds and potentially an over-reliance on contractors to perform critical Board functions.
- From March to September 2021, the Executive Director requested and received 142 hours of comp time without approval by the appointing authority (i.e., the Board) as required by state law. In addition, the Executive Director did not request prior approval for comp time, which is generally accepted practice.
- Over the course of PEER's review of MSBC, it became evident that the Board is operating with personnel conflicts that may jeopardize the future ability of the Board to fulfill its statutory obligations.

### Legislative Recommendations

1. The Legislature should consider amending MISS. CODE ANN. § 73-7-1 (1972) to reduce the Board members' experience requirement from 10 to 5 years, eliminate the age requirement, and restructure and expand the Board's membership. The Legislature should also consider the option of dissolving both the State Board of Cosmetology and the State Board of Barber Examiners, and create a single State Board of Cosmetology and Barbering. If the Legislature creates this board, its composition should reflect representation of all licensed professions.
2. To eliminate the imbalance of licensing requirements for in-state and out-of-state applicants, the Legislature should consider removing the English fluency requirement, reduce the minimum age and education requirements, and allow aspiring practitioners to qualify for licensing examination through apprenticeship hours instead of school hours.
3. To reduce the Board's involvement in the day-to-day operations of the agency, the Legislature should consider formally creating the position of Executive Director within the statute and providing basic direction on the scope of the position's responsibilities.
4. The Legislature should consider amending MISS. CODE ANN. § 25-3-92 (1972) to require the Mississippi State Personnel Board to develop a policy for agencies that hire state service personnel regarding the appropriate process for the requesting, approval, and use of Executive Director compensatory time.

### Board Recommendations

1. The Board should address its deficiencies in core competencies by hiring qualified, full-time staff to accomplish such functions. If MSBC is unable to do so, the Board should consult with the Department of Finance and Administration (DFA) to increase the cost-effectiveness of its operations by determining an alternative solution to its current use of contractors.
2. In order to increase the efficiency of Board meetings, the Board should require the Executive Director to provide meeting materials the week prior to the meeting, begin meetings promptly and complete meeting agenda items in a timely manner, only conduct as many meetings for the amount of time necessary to oversee the management of the Board (not the day-to-day operations of the Board), and formalize and improve the general order of meetings.
3. The Board should review and develop operational policies and procedures that ensure compliance with all open meetings laws and regulations.
4. To achieve its statutory mandate regarding annual inspections, the Board should evaluate inspector territories to factor for travel distance and consider redrawing territories to make inspection quotas more feasible. For better recruitment and retention of inspectors, the Board should provide flexible work schedules to inspectors, as allowed by state law. Additionally, the Board should create a more formal and equitable inspection schedule and increase its number of inspectors to meet the statutory inspection mandate.
5. To increase consistency within the enforcement process, the Board should amend rules and regulations to reflect actual practices, revise policies to ensure uniform processes of investigation, and schedule regular hearings to adjudicate complaints.
6. MSBC should develop plans to expend the licensees' funds held in reserve in a manner effective for the accomplishment of the agency's goals and objectives and for the benefit of its licensees.
7. The Board should consult with DFA to determine whether fleet vehicles would be more cost-effective than mileage reimbursement.
8. The Board should create a written standard procedure for Board members requesting per diem to ensure consistency in the Board's use of funds.
9. The Board should adopt and enforce policies and procedures that strengthen the agency's internal controls over segregation of duties.
10. To ensure transparency and efficient use of public funds, the Board should submit receipts with meal reimbursement requests and ensure that its policies and procedures are in alignment with DFA's travel reimbursement guidelines.
11. The Board should require agency staff to participate in trainings offered by the State Personnel Board and seek mediation assistance from a human resources or counseling professional in order to provide leadership coaching and relationship-building skills.