



# Kentucky Board of Cosmetology Oversight Functions

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Legislative Oversight and Investigations  
Committee

November 14, 2024



## Board of Cosmetology

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- Created in 1974
- Protects the health and safety of the public
- Protects the public against misrepresentation, deceit, and fraud in the practice or teaching of beauty culture
- Sets standards for schools and salons
- Protects students under the provision of KRS 317A



## **Board Membership**

### **KRS 317A.030**

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- Two salon owners
- One cosmetology teacher
- One owner or financial stakeholder in a school
- One citizen at large
- One nail technician
- One esthetician

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## **Board Membership**

### **KRS 317A.030**

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- All board members are appointed by the Governor
- Appointments are for 2-year terms ending on February 1
- No members shall be removed except for cause

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## What the Board Regulates

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- Regulates
  - Cosmetology, esthetics, and nail technology
- 33,921 licenses as of July 16, 2024
  - Businesses and practitioners
  - Schools and instructors

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## Three General Finding Areas

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- Structural Issues
  - Issues that impact the functioning of the board including the setup of the board and its staff and lack of clarity from leadership
- Inspectors and Inspections
  - Issues with inspector hiring, training, and reporting
- Fines
  - Issues with fine issuance, amounts, and records

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## Senate Bill 14 2024 Regular Session

Structural Issues

Inspections/Inspectors

Fines

- Amended KRS 317A.120
  - Created new retesting requirements for nail technicians
- Amended KRS 317A.020
  - Changed requirements for an emergency order

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## Retesting Requirements 201 KAR 12:030

Structural Issues

Inspections/Inspectors

Fines

- 201 KAR 12:030 covers retesting requirements
- Allows for immediate retesting until three failures
  - After three failures they must wait 6 months before retesting and take a supplemental course
  - After five failures they must wait 3 years before retaking

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## Retesting Requirements KRS 317A.120

Structural Issues

Inspections/Inspectors

Fines

- SB 14 amended KRS 317A.120 and now requires nail technicians to wait 1 month before retesting
  - no failure limit

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## Retesting Requirements

Structural Issues

Inspections/Inspectors

Fines

- Prior to SB 14, 201 KAR 12:030 regulated retesting requirements for nail technicians, cosmetologists, and estheticians
- SB 14 created new retesting requirements for nail technicians
- 201 KAR 12:030 is still in place and contradicts statute for nail technicians

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## Recommendation 2.1

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should amend 201 KAR 12:030 to align with KRS 317A.120, as amended by Senate Bill 14 from the 2024 Regular Session.

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## Emergency Order

Structural Issues

Inspections/Inspectors

Fines

- SB 14 changed the definition and requirements of *emergency order*
  - Prior to SB 14: based upon probable cause
  - After SB 14: based upon **verified** probably cause **or substantial evidence**
- Board staff report confusion over the term

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## Recommendation 2.2

Structural Issues

Inspections/Inspectors

Fines

By July 1, 2025, the Kentucky Board of Cosmetology should create a policy to clarify the meaning of *emergency order* and when it should be used.

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## Minimal Oversight

Structural Issues

Inspections/Inspectors

Fines

- KRS 317A.030 establishes the board as an independent agency
- Very little oversight
  - Fine decisions are made by board
  - No higher or impartial authority to appeal to for complaints
  - Can appeal a final decision to Franklin Circuit Court

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## Recommendation 2.3

Structural Issues

Inspections/Inspectors

Fines

By July 1, 2025, the Kentucky Board of Cosmetology should develop policies to allow administrative hearings for appeals and post the process on its website.

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## Signature Authority

Structural Issues

Inspections/Inspectors

Fines

- Signature authority allows a person to make legally binding decisions and sign documents
- Personnel Cabinet has process for appointing signature authority but no requirement for time frame
- Board was left without an individual with signature authority from March 25, 2024 to May 6, 2024

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## Recommendation 2.4

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should create a policy for a timely transfer of signature authority in the event of staff changes or vacancies.

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## Unsolicited Compensation

Structural Issues

Inspections/Inspectors

Fines

- Board inspectors offered unsolicited compensation or gifts
- Sometimes unclear who left the items or the environment is unsafe to return the unsolicited compensation or gifts
- Currently, no policy on how to handle this issue

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## Recommendation 2.5

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should establish a written policy outlining processes for holding and disposing of unsolicited compensation given to inspectors and other staff.

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## Mass Email Use

Structural Issues

Inspections/Inspectors

Fines

- The board does have a system to send out mass emails to all licensees
- There is currently no policy in place for when this system should be used
- Can result in pertinent or important information not being communicated to licensees

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## Recommendation 2.6

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should develop a policy for how and when information should be communicated through its mass communications system.

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## Continuing Education

Structural Issues

Inspections/Inspectors

Fines

- Prior to 2012, KRS 317A.050 required continuing education
  - 8 hours for cosmetology instructors
  - 6 hours for cosmetologists and nail technicians
- No current requirement for continuing education
- Four bordering states require continuing education

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## Recommendation 2.7

Structural Issues

Inspections/Inspectors

Fines

By July 1, 2025, the Kentucky Board of Cosmetology should review examples of continuing education in other states, consider the benefits and costs of the requirements, and promulgate regulations on continuing education if necessary.

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## Regulatory Inspection Requirements

Structural Issues

Inspections/Inspectors

Fines

- 201 KAR 12:060 requires establishments licensed by the board be inspected twice a year
  - Inspection frequency is not in compliance with this regulation
- Some locations have not been inspected since 2014

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## Recommendation 3.1

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should revisit the inspection requirements set forth in 201 KAR 12:060 and amend them to standards that can be reasonably met while ensuring all practitioners are reviewed regularly.

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## Natural Hair Braiding

Structural Issues

Inspections/Inspectors

Fines

- SB 269 RS 2016 created exemption for hair braiders
  - No longer regulated by the board of cosmetology
- The statutory definition for *natural hair braiding* overlaps with listed practices governed by the board of cosmetology

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## Overlapping Definitions

Structural Issues

Inspections/Inspectors

Fines

### Hair Styling

- Arranging and manipulating
- Trimming
- Cleansing
- Use of lotions, creams, and antiseptics

### Natural Hair Braiding

- Twisting, wrapping, weaving, and braiding
- Minor trimming incidental to style
- Use of conditioners, oils, moisturizers, and shampoos

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## Matter For Legislative Consideration 3.A

Structural Issues

Inspections/Inspectors

Fines

The General Assembly may wish to consider amending KRS 317A.010 or KRS 317A.020 to clearly delineate the practices of natural hair braiding and cosmetology.

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## Policies and Procedures for Inspections

Structural Issues

Inspections/Inspectors

Fines

- Board policies are broad and unspecific
- Few instructions on how an investigator should conduct an investigation
- Few requirements ensuring uniform documentation

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## Recommendation 3.2

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should adopt more detailed written policies and procedures for conducting inspections to ensure statutory and regulatory compliance and the consistent application of oversight authority. Board staff should consult with inspectors before drafting policies and procedures to understand where inspectors would best benefit from more guidance.

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## Inspection Checklists

Structural Issues

Inspections/Inspectors

Fines

- Inspection forms provides only a basic checklist
- Structured checklist ensures uniform inspections
- Only 54 percent of files included completed inspection forms

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## Recommendation 3.3

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should ensure that inspector checklists are sufficiently detailed and that inspectors consistently file them.

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## Inspector Training

Structural Issues

Inspections/Inspectors

Fines

- No internal written policies for inspector training
- No education experience requirement outside of holding an active cosmetology license
- Risk of error and misconduct

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## Recommendation 3.4

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should develop written policies and procedures for initial inspector training and ongoing inspector education.

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## Inspector Complaints

Structural Issues

Inspections/Inspectors

Fines

- No formal policies or procedures in place for how to evaluate complaints against inspectors
- No policy on following up with a complainant

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## Recommendation 3.5

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should develop written policies and procedures for review of complaints against inspectors and follow up with those who submit complaints.

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## Fines and Fees

Structural Issues

Inspections/Inspectors

Fines

- KRS 317A.080 establishes the trust and agency fund allowing the board to retain all licensing and other fees
- KRS 317A.140 requires all payments collected in lieu of suspension (fines) to be deposited in the State Treasury and credited to the general fund

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## Board of Cosmetology Fine Revenue FY 2022 to FY 2024



Fiscal Year	Fine Revenue
2022	\$26,525
2023	297,325
2024	50,350
<b>Total</b>	<b>\$374,200</b>

Note: From FY 2007 to FY 2021, there is no records of fines in eMARS.  
Source: Staff analysis of eMARS Revenue Analysis Report-FAS Power BI.

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## Recommendation 4.1

Structural Issues

Inspections/Inspectors

Fines

Kentucky Board of Cosmetology staff should work with the Office of the Controller in the Finance and Administration Cabinet to determine how the \$374,200 in fine revenue can be returned to the general fund, as established in KRS 317A.140(2).

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## Recommendation 4.2

Structural Issues

Inspections/Inspectors

Fines

Kentucky Board of Cosmetology staff should develop a policy for processing fine revenue that is inadvertently received. The policy should be provided to board members for adoption.

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## Fine Tracking

Structural Issues

Inspections/Inspectors

Fines

- No method for tracking issued fines
- Board database is meant to track license renewal and is not searchable
- All files are physical
- Lack of digitized system makes it difficult to track ownership and past offenses

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## Recommendation 4.3

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should implement an electronic tracking system to organize and search fines given.

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## Formal Letters and Agreed Orders

Structural Issues

Inspections/Inspectors

Fines

- The board sends both formal letters and agreed orders when issuing fines
- Formal letter informs licensees of a fine and instruct licensee to sign an agreed order
- Agreed order is an agreement that becomes an order or decree of the court

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## Guidance and Corrective Measures

Structural Issues

Inspections/Inspectors

Fines

- Agreed orders and formal letters are not specific on violations
- Agreed orders and formal letters provide no requirements for rectifying issues
- Only requirement is payment of fine

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## Recommendation 4.4

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should provide guidance or require corrective measures in either the agreed orders or the formal letter to licensees to correct the violation that prompted the fine.

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## Inspection Sheets

Structural Issues

Inspections/Inspectors

Fines

- Inspection sheets are the basis for fines
- Inspection sheets are not consistently kept in board files
- Of 770 agreed orders from 2019 to 2023, 46 percent did not have inspection sheets

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## Recommendation 4.5

Structural Issues

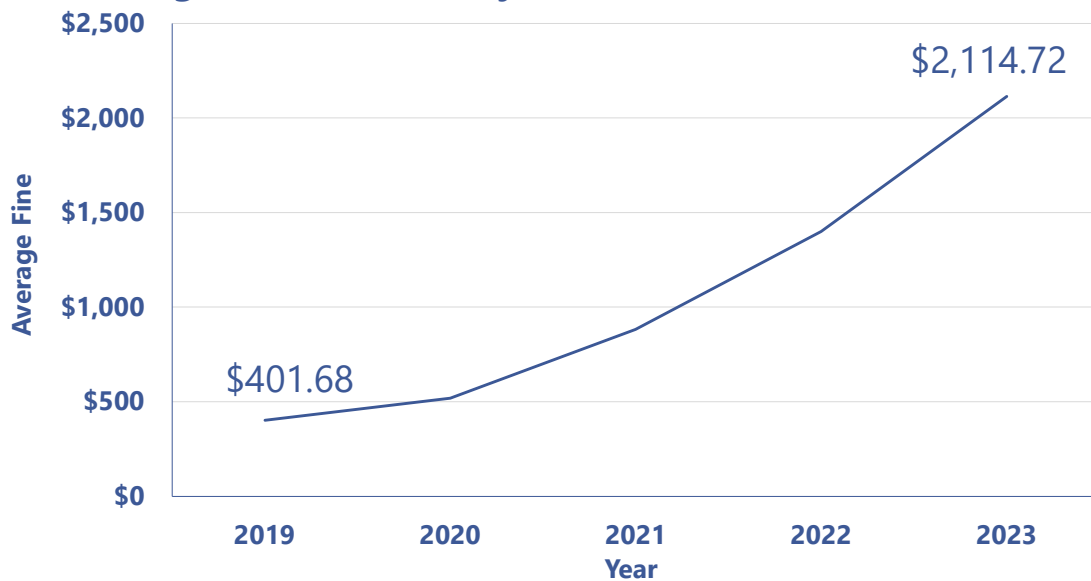
Inspections/Inspectors

Fines

Kentucky Board of Cosmetology staff should ensure the proper documentation of salon inspection sheets in all agreed order files.

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**Figure 4.A**  
**Average Fine Amount By Year 2019 to 2023**



Source: Staff analysis of agreed orders, 2019 to 2023.

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## Fine Amounts

Structural Issues

Inspections/Inspectors

Fines

- Statutory Inspection Fines: \$50 to \$1,500 per violation
- Regulatory Inspection Fines: \$25 to \$750 per violation
- Licensees are provided only overall fine amounts
- Fine ranges are not tied to specific violations
- Formal letters and agreed orders provide only outline of offenses

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## Recommendation 4.6

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should develop smaller fine ranges tied to specific violations and include set progressions for repeat offenders and more severe offenses.

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## Recommendation 4.7

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should include the fine amount for each offense cited in the agreed orders and formal letter instead of a total amount.

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## Fine Payments

Structural Issues

Inspections/Inspectors

Fines

- Only methods to pay fines are through money order or cashier's check
- Board staff have expressed intentions of updating fine payment options

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## Recommendation 4.8

Structural Issues

Inspections/Inspectors

Fines

The Kentucky Board of Cosmetology should update its method of fine payment by adding an option to pay the fine through an online portal.

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## Conclusion

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- New Executive Director
  - Board staff agree with all recommendations
  - Board staff have been cooperative throughout this process

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# Questions

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