

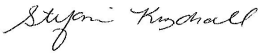
Burgos, Alexander N

From: Stefanie Kuzdrall <skuzdrall@ncccosmeticarts.com>
Sent: Monday, December 4, 2023 11:29 AM
To: Rules, Oah
Cc: Peaslee, William W; Elliott, Lynda I; Burgos, Alexander N
Subject: [External] Rules from NC Board of Cosmetic Art Examiners - response to objection from November 2023
Attachments: 21 ncac 14t .0402.docx; 21 ncac 14t .0404.docx; Permanent Rule Form 14T .0402 with signature.pdf; Permanent Rule Form 14T .0404 with signature.pdf
Follow Up Flag: Follow up
Flag Status: Flagged


CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Stefanie Kuzdrall, MPA
Business Director
NC Board of Cosmetic Art Examiners
121 Edinburgh South Drive, Suite 209
Cary, NC 27511
919-736-6123 ext 8

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <div style="display: flex; justify-content: space-between; align-items: center;"> ADOPTION AMENDMENT <input type="checkbox"/> REPEAL READOPTION*****TGRGCN'VJ TQW J 'TGCFQRVIQP </div>	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact 0Echeck all that apply0 Vj lu'Twag'y cu'f ct v'qht'e'go dlp'gf 'cpcr'f ulu0 Ucv'g'hw'pf u'c'h'g'w'f Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Agency Court order / cite: Federal statute / cite: Federal regulation / cite: </div> <div style="width: 45%;"> Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other: </div> </div> 9B. Explain: 	
10. Rulemaking Coordinator: Rj qpg< G/O clκ< Cf f lκqpcr'ci gpe{ 'èqpvcv.'h'èp{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> </div> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: <input type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION	
4. Rule exempt from RRC review? Yes. Cite authority: No	5. Rule automatically subject to legislative review? Yes. Cite authority: No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: Link to Agency notice: Hearing on: Adoption by Agency on: <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input type="checkbox"/> No	8. Fiscal impact Check all that apply: <input type="checkbox"/> New taxes <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: Agency Court order / cite: Federal statute / cite: Federal regulation / cite: Legislation enacted by the General Assembly Cite Session Law: Petition for rule-making Other:	
9B. Explain:	
10. Rulemaking Coordinator: Rj qpg< G/O ckr Cf f klpqrñti gpe{ 'èqpwev.'H'èp{ < Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  _____ *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

21 NCAC 14T .0404 **NATURAL HAIR CARE STYLING STUDENT EQUIPMENT** is amended as published in 37:23 NCR 2174 with changes as follows:

21 NCAC 14T .0404 NATURAL HAIR CARE STYLING STUDENT EQUIPMENT

Each natural hair care school shall supply ~~each natural hair care student with the following:~~ make available to students the use of the following items while the students are in class:

- (1) Six combs;
- (2) Six brushes;
- (3) Ten clips;
- (4) Mannequin with hair;
- (5) One electric flat iron;
- ~~(5)~~ (6) One blowdryer; ~~and~~
- (7) One hard rubber or nonflammable comb for heat protection used in thermal styling; and
- ~~(6)~~ (8) Two capes.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. November 1, 2023.

Burgos, Alexander N

Subject: FW: [External] FW: 21 NCAC 14T .0402, and .0404

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Tuesday, November 21, 2023 9:30 AM

To: Kuzdrall, Stefanie S <skuzdrall@nccosmeticarts.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elliott, Lynda I <lelliott@nccosmeticarts.com>

Subject: RE: [External] FW: 21 NCAC 14T .0402, and .0404

Good morning,

Thank you for our telephone conversation this morning. We discussed the following:

Regarding the use of the word "supply", schools do not need to the Board's permission to give or sell the items to students. Accordingly, any rule to that effect is unnecessary.

The question the Board must answer is, what is the minimum it is requiring the schools to do?

As we discussed, the Board wants the schools at a minimum to provide the students the use of the listed equipment while in class.

If there was anything I missed, please let me know.

Accordingly, please consider the following language, "Each _____ school shall make available to students the use of the following items while the students are in class:..."

Or, "Each _____ school classroom shall be equipped with the following items:..."

I hope this helps.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, November 17, 2023 9:27 AM
To: Kuzdrall, Stefanie S
Cc: Burgos, Alexander N
Subject: 21 NCAC 14T .0402 and .0404
Attachments: 11.2023 Cosmetic Arts objection letter.docx; 2023.11 - Cosmetic Art Staff Opinion 21 NCAC 14T .0402.doc; 2023.11 - Cosmetic Art Staff Opinion 21 NCAC 14T .0404.doc

Good morning,

Attached please find the Rules Review Commission's notice of objections to the above captioned rules.

As always if you have any questions or concerns, please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] FW: 21 NCAC 14T .0402
Attachments: 2023.11 - Cosmetic Art Staff Opinion 21 NCAC 14T .0402.doc

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, November 14, 2023 11:58 AM
To: Kuzdrall, Stefanie S <skuzdrall@nccosmeticarts.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elliott, Lynda I <lelliott@nccosmeticarts.com>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: [External] FW: 21 NCAC 14T .0402

Good morning

Attached please find a staff recommendation on the above captioned rule which will be considered at the November RRC meeting.

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

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] FW: 21 NCAC 14T .0402, .0404, and .0501

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Tuesday, November 14, 2023 11:06 AM

To: Kuzdrall, Stefanie S <skuzdrall@nccosmeticarts.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elliott, Lynda I <lelliott@nccosmeticarts.com>; Rules, Oah <oah.rules@oah.nc.gov>

Subject: RE: [External] FW: 21 NCAC 14T .0402, .0404, and .0501

Good afternoon

I do not believe that I or anyone at OAH received your email of October 31, 2023.

It is my intention to recommend approval of Rule .0501 and recommend objection to Rule .0404 and .0501.

As always if you have any questions or concerns please feel free to contact me.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Stefanie Kuzdrall <skuzdrall@nccosmeticarts.com>

Sent: Tuesday, November 14, 2023 9:03 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elliott, Lynda I <lelliott@nccosmeticarts.com>; Rules, Oah <oah.rules@oah.nc.gov>

Subject: [External] FW: 21 NCAC 14T .0402, .0404, and .0501

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good Morning,

I haven't received a response to this message from last month and I see via the recently sent out agenda that the final version of our rules is not included yet. Can you please advise?

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "aAssociation"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day;;and"
 - Right: "~~day;~~ day;and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 24, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0402

DEADLINE FOR RECEIPT: November 7, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the rule: The rule is formatted incorrectly.

Line 4: What does the Board mean by “supply”? Are these items for use during the course of the class or is the Board requiring the school to give ownership of the items to the students? If the latter, explain the Board’s authority to require the transfer of ownership of personal property?

Line 11: Explain the relevance of G.S. 88B-17 in the history note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 24, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0404

DEADLINE FOR RECEIPT: November 7, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the rule: The rule is formatted incorrectly.

Line 4: What does the Board mean by “supply”? Are these items for use during the course of the class or is the Board requiring the school to give ownership of the items to the students? If the latter, explain the Board’s authority to require the transfer of ownership of personal property?

Line 14: Explain the relevance of G.S. 88B-17 in the history note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 24, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0501

DEADLINE FOR RECEIPT: November 7, 2023

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the rule: The Permanent Rule 0400 cover form is incorrect in 9B. The explanation does not match the rule.

Line 5: Change "must" to "shall".

Line 5: Define or delete "appropriate".

Line 5: It is unclear which forms the Board requires be submitted. Which rules contain the contents and substantive requirements of these forms? See G.S. 150B-2(8a)(d).

Line 10: Explain the relevance of G.S. 88B-17 in the history note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: October 24, 2023

21 NCAC 14T .0402 ESTHETICS STUDENT EQUIPMENT is amended as published in 37:23 NCR 2174 with changes as follows:

21 NCAC 14T .0402 ESTHETICS STUDENT EQUIPMENT

Each esthetics school shall supply each esthetician student with the following:

- (1) Draping;
- (2) Spatulas;
- (3) Tweezers;
- (4) Make up supplies; and
- (5) One mannequin—mannequin with head, neck and shoulders.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015 Amended Eff. October 1, 2023.

21 NCAC 14T .0404 **NATURAL HAIR CARE STYLING STUDENT EQUIPMENT** is amended as published in 37:23 NCR 2174 with changes as follows:

21 NCAC 14T .0404 NATURAL HAIR CARE STYLING STUDENT EQUIPMENT

Each natural hair care school shall supply each natural hair care student with the following:

- (1) Six combs;
- (2) Six brushes;
- (3) Ten clips;
- (4) Mannequin with hair;
- (5) One electric flat iron;
- ~~(5)~~ (6) One blowdryer; ~~and~~
- (7) One hard rubber or nonflammable comb for heat protection used in thermal styling; and
- ~~(6)~~ (8) Two capes.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January
13, 2015;
Amended Eff. October 1, 2023.*

21 NCAC 14T .0501 SUBMISSION OF RECORDS is amended as published in 37:23 NCR 2174 with changes as follows:

SECTION .0500 - RECORD KEEPING

21 NCAC 14T .0501 SUBMISSION OF RECORDS

All cosmetic art schools must shall submit to the Board the appropriate, completed, original Board form as defined in Rule .0502 of this Subchapter for each student including enrollment, transfer, withdrawal and graduation. Cosmetic art student forms shall be submitted to the Board within the required time frame established in the following table.

15 Days	30 Days
Esthetics, Manicuring, Natural Hair Care and Teacher trainee forms including: enrollments, withdrawals , and transfers	Cosmetology forms including: enrollments, withdrawals, transfers and graduations
	Esthetics, Manicuring, Natural Hair care and Teacher trainee trainee, withdrawal and graduation forms

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; ~~88B-17;~~
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. October 1, 2023.*

Stefanie Kuzdrall, MPA
Business Director
NC Board of Cosmetic Art Examiners
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919-678-3012 (f)
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nccosmo@nccosmeticarts.com

From: Stefanie Kuzdrall
Sent: Tuesday, October 31, 2023 2:57 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Lynda Elliott <lelliott@nccosmeticarts.com>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: 21 NCAC 14T .0402, .0404, and .0501

Good afternoon,
Thank you for the changes request. I have made the changes, attached the updated rules and corrected form.

Responses other issues listed below:

- Supply – schools may either give, sell, or otherwise make available the student equipment. The school must provide (supply) the equipment in the list for student use, but the Board doesn't establish the method or transaction between the student and the school for permanent ownership of the equipment.
- I've updated the formatting for margins and line spacing. I used 21 NCAC 02C .0108 as a checklist but I don't see another issue with formatting. Is there a specific issue you can point out?
- 88B-17 doesn't appear to be relevant to these rules, I'm not sure why it is in the history note for all three. I removed the reference in each rule.

Stefanie Kuzdrall, MPA
Business Director
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121 Edinburgh South Drive Suite 209
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919-736-6123 ext 8
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www.nccosmeticarts.com
nccosmo@nccosmeticarts.com

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, October 24, 2023 4:37 PM
To: Stefanie Kuzdrall <skuzdrall@nccosmeticarts.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 14T .0402, .0404, and .0501

Good afternoon,

Attached please find the request for changes for the above captioned rules. These rules will be considered at the November meeting of the Rules Review Commission. Please respond no later than November 7, 2023.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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