

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14A .0101

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 call our office to inquire concerning the staff recommendation.

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

On line 12, please consider providing some additional information and say something like "In addition to the definition set forth in 88B-2, the following shall apply to this Chapter:"

Please alphabetize the definitions in this Rule.

In (11) and (12), please provide the definitions in complete sentences. For example, in (11), perhaps something like "Clean" is the removal of visible surface debris and washing with soap and water, detergent, or chemical cleaner that prepares non-porous items for disinfection and reduces the number and slows the growth of pathogens..."

In (11), please change "visible/surface" debris to "visible and surface" or whatever is meant. In line 35, why is (detergent) necessary given its use on line 36. On line 36, please add a comma after "detergent." Also, why is "cleaner" in quotes?

In (12), is a "chemical" on line 5 the same as a "disinfectant" in Item (14)?

In (13), please add a comma after "steam"

In (13), lines 7 and 8, please change "and/or" to either "and" or "or", whichever you mean.

In (13), how is "functionality" determined? Are there industry standards that a lab would test for?

In (14), I assume that the "label" on line 14 is the same as the "manufacturer's label" on line 15?

In (15), what is "permeable, penetrable, cellular"? I assume these other words that may be used for "porous"? Please provide some additional

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

language to make it clear. A suggest would be something like “porous may also be called “permeable”, “penetrable”, or “cellular.”

In (16), please place a comma after “metal”

In (17), please delete or define “completely.”

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1
2 **21 NCAC 14A .0101 DEFINITIONS IS AMENDED AS PUBLISHED IN NC REGISTER 32:05 AS**
3 **FOLLOWS:**

4
5 **CHAPTER 14 – COSMETIC ART EXAMINERS**

6
7 **SUBCHAPTER 14A – DEPARTMENTAL RULES**

8
9 **SECTION .0100 – ORGANIZATION RULES**

10
11 **21 NCAC 14A .0101 DEFINITIONS**

12 The following definitions apply in this Chapter:

- 13 (1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.
- 14 (2) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by G.S.
15 88B-2(5), but is not solely a manicurist or an esthetics school.
- 16 (3) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.
- 17 (4) "Manicurist School" is a cosmetic art school that teaches only the cosmetic art of manicuring.
- 18 (5) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the
19 manicurist curriculum set forth in 21 NCAC ~~14K .0102~~, 14T.0605.
- 20 (6) "Successful Completion" is the completion of an approved cosmetic art curriculum with a
21 minimum grade of "C" or 70 %, whichever is deemed as passing by the cosmetic art school.
- 22 (7) "Esthetician School" is any cosmetic art school that teaches only the cosmetic art of skin care.
- 23 (8) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the
24 esthetician curriculum set forth in 21 NCAC ~~14O .0102~~, 14T .0604.
- 25 (9) "Licensing cycle" for cosmetologists is a three-year period beginning on the first day of October
26 and ending on the third following first day of October and continuing thereafter in three year
27 intervals. For estheticians, natural hair care specialists and manicurists, the licensing cycle is one
28 year in length beginning on the first day of October and ending on the next first day of October.
29 For teachers, the licensing cycle is a two-year period beginning on the first day of October of an
30 even-numbered year and ending on the next first day of October of the next even-numbered year.
- 31 (10) "Renewal period" for individual licensees is a three-month period beginning on the first day of
32 July and ending on the first day of October of a renewal year. The "renewal period" for salon
33 licensees is a two-month period beginning on the first day of December and ending on the first day
34 of February of a renewal year.
- 35 (11) "Clean" is the removal of visible/surface debris, washing with soap (or detergent) and water,
36 detergent or chemical "cleaner". Prepares non-porous items for disinfection. Reduces the number

1 and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning does not
2 make multi-use items safe for use.

3 (12) “Disinfect” is the process of making a non-porous item safe for use. Requires the use of a
4 chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be
5 cleaned prior to disinfection. UV light is not acceptable for disinfection.

6 (13) “Sterilize” is the eradication of all microbial life through the use of heat, steam or chemical
7 sterilants. Autoclaves and/or dry heat sterilizers used to sterilize must be spore tested through an
8 independent lab every 30 days to ensure functionality. Autoclaves and/or dry heat sterilizers used
9 to sterilize must be FDA approved and used only as instructed by the manufacturer. Spore testing
10 results and maintenance records must be kept onsite for 12 months.

11 (14) “Disinfectant” is an EPA registered bactericidal, virucidal and fungicidal disinfectant that is
12 approved for use in hospital settings, following instruction label for dilution ratio and contact time,
13 or an EPA registered Sodium Hypochlorite 5.25% or higher (household bleach) with instructions
14 for disinfection, diluted as instructed on the label and observing the contact time listed on the
15 manufacturers label. Bleach must be active (not expired) with a manufacture date of less than 6
16 months prior to use.

17 (15) “Porous” is a material that has minute spaces or holes through which liquid or air may pass
18 (permeable, penetrable, cellular).

19 (16) “Non-porous” is a material that has no pores and does not allow for liquids to be absorbed or pass
20 through. Common non-porous materials include glass, metal and plastic.

21 (17) “Contact time” is the amount of moist contact time required for a disinfectant to be effective
22 against the pathogens on the label. Clean items or surfaces must remain completely immersed, or
23 visibly wet if using sprays or wipes, for full contact time to be effective.

24
25
26 *History Note: Authority G.S. 88B-2; 88B-4;*
27 *Eff. February 1, 1976;*
28 *Amended Eff. June 1, 1993; October 1, 1991; May 1, 1991; January 1, 1989;*
29 *Temporary Amendment Eff. January 1, 1999;*
30 *Amended Eff. March 1, 2018; October 1, 2012; July 1, 2010; December 1, 2008; May 1, 2005;*
31 *December 1, 2004; May 1, 2004; February 1, 2004; April 1, 2001; August 1, 2000;*
32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
33 *13, 2015.*
34
35

1 **21 NCAC 14H .0301 WATER IS AMENDED AS PUBLISHED IN NC REGISTER 32:05 AS FOLLOWS:**
2 **SECTION .0300 - COSMETIC ART SHOP AND EQUIPMENT**

3

4 **21 NCAC 14H .0301 WATER**

- 5 (a) Cosmetic art shops shall have a sink with hot and cold running water in the clinic area, separate from restrooms.
6 (b) When a service is provided in a room closed off by a door, the sink required in this Rule must be within ~~20~~ 50
7 feet of the door. ~~door or 25 feet from the service table or chair.~~ The restroom sink shall not be used to meet this
8 requirement.

9

10 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
11 *Eff. April 1, 2012;*
12 *Amended Eff. March 1, 2018; June 1, 2013;*
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
14 *13, 2015.*

15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0302

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 call our office to inquire concerning the staff recommendation.

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

I understand that the Rules in this Section pertain to shops given the Section title, but since titles can be changed without rule-making process, we read rules absent any titles. As such, please make clear within the body of the Rule, that this applies to shops.

In (c), please capitalize "state"

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0302 VENTILATION AND LIGHT IS AMENDED AS PUBLISHED IN NC REGISTER**
2 **32:05 AS FOLLOWS:**

3 **21 NCAC 14H .0302 VENTILATION AND LIGHT**

4 (a) Ventilation shall be provided at all times in the areas where patrons are serviced in all cosmetic art shops and
5 there must be a continuous exchange of air.

6 ~~(b) All doors and windows, if open for ventilation, must be effectively screened.~~

7 ~~(e)~~ (b) Light shall be provided in the service area.

8 ~~(d)~~ (c) All cosmetic art shops must adhere to any federal, state and local government regulation or ordinance
9 regarding fire safety codes, plumbing and electrical work.

10

11 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*

12 *Eff. April 1, 2012;*

13 *Amended Eff. March 1, 2018;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
15 *13, 2015.*

16

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0303

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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

Please make it clear within the text of the Rule who this applies to.

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0303 BATHROOM FACILITIES IS AMENDED AS PUBLISHED IN NC REGISTER**
2 **32:05 AS FOLLOWS:**

3 **21 NCAC 14H .0303 BATHROOM FACILITIES**

4 (a) Toilet and hand washing facilities consisting of at least one commode and one hand washing sink with ~~hot and~~
5 ~~cold~~-running water, liquid soap and individual clean towels or hand air dryer shall be provided.

6 (b) Shops with an initial licensure date after March 1, 2012 must have toilet and hand washing facilities in the
7 bathroom.

8

9 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*

10 *Eff. April 1, 2012;*

11 *Amended Eff. March 1, 2018;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*

13 *13, 2015.*

14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0401

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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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 call our office to inquire concerning the staff recommendation.

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

In (d)(8), please delete the "or" at the end.

In (d)(9), please add commas surrounding "either verbally or in writing".

Also, it reads as though something is missing in (d)(9). Should it be "an action" or "any action"?

Please add "or" to the end of (d)(9).

In (d)(9), please consider providing a cross-reference for fraudulent misrepresentation. I have provided a suggested rewrite below.

If you choose to incorporate these requests to (d)(9), the changes would look like this:

make any statement to a member of the public public, either verbally or in writing writing, stating or implying any action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is shall be considered practicing or attempting to practice by fraudulent misrepresentation. Misrepresentation in set forth in 21 NCAC 14P .0108 of this Chapter; or

In (d)(10), is there a list of banned products somewhere that you can incorporate by reference? How does your regulated public know what these are?

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0401 LICENSEES AND STUDENTS IS AMENDED IN NC REGISTER 32:05 AS**
2 **FOLLOWS:**

3 **SECTION .0400 - SANITATION PROCEDURES AND PRACTICES**
4

5 **21 NCAC 14H .0401 LICENSEES AND STUDENTS**

6 (a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to licensees and students in practice in
7 cosmetic art schools and shops. Each licensee and student shall wash his or her hands with soap and water or an
8 equally effective cleansing agent immediately before and after serving each client.

9 (b) Each licensee and student shall wear clean garments and shoes while serving patrons.

10 (c) Licensees or students shall not use or possess in a cosmetic art school or shop any of the following:

- 11 (1) Methyl Methacrylate Liquid Monomer, a.k.a. MMA;
- 12 (2) razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns,
13 and calluses;
- 14 (3) FDA rated Class III devices;
- 15 (4) carbolic acid (phenol) over two percent strength;
- 16 (5) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform
17 any service; or
- 18 (6) a variable speed electrical nail file on a natural nail unless it has been designed for use on a natural
19 nail.

20 (d) A licensee or student shall not:

- 21 (1) use any product, implement, or piece of equipment in any manner other than the product's,
22 implement's, or equipment's intended use as described or detailed by the manufacturer;
- 23 (2) treat any medical condition unless referred by a physician;
- 24 (3) provide any service unless trained prior to performing the service;
- 25 (4) perform services on a client if the licensee has reason to believe the client has any of the
26 following:
 - 27 (A) fungus, lice, or nits;
 - 28 (B) an inflamed, infected, broken, raised, or swollen skin or nail tissue in the area to be
29 worked on; or
 - 30 (C) an open wound or sore in the area to be worked on;
- 31 (5) alter or duplicate a license issued by the Board;
- 32 (6) advertise or solicit clients in any form of communication in a manner that is false or misleading;
- 33 (7) use any FDA rated Class II device without the documented supervision of a licensed physician;
- 34 (8) use any product that will penetrate the dermis; or
- 35 (9) make any statement to a member of the public either verbally or in writing stating or implying
36 action is required or forbidden by Board rules when such action is not required or forbidden by

1 Board rules. A violation of this prohibition is considered practicing or attempting to practice by
2 fraudulent ~~misrepresentation~~ misrepresentation;

3 (10) use or possess any product banned by the FDA.

4 (e) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by
5 the manufacturer in the ~~Material~~ Safety Data Sheet.

6
7 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24;*

8 *Eff. April 1, 2012;*

9 *Amended Eff. March 1, 2018; August 1, 2014; March 1, 2013;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
11 *13, 2015.*

12

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0403

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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

In (a), please change "which" to "that"

In (a)(1) and (a)(3), please add a comma following "linens"

In (e), everywhere else, you have used "clean", but here you say "cleaned." Was this intentional?

In (f)(1), what is a "cleaning solution"? You've used soap and disinfectant elsewhere. Is this the same thing?

In (f)(2), please consider providing some different descriptive introductory statement. Something like "That shall be disinfected with either:" Otherwise, the language does not really lead into the Sub-Paragraphs.

In (f)(2)(A), given that the definition of disinfectant includes "EPA registered" is it necessary here too?

Please delete the "or" at the end of (f)(2)(A).

In (f)(3), did you also intend to delete "disinfectant EPA registered,"? That language seems to go with the language that was deleted.

In (g), please add a comma in between "clean" and "closed"

In (k), please change "covered/closed" to "covered or closed" or whatever is meant.

Is the first and third sentences of (k) necessary? It seems to say the same thing as (g) and (h), and they cover both electrical and non electrical implements.

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

In (k), lines 16 and 17 – please add a comma in between “clean” and “closed”

In (m), what are “other clean methods”?

In (q), please add a comma after “reason”

In (s), please add a comma after “treatment tables”

In (u), what is a “SDS” sheet? I assume this is set forth elsewhere in your Rules?

In (u), please delete or define “readily” in “readily available”

In (v), please capitalize “state” and add a comma after the same.

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0403 DISINFECTION PROCEDURES IS AMENDED AS PUBLISHED IN NC**
2 **REGISTER 32:05 WITH CHANGES:**

3 **21 NCAC 14H .0403 DISINFECTION PROCEDURES**

4 (a) Sanitation rules which apply to towels and cloths are as follows:

- 5 (1) Clean protective capes, drapes, linens and towels shall be used for each patron;
- 6 (2) After a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed
7 container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot
8 be laundered and dried in a heater dryer may be disinfected with an EPA registered hospital grade
9 disinfectant mixed and used in accordance with the manufacturer directions; and
- 10 (3) After a drape, linen or towel has been in contact with a patron's skin it shall be placed in a clean,
11 covered container until laundered with soap and hot water and dried in a heated dryer. A covered
12 container may have an opening so soiled items may be dropped into the container.

13 (b) Any paper or nonwoven protective drape or covering shall be discarded after one use.

14 (c) There shall be a supply of clean protective drapes, linens and towels at all times. Wet towels used in services
15 must be prepared fresh each day. Unused, prepared wet towels must be laundered daily.

16 (d) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

17 (e) Bathroom facilities must be kept cleaned.

18 (f) All implements shall be cleaned and disinfected after each use in the following manner:

- 19 (1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and
20 dried.
- 21 (2) They shall be disinfected in accordance with the following:
 - 22 (A) EPA registered ~~hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal)~~
23 disinfectant that is bactericidal, virucidal and fungicidal and approved by the EPA for use
24 beauty salons, or salon settings ~~or tuberculocidal~~ that is mixed and used according to the
25 manufacturer's directions. They shall be rinsed with hot tap water and dried with a clean
26 towel before their next use. They shall be stored in a clean, closed cabinet or container
27 until they are needed; or
 - 28 (B) 1 and 1/3 cup of 5.25 percent unexpired household bleach to one gallon of water for 10
29 minutes. They shall be rinsed with hot tap water and dried with a clean towel before their
30 next use. They shall be stored in a clean, closed cabinet or container until they are
31 needed; or
 - 32 (C) UV-C, ultraviolet germicidal irradiation used accordance with the manufacturer's
33 directions.
- 34 (3) If the implement is not immersible or is not disinfected by UV-C irradiation, it shall be cleaned by
35 wiping it with a clean cloth moistened or sprayed with a disinfectant EPA registered,
36 ~~hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal)~~ disinfectant that is bactericidal,

1 ~~virucidal and fungicidal and approved by the EPA for use beauty salons, or salon settings~~ or
2 ~~tuberculocidal~~, used in accordance with the manufacturer's directions.

3 (4) ~~Implements that come in contact with blood, shall be disinfected by:~~

4 (A) ~~disinfectant, used in accordance with the manufacturer's instructions, that states the~~
5 ~~solution will destroy HIV, TB or HBV viruses and approved by the Federal~~
6 ~~Environmental Protection Agency; or~~

7 (B) ~~EPA registered hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) and~~
8 ~~tuberculocidal that is mixed and used according to the manufacturer's directions; or~~

9 (C) ~~unexpired household bleach in a 10 percent solution (1 and 2/3 cup of bleach to 1 gallon~~
10 ~~of water) for 10 minutes.~~

11 (g) All disinfected non-electrical implements shall be stored in a clean closed cabinet or clean closed container.

12 (h) All disinfected electrical implements shall be stored in a clean area.

13 (i) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.

14 (j) Product that comes into contact with the patron must be discarded upon completion of the service.

15 (k) Clean, closable storage must be provided for all disinfected implements not in use. Containers with open faces
16 may be covered/closed with plastic wrapping. Disinfected implements must be kept in a clean closed cabinet or
17 clean closed container and must not be stored with any implement or item that has not been disinfected.

18 (l) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.

19 (m) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be
20 kept in clean, closed containers, and must conform in all respects to the requirements of the Pure Food and Drug
21 Law. Any product apportioned for use and removed from original containers must be distributed in a sanitary
22 manner that prevents contamination of product or container. Any product dispensed in portions into another
23 container must be dispensed into a sanitized clean container and applied to patrons by means of a disinfected or
24 disposable implement or other sanitized clean methods. Any product dispensed in portions not dispensed into
25 another container must be used immediately and applied to patrons by means of a disinfected or disposable
26 implement or other sanitized clean methods. No product dispensed in portions may be returned to the original
27 container.

28 (n) As used in this Rule whirlpool or footspa means any basin using circulating water.

29 (o) After use by each patron each whirlpool or footspa must be cleaned and disinfected as follows:

30 (1) All water must be drained and all debris removed from the basin;

31 (2) The basin must be disinfected by filling the basin with water and circulating:

32 (A) Two tablespoons of automatic dishwashing powder and 1/4 cup of 5.25 percent
33 household bleach to one gallon of water through the unit for 10 minutes; or

34 (B) Surfactant or enzymatic soap with an EPA registered disinfectant with bactericidal,
35 ~~tuberculocidal~~, fungicidal and virucidal activity used according to manufacturer's
36 instructions through the unit for 10 minutes;

37 (3) The basin must be drained and rinsed with clean water; and

1 (4) The basin must be wiped dry with a clean towel.

2 (p) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:

3 (1) The screen must be removed and all debris trapped behind the screen removed;

4 (2) The screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed
5 with clean water;

6 (3) Before replacing the screen one of the following procedures must be performed:

7 (A) The screen must be totally immersed in a household bleach solution of 1/4 cup of 5.25
8 percent household bleach to one gallon of water for 10 minutes; or

9 (B) The screen must be totally immersed in an EPA registered disinfectant with bactericidal
10 ~~tuberculoicidal~~, fungicidal and virucidal activity in accordance to the manufacturer's
11 instructions for 10 minutes;

12 (4) The inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to
13 remove all visible debris and residue; and

14 (5) The spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water
15 for at least 10 minutes and then rinsed and drained.

16 ~~(q) Every week after cleaning and disinfecting pursuant to Paragraphs (a) and (b) of this Rule each whirlpool and
17 footspa must be cleaned and disinfected in the following manner:~~

18 ~~(1) The whirlpool or footspa basin must be filled with water and 1/4 cup of 5.25 percent household
19 bleach for each one gallon of water or EPA registered disinfectant with bactericidal,
20 tuberculoicidal, fungicidal and virucidal activity in accordance to the manufacturer's instructions;
21 and~~

22 ~~(2) The whirlpool or footspa system must be flushed with the bleach and water or EPA registered
23 disinfectant solution for 10 minutes and allowed to sit for at least six hours; and~~

24 ~~(3) The whirlpool or footspa system must be drained and flushed with water before use by a patron.~~

25 ~~(+)(q)~~ A record must be made of the date and time of each cleaning and disinfecting as required by this Rule
26 including the date, time, reason and name of the staff member who performed the cleaning. This record must be
27 made for each whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a
28 patron or inspector.

29 ~~(+)(r)~~ The water in a vaporizer machine must be emptied daily and the unit disinfected daily after emptying.

30 ~~(+)(s)~~ The area where services are performed that come in contact with the patron's skin including treatment chairs,
31 treatment tables and beds shall be disinfected between patrons.

32 (t) A manufacturers label for all disinfectant concentrate must be available at all times. If a concentrate bottle is
33 emptied, it must remain available until a new bottle is available.

34 (u) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub or jar, that
35 container must be labeled to indicate what chemical is in the container. SDS sheets must be readily available for all
36 disinfectants in use at all times.

37 (v) Disinfectants must be stored and disposed of in accordance with all local, state and federal requirements.

1 (w) The cabinet and supplies of a towel warmer machine must be emptied daily and the unit dried daily after
2 emptying.

3

4 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*

5 *Eff. April 1, 2012;*

6 *Amended Eff. March 1, 2018;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*

8 *13, 2015.*

9

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0404

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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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 call our office to inquire concerning the staff recommendation.

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

In (b) and (c), by "immediately", do you mean "upon knowledge of the injury"? Please provide a definition for "immediately."

Why is (b)(8) "glove(s)", but (c)(6) is "gloves"? Was this intentional?

Please note that this History Note is OK.

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0404 FIRST AID IS AMENDED AS PUBLISHED IN NC REGISTER 32:05 AS**
2 **FOLLOWS:**

3 **21 NCAC 14H .0404 FIRST AID**

4
5 (a) Each cosmetic art shop and school shall have antiseptics, gloves or finger guards, sterile bandages, and other
6 necessary supplies available to provide first aid.

7 (b) If the skin of the licensee or student is punctured, the licensee or student shall immediately do the following in
8 this order:

- 9 (1) Wash and dry the punctured area with soap and running water and a disposable towel;
10 ~~(1)~~(2) Apply protective gloves to remove materials from first aid kit;
11 ~~(2)~~(3) Cleanse injured area with antiseptic (e.g. alcohol, hand sanitizer);
12 ~~(3)~~(4) Apply a sterile bandage;
13 ~~(4)~~(5) Disinfect any implement or work area exposed to blood per Rule .0403 in this Section;
14 ~~(5)~~(6) Dispose of all contaminated supplies and gloves in a zip lock bag then place in the trash;
15 ~~(6)~~(7) Wash hands with soap and running water; and
16 ~~(7)~~(8) If the injured area is on the hands, fingers or thumb Apply apply disposable, protective gloves
17 glove(s) or a finger guard.

18 (c) If the skin of the patron is punctured, the licensee or student shall immediately do the following in this order:

- 19 (1) Apply protective gloves to remove materials from first aid kit;
20 (2) Make first aid supplies available to the patron or assist the patron with:
21 (a) Cleansing injured area with antiseptic (e.g. alcohol, hand sanitizer)
22 (b) Applying a sterile bandage;
23 (3) Disinfect any implement or work area exposed to blood per Rule .0403 in this Section;
24 (4) Dispose of all contaminated supplies and gloves in a zip lock bag then place in the trash;
25 (5) Wash hands with soap and running water; and
26 (6) Put on disposable, protective ~~gloves or a finger guard.~~ gloves.

27
28 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
29 *Eff. April 1, 2012;*
30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
31 *13, 2015;*
32 *Amended Eff. March 1, 2018; January 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14H .0505

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 call our office to inquire concerning the staff recommendation.

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

Please delete the "or" at the end of (c)(5)(C).

In (k), by "21 NCAC 14C" do you mean disciplinary "21 NCAC 14P" or do you mean Article 3A of 150B? I just want to verify.

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14H .0505** **RULE COMPLIANCE AND ENFORCEMENT MEASURES IS AMENDED AS**
2 **PUBLISHED IN NC REGISTER 32:05 AS FOLLOWS:**

3 **21 NCAC 14H .0505** **RULE COMPLIANCE AND ENFORCEMENT MEASURES**

4 (a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty
5 in the amount of three hundred dollars (\$300.00) per container of product or piece of equipment:

- 6 (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or
- 7 (2) razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns,
8 and calluses.

9 (b) The use of or possession of the following in a school or shop shall result in civil penalty in the amount of one
10 hundred dollars (\$100.00) per use or possession:

- 11 (1) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform
12 any service; or
- 13 (2) variable speed electrical nail file on the natural nail unless it has been designed for use on the
14 natural nail.

15 (c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil
16 penalty in the amount of one hundred dollars (\$100.00) per instance of each action:

- 17 (1) use of any product, implement, or piece of equipment in any manner other than the product's,
18 implement's, or equipment's intended use as described or detailed by the manufacturer;
- 19 (2) treatment of any medical condition unless referred by a physician;
- 20 (3) use of any product that will penetrate the dermis;
- 21 (4) provision of any service unless trained prior to performing the service;
- 22 (5) performance of services on a client if the licensee has reason to believe the client has any of the
23 following:
 - 24 (A) fungus, lice, or nits;
 - 25 (B) inflamed infected, broken, raised, or swollen skin or nail tissue in the area to be worked
26 on; or
 - 27 (C) an open wound or sore in the area to be worked on; or
- 28 (6) alteration of or duplication of a license issued by the Board;
- 29 (7) advertisement or solicitation of clients in any form of communication in a manner that is false or
30 misleading; or
- 31 (8) use of any FDA rated Class II device without the documented supervision of a licensed physician.

32 (d) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or
33 shop as required by this Subchapter including the date, time, reason, and name of the staff member who performed
34 the cleaning or the failure to keep or make such record available for at least 90 days upon request by either a patron
35 or inspector shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per footspa.

36 (e) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this Subchapter shall
37 result in civil penalty in the amount of one hundred dollars (\$100.00) per footspa.

1 (f) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, and sterile
2 bandages available to provide first aid shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per
3 item.

4 (g) The failure to maintain a sink with hot and cold running water in the clinic area, separate from restrooms, shall
5 result in civil penalty in the amount of one hundred dollars (\$100.00).

6 (h) The failure to provide ventilation at all times in the areas where patrons are serviced in cosmetic art shops shall
7 result in civil penalty in the amount of twenty-five dollars (\$25.00).

8 ~~(i) The failure to screen all doors and windows open for ventilation shall result in civil penalty in the amount of~~
9 ~~twenty five dollars (\$25.00).~~

10 ~~(j)~~(i) The failure to maintain equipment and supplies necessary to perform any cosmetic art service offered in the
11 shop shall result in civil penalty in the amount of one hundred dollars (\$100.00).

12 ~~(k)~~(j) The failure to maintain a sanitation grade of 80 percent or higher shall result in a civil penalty in the amount
13 of two hundred dollars (\$200.00).

14 ~~(l)~~(k) Repeated violations of the rules in this Subchapter exceeding three written notifications of any one rule
15 documented to any one individual, shop, or school shall result in a mandatory disciplinary hearing in accordance
16 with 21 NCAC 14C.

17

18 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29;*

19 *Eff. April 1, 2012;*

20 *Amended Eff. March 1, 2018; August 1, 2014;*

21 *Readopted Eff. January 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14I .0401

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 call our office to inquire concerning the staff recommendation.

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

Just so I have a clear understanding - what is going on in this Rule? Does an applicant have to submit an application to you when they enroll in a cosmetic art school?

In (b), when do they need to supply you all with this information? Upon application?

In (b), please change the semi-colon to a colon.

In (b)(3), what is meant by "applicant's personal history"? Based upon the description, is this intended to capture the criminal history?

In (b)(4), what "request" is being made here?

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

Amber May
Commission Counsel
Date submitted to agency: January 26, 2018

1 **21 NCAC 14I .0401 APPLICATION/LICENSURE/INDIVIDUALS WHO HAVE BEEN CONVICTED**
2 **OF FELONY IS AMENDED AS PUBLISHED IN NC REGISTER 32:05 AS**
3 **FOLLOWS:**

4 **SECTION .0400 - LICENSURE OF INDIVIDUALS WHO HAVE BEEN CONVICTED OF A FELONY**
5

6 **21 NCAC 14I .0401 APPLICATION/LICENSURE/INDIVIDUALS WHO HAVE BEEN CONVICTED**
7 **OF FELONY**

8 (a) Any applicant convicted of a felony or charged with a felony that is still pending may apply for Board approval
9 upon enrollment in a cosmetic art school. All documentation submitted shall have no effect on an individual's
10 ability to attend a cosmetic art school, take an examination administered by the Board, or apply for a license.

11 (b) The applicant shall supply the following:

- 12 (1) a statement of facts of the crime, accompanied by a certified copy of the indictment (or, in the
13 absence of an indictment, a copy of the "information" that initiated the formal judicial process),
14 the judgment and any commitment order for each felony for which there has been a conviction;
- 15 (2) at least three letters attesting to the applicant's character from individuals unrelated by blood or
16 marriage;
- 17 (3) a summary of the applicant's personal history since conviction including, if applicable, date of
18 release, parole or probation status, employment, and military service; and
- 19 ~~(4) records of any cosmetology, esthetics, natural hair care, or manicurist school disciplinary actions;~~
20 ~~or a statement from the school indicating no disciplinary actions were taken; and~~
- 21 ~~(5)~~(4) any other information that in the opinion of the applicant would be useful or pertinent to the
22 consideration by the Board of the applicant's request.

23
24 *History Note: Authority G.S. 88B-4; 88B-24(1);*
25 *Eff. June 1, 1995;*
26 *Amended Eff. March 1, 2018; August 1, 2014; September 1, 2010; December 1, 2008; April 1,*
27 *2001; August 1, 1998;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
29 *13, 2015.*
30