

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please include line numbers in accordance with 26 NCAC 02C .0108(1)(f).

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14B .0608

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), should “and” or “or” be in the Rule? Please delete one or the other in accordance with the intent.

In (a), please provide a cross-reference for the “appropriate disciplinary action” in order to define “appropriate.” A suggestion would be to add “in accordance with G.S. 88B-24”, if that is accurate and the intent of the Rule.

In (b), please change “can” to “will” or “shall.”

In (b), what is required in the complaint if it is filed in any way other than the online complaint form?

In (b), please change “GS88B” to “G.S. 88B” and “21 NCAC 14” to “this Chapter”

In (b), what is meant by “if possible”? Under what circumstances will or won’t the complaint be forwarded and the complainant notified?

In (c), how will the Board determine whether it will publish or announce the disciplinary action and for how long?

In the history note, why is 88B-2 included?

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

21 NCAC 14B .0608 COMPLAINTS IS ADOPTED AS PUBLISHED IN NC REGISTER 31:04 FOLLOWS:

21 NCAC 14B .0608 COMPLAINTS

(a) Any person may file a complaint alleging violation of the Cosmetic Art Act and or 21 NCAC 14 with the Board for investigation and appropriate disciplinary action.

(b) The complaint shall be filed in writing with the Board. Complaints can be accepted by fax, mail, email, through the Board's online complaint form at www.nccosmeticarts.com or delivered in office. Upon receipt of a complaint, Board staff shall review the content for jurisdiction and when finding authority under GS88B or 21 NCAC 14 assign the complaint for investigation. Complaints received alleging violation outside the jurisdictional authority of the Board shall be forwarded to the appropriate agency and the complainant notified, if possible.

(c) The Board shall notify the complainant and the respondent in any complaint filed with the Board of the disposition of the case and may publish or announce the disciplinary action in such manner and for such period as it deems appropriate.

History Note: Authority G.S. 88B-2; 88B-4;
Eff. December 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14P .0105

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please provide cross-references to the underlying requirements for each penalty where appropriate. I see that most of the underlying requirements are set forth in the statutes in the history note, but where this is not the case, please indicate where the requirement can be found. For example, please provide the cross-reference to the requirement referred to in (e).

In (c) and (d), is “direct” in “direct supervision” defined elsewhere in rule? If not, please delete or define “direct” in “direct supervision.”

In (e), please rework the Paragraph to eliminate the parenthesis. A suggestion would be as follows:

The presumptive civil penalty for ~~an improperly~~ **having an incorrect number of chairs in a** licensed cosmetic art shop **pursuant to XX NCAC XX .XXXX** ~~(incorrect number of chairs licensed)~~ is:

Please add 88B-12 to your History Note.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14P .0105 RENEWALS; EXPIRED LICENSES; LICENSES REQUIRED IS AMENDED AS
PUBLISHED IN NC REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14P .0105 RENEWALS; EXPIRED LICENSES; LICENSES REQUIRED

(a) The presumptive civil penalty for operating a cosmetic art shop/school with an expired license is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |

(b) The presumptive civil penalty for practicing cosmetology, manicuring, ~~or esthetics~~ esthetics, or natural hair care with an expired license is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$ 50.00 |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$250.00 |

(c) The presumptive civil penalty for allowing an apprentice or someone with a temporary permit to practice cosmetic art without direct supervision is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$300.00 |
| (3) | 3rd offense | \$500.00 |

(d) The presumptive civil penalty for practicing in a cosmetic art shop with an apprentice license or a temporary permit without direct supervision is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$300.00 |
| (3) | 3rd offense | \$500.00 |

(e) The presumptive civil penalty for an improperly licensed cosmetic art shop (incorrect number of chairs licensed) is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(f) The presumptive civil penalty for teaching with an expired license is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |

*History Note: Authority G.S. 88B-4; 88B-11; 88B-21; 88B-22; 88B- 23(a); 88B-24; 88B-29;
Temporary Adoption Eff. January 1, 1999;
Eff. August 1, 2000;*

Amended Eff. December 1, 2016; September 1, 2011; December 1, 2008; September 1, 2006; February 1, 2004; August 1, 2002; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14P .0107

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please add 88B-23 to the History Note

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14P .0107 LICENSES TO BE POSTED IS AMENDED AS PUBLISHED IN NC REGISTER
31:04 AS FOLLOWS:**

21 NCAC 14P .0107 LICENSES TO BE POSTED

(a) The presumptive civil penalty for failure to display a current cosmetic art shop/school license is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(b) The presumptive civil penalty for failure to display a current individual license is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(c) The presumptive civil penalty for a school/shop for allowing ~~an employee to practice~~ or instruction of cosmetic art without displaying a current license is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(d) The presumptive civil penalty for displaying a copied license is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

History Note: Authority G.S. 88B-4; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. December 1, 2016; December 1, 2008; February 1, 2004; April 1, 2001;

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14P .0111

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), please provide a cross-reference to the required ratio.

In (c), please provide a cross-reference to the requirement that schools report changes in teaching staff.

In (d), please provide a cross-reference to the requirement that schools submit a new application in the case of a change of location or ownership.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14P .0111 ESTABLISHMENT OF COSMETIC ART SCHOOLS IS AMENDED AS
PUBLISHED IN NC REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14P .0111 ESTABLISHMENT OF COSMETIC ART SCHOOLS

(a) The presumptive civil penalty for failure to provide minimum floor space or equipment and supplies as required by Subchapters 14G, ~~14H~~, 14J, ~~14K~~, ~~14O~~, ~~14S~~ and 14T is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$200.00 |
| (2) | 2nd offense | \$350.00 |
| (3) | 3rd offense | \$500.00 |

(b) The presumptive civil penalty for failure to provide instruction at a ratio required is:

- | | | |
|-----|-------------|--------------------|
| (1) | 1st offense | warning (\$100.00) |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |

(c) The presumptive civil penalty for failure to report a change in the teaching staff is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(d) The presumptive civil penalty for failure to submit an application for the approval of a school in the case of a change of location or ownership is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$500.00 |

*History Note: Authority G.S. 88B-4(2); 88B-16; 88B-29;
Temporary Adoption Eff. January 1, 1999;
Eff. August 1, 2000;
Amended Eff. December 1, 2016; September 1, 2012; July 1, 2010; February 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January
13, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14P .0113

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please provide cross-references to the underlying requirements for each penalty where appropriate. For example, it appears as though the appropriate cross-reference for (e) would be 21 NCAC 14R .0201 and (h) would be 21 NCAC 14T .0613.

In (g), please change “an” to “a”

In (j), please change “file” to “files” or add an article before “student permanent file”

Please add 88B-17 to the History Note.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART IS AMENDED AS
PUBLISHED IN NC REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART

(a) The presumptive civil penalty for failure to record student's hours of daily attendance is:

- | | | |
|-----|-------------------------|--------------------|
| (1) | 1 st offense | warning (\$100.00) |
| (2) | 2 nd offense | \$200.00 |
| (3) | 3 rd offense | \$300.00 |

(b) The presumptive civil penalty for failure to report withdrawal or graduation of a student per 21 NCAC 14T .0502 is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(c) The presumptive civil penalty for failure to submit student enrollments per 21 NCAC 14T .0502 is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(d) The presumptive civil penalty for failure to display a copy of the sanitation rules is:

- | | | |
|-----|-------------------------|-------------------|
| (1) | 1 st offense | warning (\$50.00) |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(e) The presumptive civil penalty for failure to post consumer sign "Cosmetic Art School - Work Done Exclusively by Students" is:

- | | | |
|-----|-------------------------|-------------------|
| (1) | 1 st offense | warning (\$50.00) |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(f) The presumptive civil penalty for allowing a cosmetic art shop to operate within a cosmetic art school is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$200.00 |
| (2) | 2 nd offense | \$400.00 |
| (3) | 3 rd offense | \$600.00 |

(g) The presumptive civil penalty for a cosmetic art school that is not separated from a cosmetic art shop or other business by a solid wall, floor to ceiling, with an separate entrance and a door that stays closed at all times is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$200.00 |
| (2) | 2 nd offense | \$400.00 |
| (3) | 3 rd offense | \$600.00 |

(h) The presumptive civil penalty for failure to have any student wear ~~a clean washable~~ the required school uniform or identification is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
|-----|-------------|-------------------|

- | | | |
|-----|-------------|----------|
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(i) The presumptive civil penalty for failure to renew or file school bond or bond alternative is:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$200.00 |
| (2) | 2 nd offense | \$400.00 |
| (3) | 3 rd offense | \$600.00 |

(j) The presumptive civil penalty for failure to maintain student permanent file with required documents is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(k) The presumptive civil penalty for failure to maintain records of daily hours of attendance is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(l) The presumptive civil penalty for failure to maintain records of performances is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |

(m) The presumptive civil penalty for allowing an unlicensed individual to instruct cosmetic art is

- | | | |
|-----|-------------------------|-----------|
| (1) | 1 st offense | \$500.00 |
| (2) | 2 nd offense | \$750.00 |
| (3) | 3 rd offense | \$1000.00 |

*History Note: Authority G.S. 88B-4; 88B-16; 88B-29;
Temporary Adoption Eff. January 1, 1999;
Eff. August 1, 2000;
Amended Eff. December 1, 2016; August 1, 2014; September 1, 2012; July 1, 2010; December 1, 2008; April 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015.*

**21 NCAC 14P .0114 COSMETOLOGY CURRICULUM IS REPEALED AS PUBLISHED IN NC
REGISTER 31:04:**

21 NCAC 14P .0114 COSMETOLOGY CURRICULUM

~~(a) The presumptive civil penalty for a school allowing cosmetology or apprentice cosmetology students with less than 300 hours credit to work on the public. (Shampoo and scalp manipulations are exempt) is:~~

- | | |
|----------------------------|---------------------|
| (1) 1st offense | \$100.00 |
| (2) 2nd offense | \$200.00 |
| (3) 3rd offense | \$300.00 |

~~(b) The presumptive civil penalty for a school for manicurist students with less than 60 hours credit working on the public is:~~

- | | |
|----------------------------|---------------------|
| (1) 1st offense | \$100.00 |
| (2) 2nd offense | \$200.00 |
| (3) 3rd offense | \$300.00 |

~~(c) The presumptive civil penalty for a school for esthetician students with less than 75 hours credit working on the public is:~~

- | | |
|----------------------------|---------------------|
| (1) 1st offense | \$100.00 |
| (2) 2nd offense | \$200.00 |
| (3) 3rd offense | \$300.00 |

~~(d) The presumptive civil penalty for a school for natural hair care students with less than 60 hours credit working on the public is:~~

- | | |
|----------------------------|---------------------|
| (1) 1st offense | \$100.00 |
| (2) 2nd offense | \$200.00 |
| (3) 3rd offense | \$300.00 |

History Note: Authority G.S. 88B-4; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. September 1, 2012; July 1, 2010;

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

Repealed Eff. December 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0102

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), please change “must” to “shall.”

In (a) the “letter of approval” seems misplaced here. I understand that practically speaking, a letter of approval will ultimately be provided for cosmetology schools that meet the requirements of the Subchapter and statutes; however, the statute only refers to application and provides that the Board shall issue a license, not a letter of approval. I would suggest deleting the reference to the “letter of approval” here.

In (a), what information is required in the application? It is correct that the information contained in (a)(1) through (a)(9) must accompany the application, but is not what is actually required to be provided in the application?

In (a)(6), what are the required minimum hours and performances? Please provide a cross-reference.

Why is 88B-2 included 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.

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS IS AMENDED AS PUBLISHED IN NC
REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina must make application for licensure and a letter of approval by submitting to the Board the Board's School Application. School applications must be submitted complete with:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room/dressing room, office areas, reception areas and restroom facilities;
- (3) Course curriculum for each cosmetic art discipline and teacher trainee program to be taught in the school;
- (4) Plans for record keeping of student hours, minimum course requirement qualifications, and student performances;
- (5) Evaluation plans for the assignment of performance services, the qualifications for passing a performance requirement and techniques for grading of performances;
- (6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan to assist students to achieve the required minimum hours and performances;
- (7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
- (8) Documentation of local municipality fire, occupancy, electrical and plumbing approval; and
- (9) School operation schedule including days, hours and observed holidays.

(b) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(c) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Amended Eff. December 1, 2016;

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

**21 NCAC 14T .0203 ESTHETICS SCHOOLS SI REPEALED AS PUBLISHED IN NC REGISTER
31:04:**

21 NCAC 14T .0203 ESTHETICS SCHOOLS

~~Esthetics Schools must have the following physical departments: Advanced Department—a minimum clinic floor of 900 square feet which shall accommodate a maximum of 20 enrolled advanced students. Schools must provide an additional 7.5 square feet on the clinic floor for each enrolled advanced student over 20.~~

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~~2015;

Repealed Eff. December 1,2016.

**21 NCAC 14T .0204 MANICURING SCHOOLS IS REPEALED AS PUBLISHED IN NC REGISTER
31:04:**

21 NCAC 14T .0204 MANICURING SCHOOLS

~~Manicuring Schools must have the following physical departments: Advanced Department – a minimum clinic floor of 600 square feet which shall accommodate a maximum of 20 enrolled advanced students. Schools must provide an additional 5 square feet on the clinic floor for each enrolled advanced student over 20.~~

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~~2015;

Repealed Eff. December 1, 2016.

**21 NCAC 14T .0205 NATURAL HAIR CARE SCHOOLS IS REPEALED AS PUBLISHED IN NC
REGISTER 31:04:**

21 NCAC 14T .0205 NATURAL HAIR CARE SCHOOLS

~~Natural Hair Care Styling Schools shall have a Clinic Department with a minimum clinic floor of 600 square feet for a maximum of 16 enrolled students. Schools shall provide an additional 7.5 square feet of clinic floor for each enrolled student over 16.~~

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Amended Eff. October 1, 2012;

Readopted Eff. January 1, ~~2016~~ 2016;

Repealed Eff. December 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0502

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), please delete or define "secure." Would it be sufficient to just say "locked"? Also, what is meant by "locked"? What if the files are in a locked room, but not in a locked cabinet? How about in a locked file cabinet, but not a locked room? Does it matter how they are locked?

In (a), is the meaning of "matriculation" known among your regulated public? Please consider changing "Cosmetic art schools must maintain a secure and locked permanent file of matriculations for all enrolled students..." to "Cosmetic art schools must maintain a ~~secure and~~ locked permanent file ~~of matriculations~~ for all enrolled students and students who have withdrawn or graduated within the last six months..."

In (b), is there a requirement as to where these records shall be maintained?

In (b)(1), it seems as though something is missing after "the teacher who approved." The teacher who approved what? The performances?

In (c), please consider changing "such school" to "the school"

In (c), what does "the administrative decision to withdraw the student" mean? Practically speaking, would this not be the decision of the student, in which case the school would just need to notify the Board of the withdrawal, not the decision?

In (d), is "a cosmetic art program" the same as "a cosmetic art school" or is this referring to the individual concentrations available within a school? Is this the same thing as a "cosmetic art discipline"? Please change "need not" to "shall not" or "may not",

Amber Cronk May
Commission Counsel

Date submitted to agency: Wednesday, October 26, 2016

whichever is applicable. Also, where is the underlying requirement that the school submit enrollment to the Board?

In (e), what is to be included in the graduation form? Are the contents of the rule set forth elsewhere in rule or statute?

In (e), please delete one of the references to having the “school seal affixed” to the graduation form. This requirement is referenced twice and appears to be duplicative.

In (f), what is meant by the “school file”? Is this the same file referenced in (a)? If not, are there any requirements for how this information shall be maintained?

*In (f), by please consider changing “All forms submitted to the Board must be completed, except for student signatures as necessary, by on site school staff or on site school administrators” to “**Except for student signatures, all All** forms submitted to the Board must be **completed completed, except for student signatures as necessary,** by on site school staff or on site school administrators.”*

Just so I understand the process regarding files of students who have graduated or withdrawn – those that have graduated or withdrawn within the past 6 months have to be kept with the files of currently enrolled students as set forth in (a). After 6 months pass, then the files can be moved elsewhere so long as they are still locked away and must be kept for 5 years or acceptance for Board examination?

In (m) please change “pass/fail” to “pass or fail”

In (s), by this Rule, do you mean this Paragraph?

In (s), what will the Board be looking at when reviewing the file on a case by case basis? Please provide some sort of factors or otherwise provide some additional information.

In (t), what is included in the transfer form? Are the contents of the rule set forth elsewhere in rule or statute?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION IS AMENDED AS
PUBLISHED IN NC REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION

(a) Cosmetic art schools must maintain a secure and locked permanent file of matriculations for all enrolled students and students who have withdrawn or graduated within the last six months together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of school policies, school and student contract and the Board felony policy;
- (3) All applicable Board Withdrawal Forms;
- (4) Social security card for any individual who has a social security number or tax ID card or student visa information;
- (5) Government issued ID and proof of date of birth;
- (6) Grades for all examinations and documentation for ~~pass/fail~~ pass performances;
- (7) Documentation for any leave of absence over 30 days;
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) The school shall keep records of hours earned daily including field trip hours and documentation of field trip hours updated with a running grand total:

- (1) A daily record shall be kept of the performances for each student, showing the actual date of the performance and the teacher who approved;
- (2) A daily record shall be kept of the actual number of hours of attendance; and
- (3) An updated Performance Record.

(c) When a student enrolled in a cosmetic art school withdraws from such school, the cosmetic art school shall report to the Board its administrative decision to withdraw the student.

(d) If a student withdraws from a cosmetic art program within the first five days, the school need not submit the enrollment to the Board.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form. The cosmetic art school shall mail the graduation form to the Board at the Board's address set forth in Rule 14A .0104 or submit the graduation form via the Board's school documents portal at www.nccosmeticarts.com within 30 days of the student's graduation date with the school seal affixed.

(f) All forms submitted to the Board must be sealed originals or a digital scan of sealed originals and a copy shall be maintained in the school file. All forms submitted to the Board must be completed, except for student signatures as necessary, by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of

documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal or graduation.

(g) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

(h) All cosmetic art schools must maintain on file at the school an original daily record of enrolled students' hour and performances. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.

(i) All records kept by a cosmetic art school on a student who has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the Board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(j) The record of all hours and performances must be documented in writing. Credit issued to students that cannot be verified may be eliminated from the student record by an agent of the Board.

(k) Access to student records must be limited to agents of the Board, teachers and administrators of the school. Records cannot be altered offsite. Records altered onsite must have documentation supporting the change attached.

(l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, performing or practicing cosmetic art services must be enrolled in the school.

(m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass/fail of student performances. Only on site teachers, on site school administrators or on site school staff shall record student hours and performances, grade examinations and determine completion and record credit of live model and mannequin performances.

(n) Minimum scores required for examinations and the successful completion of live model/mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Passing grades and performances cannot be credited to students who fail to meet the requirements of the evaluation plan.

(o) Cosmetic art schools must provide to each student a copy of school policies, the Board felony policies and shall retain for the permanent file a copy of the student's acknowledgement of receipt of these policies.

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

(q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools shall not prevent the graduation of students who have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as a rewards or penalties.

(s) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Rule are met. In order to determine if the conditions have been met the applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not

maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records on a case-by-case basis.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment.

(u) A student must pass an entrance examination given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

History Note: Authority G.S. 88B-4; 88B-16;

Eff. January 1, 2012;

Amended Eff. December 1, 2016; January 1, 2014; June 1, 2013;

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

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE SECTION IS AMENDED AS PUBLISHED IN NC REGISTER 31:04 AS FOLLOWS:

.0700 - SCHOOL LICENSURE, OPERATIONS, CLOSING AND RELOCATING SCHOOLS

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

- (a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.
- (b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school will be considered open by the Board when cosmetic art instruction, services, or performances are provided.
- (c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform regular maintenance.
- (d) All cosmetic art schools shall adhere to all Board sanitation regulations located in 21 NCAC 14H Sanitation.
- (e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.
- (f) Cosmetic art schools shall use the following grading scale as a minimum for passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

- (g) Cosmetic art schools shall not graduate any student who has not met the minimum school and Board requirements for graduation as prescribed by Rules .0602-.0610 of this Subchapter.
- (h) Examinations shall be administered in all subjects of the cosmetic art curriculum.
- (i) Students present at school shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.
- (j) All cosmetic art schools shall provide:
- (1) One teacher for every 25 students enrolled in the practice department;
 - (2) One teacher for every 20 students during practical work on live models in the clinic department;
and
 - (3) Cosmetic art teachers at a ratio of 1:25 teacher to teacher trainees; or
 - (A) one teacher and up to 25 practice cosmetic art students and 5 teacher trainees; or
 - (B) one teacher and up to 20 cosmetic art students in practice on the clinic floor and 5 teacher trainees.
- (k) In theory classes, the teacher-student ratio may exceed the ratios established in this Rule.

- (l) The teacher student ratios established in this Rule shall be adhered to when schools are in operation.
- (m) A teacher may administer instruction to up to 10 students enrolled in practice and clinic departments at the same time. A teacher shall not administer instruction to more than 10 students enrolled in practice and clinic departments at the same time.
- (n) At no time can any one teacher be simultaneously responsible for students in a theory class and students in practice on the clinic floor.
- (o) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.
- (1) All courses in a cosmetic art school shall be taught by a licensed cosmetology teacher, except as follows:
 - (A) manicuring courses may be taught by either a licensed cosmetology teacher or a licensed manicurist teacher;
 - (B) natural hair care courses may be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher;
 - (C) esthetics courses may be taught by either a licensed cosmetology teacher or a licensed esthetician teacher.
 - (2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.
- (p) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.
- (q) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.
- ~~(r) A cosmetic art student must complete at least 1/3 of the minimum required hours in the cosmetic art school certifying his or her application for the state board examination.~~
- ~~(s) Upon written petition by the student and the school, the Board shall make an exception to the requirements set forth in Paragraph (r) of this Rule if the student shows that circumstances beyond the student's control prohibited him or her from completing a minimum of 1/3 hours at the school certifying his or her application.~~
- ~~(t)~~ (r) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16;
Eff. February 1, 2012;
Amended Eff. December 1, 2016; August 1, 2014; June 1, 2013; October 1, 2012;
Readopted Eff. January 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0705

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (d), please delete or define "appropriate." Is there a cross-reference available?

In (e), are the Board hours and performance requirements those set forth in your Rules? Please provide a cross-reference.

In (g), at the time of renewal of what? Renewal of license?

Please consider moving the last sentence of (g) either into its own Paragraph or combining with (f).

Why is 88B-2 included in the authority 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.

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14T .0705 SCHOOL PERFORMANCE REQUIREMENTS IS AMENDED AS PUBLISHED
IN NC REGISTER 31:04 AS FOLLOWS:**

21 NCAC 14T .0705 SCHOOL PERFORMANCE REQUIREMENTS

- (a) Each cosmetic art school shall meet or exceed a program completion rate of at least 50 percent during any five year period and shall meet or exceed a student pass rate on state licensure examinations of at least 70 percent during any two year period.
- (b) The school shall allow the teachers to have the opportunity to prepare for class, evaluate students' progress in the course, counsel students individually, and participate in activities of continuing education.
- (c) Cosmetic art schools shall provide to substitutes copies of lesson plans and the performance evaluation plan for the successful grading of clinical performances.
- (d) School attendance policies shall give appropriate performances attendance credit for all hours attended.
- (e) If a graduate meets all the school financial and academic requirements and the Board hours and performance requirements, the school shall approve the student for Board examination.
- (f) Cosmetic art schools shall maintain current bond according to G.S. 88B-17 and shall submit certification of renewal or new bond prior to expiration of the bond approved by the Board.
- (g) At the time of renewal, each school shall submit to the Board financial records of prepaid tuition and a letter signed by an authorized representative of the school documenting the calculations made and the method of computing the amount of the bond for the preceding year. If the school did not collect prepaid tuition, the school shall submit a letter signed by an authorized representative of the school documenting that no prepaid tuition was collected. Each school shall maintain and submit to the Board proof of bond in an amount of ten thousand dollars (\$10,000), or equivalent to prepaid tuition received during the previous year, whichever is greater.

History Note: *Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;*

Eff. January 1, 2012;

Amended Eff. December 1, 2016; January 1, 2015; September 1, 2012;

Readopted Eff. January 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Cosmetic Art Examiners

RULE CITATION: 21 NCAC 14T .0901

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), notification of what? Notification of probation?

In (b)(1), please delete "above" after "identified above." If you feel like you need some additional information after identified, please say something like "identified in accordance with Paragraph (a) of this Rule"

In (b)(2)(B), please delete or define "good faith." If you are able to provide some factors in (c)(2), I think that this issue will be eliminated.

In (b)(2)(C), please delete "within the extension."

In (c), please add some language such as "After a request for an extension, the ~~The~~ Board shall extend the time to come into compliance by a single six month period if:" for purposes of clarity.

In (c)(1), please delete "above."

In (c)(1), please delete or define "complete." Please also provide some additional information regarding "material." Do you mean "material facts related to the non-compliance"?

In (c)(2), how will the Board determine whether the efforts made demonstrate good faith? Please provide some factors.

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

In (c)(3), how will the Board determine whether the plan of action will be realistic and complete? Please provide some factors.

In (d), to what report is being referred?

In (e) and (f), please see the note about letter of approval in the technical change request for 21 NCAC 14T .0102.

In (e), please change “withdrawn” to “revoked” as that is the language used in 88B-24.

In (f), please consider changing “If the Board determines to withdraw or revoke” to something like “If after a probationary period and hearing in accordance with this Rule, the Board determines to withdraw or revoke revokes the school license license due to failure to comply with the applicable Rules and Statutes, and letter of approval the school shall work with Board inspectors and personnel for the collection of student records.”

Why are 88B-2 and 88B-17 included in the History Note? Please add 88B-24 to the History Note.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Wednesday, October 26, 2016

**21 NCAC 14T .0901 SCHOOL PROBATION IS AMENDED AS PUBLISHED IN NC REGISTER 31:04
AS FOLLOWS:**

SECTION .0900 – DISCIPLINARY ACTIONS

21 NCAC 14T .0901 SCHOOL PROBATION

(a) After notice and opportunity for a hearing, the Board shall put the school on probation if the Board finds that the program fails to comply with General Statutes or these Rules. The decision shall identify all deficiencies required to be corrected for the program to come into compliance.

(b) No later than one calendar year after notification, the school shall either:

- (1) Correct the deficiencies identified above and come into compliance with Board requirements; or
- (2) Request an extension of time in which it shall:
 - (A) Explain the basis for its failure to correct the deficiencies within the allotted time;
 - (B) Provide a summary of the program's good faith efforts to come into compliance within the allotted time; and
 - (C) Present a plan of action to come into compliance within the extension.

(c) The Board shall extend the time by a single six-month period if:

- (1) The explanation provided above is complete and contains all material facts;
- (2) The efforts made to come into compliance demonstrate good faith; and
- (3) The plan of action to come into compliance is realistic and complete.

(d) The Board shall make site visits or require the school to submit progress reports, syllabi, evaluative tools and student records when necessary to verify the accuracy of the report.

(e) When a program previously placed on probation fails to demonstrate compliance with General Statutes or these Rules as set forth in the Board's order, the Board shall order the school's official and the director to appear at a hearing at which time the school shall present evidence why the school's license and letter of approval should not be withdrawn.

(f) If the Board determines to withdraw or revoke the school license and letter of approval the school shall work with Board inspectors and personnel for the collection of student records.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Amended Eff. December 1, 2016;

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