

**RULES
OF
TENNESSEE BOARD OF COSMETOLOGY AND BARBER EXAMINERS**

**CHAPTER 0440-02
SANITARY RULES**

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0440-02-.01 DEFINITIONS.

- (1) As used in this Chapter, unless the context requires otherwise, the definitions of terms contained in Tenn. Code Ann. § 64-4-102 are applicable. In addition:
- (a) "Establishment" means any cosmetology, manicure, skin care or natural hair stylist shop or school of cosmetology;
 - (b) "Licensee" means any person holding a valid license (issued by the Board) as a cosmetologist, manicurist, aesthetician, shampoo/manicurist, instructor, or natural hair stylist;
 - (c) "Shampooing" is cleansing of hair and scalp and includes:
 - 1. Brushing and combing;
 - 2. Rinsing (includes removal of color, permanents, relaxers and conditioners); and
 - 3. Conditioning (applying);
 - (d) "Aesthetics", as it is practiced and taught, includes:
 - 1. Care of the skin, including:
 - (i) Hot compresses;
 - (ii) Massages of the face, hands, feet, and scalp;
 - (iii) Facials and masks that do not require prescriptions unless there is medical supervision;
 - (iv) Wraps;
 - (v) Exfoliation of the uppermost layers of the skin; and
 - (vi) Use of electrical or mechanical appliances or chemical compounds.
 - 2. Removal of superfluous hair by all customary means not including electrolysis.

(Rule 0440-02-.01, continued)

- (e) "Shop" means a cosmetology shop, manicure shop, skin care shop, or natural hair styling shop and includes a mobile shop unless context otherwise requires;
- (f) "Unprofessional Conduct" shall include, but not be limited to failure to respond or comply with a board issued request or lawful order.
- (g) "Violation" means any breach or failure to abide by the statutes, rules and orders enforceable by the Tennessee State Board of Cosmetology and Barber Examiners and any unprofessional conduct by any individual or entity licensed or required to be licensed under the Tennessee Cosmetology Act.

Authority: T.C.A. §§ 62-4-102, 62-4-105(e), 62-4-134, and Public Chapter 983 (2016). **Administrative History:** Original rule filed April 27, 1978; effective May 29, 1978. Repeal and new rule filed February 23, 1983; effective March 25, 1983. Amendment filed August 21, 1987; effective October 5, 1987. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed May 25, 2004; effective August 8, 2004. Amendment filed September 2, 2015; effective December 1, 2015. Amendments filed March 9, 2017; effective June 7, 2017. Emergency rules filed July 24, 2017; effective through January 20, 2018. Amendment filed August 29, 2017; November 27, 2017. Amendments filed December 12, 2017; effective March 12, 2018.

0440-02-.02 APPLICABILITY.

- (1) Unless otherwise specified, the provisions of the Chapter shall apply to all establishments and licensees.

Authority: T.C.A. § 62-4-105(e). **Administrative History:** Original rule filed April 27, 1978; effective May 29, 1978. Repeal and new rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-.03 RESPONSIBILITY FOR COMPLIANCE.

- (1) The manager of an establishment shall be responsible for maintaining all parts thereof in a sanitary condition at all times, and for otherwise insuring that such establishment is operated in compliance with this Chapter. However, this rule shall not relieve any licensee of responsibility for the sanitary condition of any space or equipment used in an establishment.
- (2) The manager or designated manager of a cosmetology, manicure, skin care, or natural hair stylist shop shall be required to be present on the shop premises any day that cosmetology, manicure, skin care, or natural hair stylist services are being rendered.
 - (a) The manager is entitled to two (2) thirty (30) minute periods in which he/she may be away from the premises during the day so long as the manager is reachable by phone and can return to the shop within twenty (20) minutes in the event that a representative of the Board requests their presence, an employee or customer requires assistance, or for any other situation that would require the manager's presence.
 - (b) The manager's name must be posted and their license number must be available to any employee or customer of the shop. The manager or designated manager shall not be relieved of responsibility for compliance during those times when the manager is away from the premises.
- (3) The shop manager must be licensed by this board for at least one (1) discipline that the shop is licensed to offer. Managers may manage employees across disciplines. This rule shall not interfere with the statutory requirements that each licensee may only offer those services they are licensed to practice, and licensees are only practicing those services that the shop is licensed to offer.

(Rule 0440-02-.03, continued)

Authority: T.C.A. §§ 62-4-102, 62-4-105(e), 62-4-118, and 62-4-119. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed May 25, 2004; effective August 8, 2004. Amendments filed March 9, 2017; effective June 7, 2017.

0440-02-.04 POSTING OF RULES AND LICENSES.

- (1) A copy of the cosmetology law (current Tennessee Cosmetology Act) shall be readily available at each shop and school.
- (2) Every holder of a shop license shall prominently display such license in a clear and conspicuous place at all times.
- (3) Every holder of a personal license shall prominently display such license at any location that the licensee practices or teaches.

Authority: T.C.A. § 62-4-105(e). **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed May 25, 2004; effective August 8, 2004. Amendment filed September 2, 2015; effective December 1, 2015.

0440-02-.05 INSPECTIONS.

- (1) Members or inspectors of the Board shall be accorded access to each establishment for the purpose of conducting any inspections authorized by law.
- (2) The results of any inspection of an establishment may be reduced to a grade or rating on a form prescribed by the Board. Such form shall be furnished to the establishment and posted in a conspicuous place at all times. This form must be signed personally, by either the school owner, school manager, shop owner, or shop manager and the Board member/inspector.
- (3) Upon receipt of an application for a new or relocated cosmetology establishment which will be located in an existing, licensed barber shop, the cosmetology shop may open for business prior to inspection. The application must be submitted immediately. Inspection will be conducted within ten (10) days of receipt of application.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-127. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-.06 FACILITIES.

- (1) Cosmetology, manicuring, aesthetics and natural hair styling may be practiced only in rooms which are adequately lighted and ventilated.
- (2) The floors, walls, ceilings, windows, furniture, and other exposed surfaces of an establishment shall at all times be kept clean and free from dust.
- (3) Floors shall be thoroughly swept or mopped each day. All hair cuttings, nail dust, and nail tips shall be removed from the floor promptly after completion of each customer.
- (4) Tanning beds, massage therapy, and tattooing shops cannot be located in a cosmetology, skin care, manicuring, or manicure/skin care shop unless it is in a separate room with hard walls.

(Rule 0440-02-.06, continued)

Authority: T.C.A. § 62-4-105(e). **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-.07 EQUIPMENT.

- (1) Every cosmetology shop shall be equipped with at least:
 - (a) One (1) shampoo bowl with hot and cold running water in work area and chair;
 - (b) One (1) enclosed storage area for clean towels;
 - (c) One (1) covered and labeled container for soiled towels;
 - (d) One (1) covered and labeled trash container maintained in a sanitary condition;
 - (e) One (1) dry sterilizer, with fumigant, or sanitary compartment;
 - (f) One (1) wet sterilizer;
 - (g) One (1) work station (standard size) for each operator;
 - (h) One (1) ultra violet sanitizer;
 - (i) One (1) blood spill kit; and
 - (j) Adequate restroom facilities.

All containers for cosmetic products must be properly labeled.

- (2) Every skin care shop shall be equipped with at least:
 - (a) One (1) sink which provides hot and cold running water in the work area, excluding the bathroom;
 - (b) One (1) hands free magnifying lamp;
 - (c) One (1) enclosed storage area for clean towels;
 - (d) One (1) covered and labeled container for soiled towels;
 - (e) One (1) covered and labeled trash container maintained in a sanitary condition;
 - (f) One (1) reclining facial chair/table;
 - (g) One (1) wet sterilizer for the equipment used;
 - (h) One (1) ultra violet sanitizer;
 - (i) One (1) blood spill kit;
 - (j) Adequate restroom facilities with hot and cold water;
 - (k) One (1) sharps container for biohazard material removal;
 - (l) One (1) electric hot towel cabin;

(Rule 0440-02-.07, continued)

- (m) One (1) facial steamer; and
- (n) One (1) wax depilatory heater pot with manufacturer's intended commercial use statement.

All containers for cosmetic products must be properly labeled.

(3) Every manicure shop shall be equipped with at least:

- (a) One (1) manicure table with stool or chair, per manicurist;
- (b) One (1) patron chair;
- (c) One (1) wet sterilizer for equipment used;
- (d) One (1) ultra violet sanitizer for equipment used;
- (e) Enclosed storage area(s) for clean towels;
- (f) One (1) covered and labeled container for soiled towels;
- (g) One (1) covered and labeled trash container maintained in a sanitary condition;
- (h) One (1) sink which provides hot and cold running water in the work area, excluding the bathroom;
- (i) One (1) finger bowl per table;
- (j) One (1) covered container per table for cotton balls and swabs;
- (k) One (1) foot bath if pedicures are offered;
- (l) One (1) blood spill kit;
- (m) Adequate restroom facilities; and
- (n) Sign prominently posted stating that the customer has the right not to have drills used on his or her nails.

All containers for cosmetic products must be properly labeled.

(4) Every natural hair stylist shop shall be equipped with at least:

- (a) One (1) shampoo bowl with hot and cold running water in work area and chair;
- (b) One (1) enclosed storage area for clean towels;
- (c) One (1) covered and labeled container for soiled towels;
- (d) One (1) covered and labeled trash container maintained in a sanitary condition;
- (e) One (1) dry sterilizer, with fumigant, or sanitary compartment;
- (f) One (1) wet sterilizer;
- (g) One (1) work station (standard size) for each operator;

(Rule 0440-02-.07, continued)

- (h) One (1) ultra violet sanitizer;
- (i) One (1) blood spill kit; and
- (j) Adequate restroom facilities.

All containers for cosmetic products must be properly labeled.

- (5) Every shop shall contain sufficient equipment to enable it to perform all services offered competently and efficiently. All equipment must be in working order.
- (6) Residential shops must maintain a separate entrance without requiring passage through any portion of a private residence. Separate restroom facilities must be provided apart from the living quarters.
- (7) A cosmetology, skin care, natural hair stylist or manicure shop located in a mobile home or mobile unit will not be approved for a license unless it is placed on a permanent foundation or otherwise rendered immobile.
- (8) A cosmetology, skin care, natural hair stylist or manicure shop must have a separate entrance from any other business except in malls, strip shopping centers, or other commercial property approved by the Board.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Amendment filed February 21, 1986; effective March 23, 1986. Amendment filed August 21, 1987; effective October 5, 1987. Amendment filed January 13, 1989; effective February 27, 1989. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed May 25, 2004; effective August 8, 2004. Amendment filed September 2, 2015; effective December 1, 2015.

0440-02-.08 ATTIRE.

- (1) Any licensee actively engaged in the practice of cosmetology, manicuring, natural hair styling, or aesthetics in a shop must wear an identification tag, with file number.
- (2) All students in a school of cosmetology must wear a uniform prescribed by the school. All instructors must wear name tag with identification number.
- (3) All students participating in an apprenticeship program in a licensed school must wear attire prescribed by the school and participating shop collectively. The student must wear a name tag identifying the student as an apprenticeship student and identifying the school under which the student is participating in the apprenticeship program.

Authority: T.C.A. § 62-4-105(e). **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Amendment filed August 21, 1987; effective October 5, 1987. Amendment filed August 17, 1992; effective October 1, 1992. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed September 2, 2015; effective December 1, 2015. Amendments filed December 12, 2017; effective March 12, 2018.

0440-02-.09 LAUNDRY WORK.

- (1) Laundry work may be performed on the premises of an establishment only:
 - (a) In an area neither frequented by the general public nor used for instruction, rest, or study by students;

(Rule 0440-02-.09, continued)

- (b) With mechanical equipment installed in accordance with applicable codes and standards;
- (c) With workable equipment which has hot and cold water; and
- (d) When bleach and detergent are used.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-10 ANIMALS.

- (1) No animals, birds, or fish shall be permitted in any establishment with the exception of animals used to help disabled persons as prescribed by the Americans with Disabilities Act. If a service animal is kept in the establishment during business hours due to necessity by an owner, manager or employee, the necessity must be justified with documentation provided by the Americans with Disabilities Act and/or any other applicable authority. This documentation must be maintained in the establishment's license file and be available for inspection and verification upon request by a Board member or a Board inspector.

Authority: T.C.A. §§ 62-4-105(e), 62-4-125, and 62-4-125(a). **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Amendment filed August 17, 1992; effective October 1, 1992. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendment filed May 2, 2008; effective July 16, 2008. Amendment filed September 2, 2015; effective December 1, 2015.

0440-02-11 HIGH FREQUENCY ELECTRIC CURRENT.

- (1) No high frequency electric current shall be used in the coagulation of human tissue, or in the removal or superfluous hair, moles, warts, or appendages from the skin.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Amendment filed August 17, 1992; effective October 1, 1992. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-12 COMMUNICABLE DISEASES.

- (1) No patron with definite open sores, exhibiting symptoms of infectious or contagious disease or disorders of the skin, or parasitic infestations will be served in a shop or school unless written permission from a physician has been secured.
- (2) No cosmetologist, manicurist, aesthetician, shampoo/manicurist, instructor or natural hair stylist who knowingly has an infectious or contagious disease or parasitic infestation in a communicable stage shall give service in a school or shop.
- (3) The Board shall have the right to require a physical examination of any person employed in a shop or school who is suspected of having a contagious or infectious disease or parasitic infestation in a communicable stage.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new rule filed July 10, 1997; effective September 23, 1997. Amendments filed December 12, 2017; effective March 12, 2018.

0440-02-13 SANITATION AND DISINFECTION.

- (1) No licensee or student shall commence work on any patron before:

(Rule 0440-02-.13, continued)

- (a) Washing hands with soap and water; and
 - (b) Placing around the patron's neck a fresh and sanitary neck strip or towel, so that the cape does not contact the skin.
- (2) Wet Disinfection Standard
- (a) All tools and implements, except those which come in contact with blood or body fluids, must be cleaned with soap and water and disinfected by complete immersion in an EPA registered, bactericidal, virucidal, fungicidal, tuberculocidal, and pseudomonacidal (Formulated for Hospitals) disinfectant that is mixed and used according to the manufacturer's directions.
- Dry Disinfection Standard
- (b) All tools and implements which have come in contact with blood or body fluids must be cleaned in soap and water and disinfected by complete immersion in an EPA registered bactericidal, virucidal, fungicidal, tuberculocidal and pseudomonacidal (Formulated for Hospitals) disinfectant that is effective against HIV-1 and human Hepatitis B Virus and is mixed according to the manufacturer's direction.
 - (c) Disinfected implements must be stored in a disinfected, dry, covered container.
- (3) A manicurist shall maintain a supply of antiseptic and/or liquid or spray styptic to be used in the event that a patron's skin is accidentally broken during the manicuring process.
- (4) Before use, manicuring instruments must be cleaned with soap and water, and immersed in an EPA registered bactericidal, virucidal, fungicidal, tuberculocidal, and pseudomonacidal (Formulated for Hospitals) disinfectant for at least ten (10) minutes. The disinfectant for this purpose may be kept in a covered container of sufficient size to accommodate the instruments to be immersed.
- (5) When not in use, manicuring instruments must be dried and kept in a cabinet sanitizer.
- (6) Foot Bath
- (a) A foot bath shall be cleaned and disinfected after each use.
 - (b) The filters and jets of the foot bath shall be flushed, cleaned with soap and water and disinfected in an EPA registered bactericidal, virucidal, fungicidal, and pseudomonacidal (Formulated for Hospitals) disinfectant after each use with the use of a hospital grade tuberculocidal disinfectant circulated through the machine for the minimum time recommended by the manufacturer.
- (7) Towels
- (a) A separate, clean towel shall be provided for each patron.
 - (b) The headrest shall be covered with a separate, clean towel or paper for each customer.
 - (c) The practice of dipping a towel previously used for any purpose into a container of hot water and using the towel on a patron is prohibited.
- (8) Combs

(Rule 0440-02-.13, continued)

- (a) Each operator shall have a sufficient number of combs to allow for proper sanitation.
 - (b) No operator shall carry combs or other instruments in the pocket of his or her uniform.
- (9) Powders, Lotions and Creams
- (a) Powders and lotions must be applied with cotton or gauze puffs, which are to be disposed of in a waste receptacle immediately after use.
 - (b) Creams and other semi-solid substances must be removed from their containers with a clean spatula (or similar device), which is disposed of in a waste receptacle immediately after use. Any device used for a removal of such substances must not contact the skin of a patron.
- (10) After handling patrons with any eruption or skin disorder, attendants shall immediately disinfect their hands by thoroughly washing with soap and water, followed by rinsing in an EPA registered disinfectant.
- (11) Finger bowls, basins, shampoo bowls, cups, etc. shall be thoroughly cleaned and disinfected with an EPA registered disinfectant after each service, and kept in good repair and in a sanitary condition at all times. Back bars and mirrors shall be kept clean and disinfected.
- (12) If a cosmetologist uses a safety razor, each new customer must be treated with a new disposable razor or blade, if the blade is detachable from the handle.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new filed July 10, 1997; effective September 23, 1997. Amendment filed May 25, 2004; effective August 8, 2004. Amendments filed March 9, 2017; effective June 7, 2017.

0440-02-.14 TRASH CONTAINERS.

- (1) Every establishment shall have a sufficient number of covered containers for trash, which are maintained in a sanitary condition.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-125. **Administrative History:** Original rule filed February 23, 1983; effective March 25, 1983. Repeal and new filed July 10, 1997; effective September 23, 1997.

0440-02-.15 ALCOHOLIC BEVERAGES.

- (1) The sale of alcoholic beverages on the premises of any cosmetology establishment is prohibited.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-127(b)(4). **Administrative History:** Original rule filed August 17, 1992; effective October 1, 1992. Repeal and new rule filed July 10, 1997; effective September 23, 1997.

0440-02-.16 SKIN PEELING AND INVASIVE PROCEDURES.

- (1) Only the non-living, uppermost layers of facial skin, known as the epidermis, may, by any method or means, be removed, and in such event may be removed only for the purpose of beautification.
- (2) Skin removal techniques and practices which affect the living layers of facial skin, known as the dermis, are prohibited.

(Rule 0440-02-.16, continued)

- (3) Only commercially-available products for the removal of facial skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as it is required by manufacturer instructions.
- (4) Licensed aestheticians may use alphahydroxy acid salon exfoliation products that do not exceed thirty percent (30%) concentration. Such products should have a pH of 3.0 or above. Higher concentrations or lower pH can cause irritation.
- (5) Invasive procedures that shall not be used include, but are not limited to, the following:
 - (a) Application of electricity which contracts the muscle; and
 - (b) Abrasion of the skin below the non-living, epidermal layers.

Authority: T.C.A. § 62-4-105(e). **Administrative History:** Original rule filed May 25, 2004; effective August 8, 2004.

0440-02-.17 PROHIBITED HAZARDOUS SUBSTANCES AND USE OF PRODUCTS.

- (1) No establishment or school shall have on the premises cosmetic products containing hazardous substances which have been banned by the U. S. Food and Drug Administration (FDA) for use in cosmetic products, including, but not limited to, liquid methymethacrylate. No product shall be used in a manner that is disapproved by the FDA.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-133. **Administrative History:** Original rule filed May 25, 2004; effective August 8, 2004.