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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Board of Cosmetology and Barber Examiners
Division:	Regulatory Boards
Contact Person:	Hugh Cross, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, TN 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway, Nashville, TN 37243
Phone:	615-741-6500
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	June 1, 2020		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

N/A

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0200-01	Rules of the Barber Board
Rule Number	Rule Title

0200-01-.01	Requirements for School License
0200-01-.02	Curriculum
0200-01-.05	Posting of Licenses
0200-01-.07	Equipment and Location Requirements for Barber Shops
0200-01-.12	Inspections
0200-01-.14	Teacher Training Programs
0200-01-.15	Student Kits

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title
0440-01-.01	Requirements for School License
0440-01-.02	Change of School Ownership and Relocation
0440-01-.07	Student Kits
0440-01-.11	Teacher Training Programs
0440-01-.15	Practice By Instructor

Chapter Number	Chapter Title
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.07	Equipment

Chapter 0200-01
Rules of the Barber Board

Amendments

The title of Chapter 0200-01 "Rules of the Barber Board" is amended by deleting the title and substituting the following so that as amended the title shall read:

Licensing

The Table of Contents for Chapter 0200-01 is amended by redesignating 0200-01-.14 "Teacher Training Programs" as "Instructor-training Programs" so that, as amended, the Table of Contents shall read:

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0200-01-.01 Requirements for School License	0200-01-.11 Fees
0200-01-.02 Curriculum	0200-01-.12 Inspections
0200-01-.03 Transcripts	0200-01-.13 License Qualifications
0200-01-.04 Applications for Examination	0200-01-.14 Instructor-training Programs
0200-01-.05 Posting of Licenses	0200-01-.15 Student Kits
0200-01-.06 Expiration of Certificates of Registration	0200-01-.16 Demonstrations
0200-01-.07 Equipment and Location Requirements	0200-01-.17 Alcoholic Beverages
0200-01-.08 Educational Equivalent	0200-01-.18 Civil Penalties
0200-01-.09 Examinations	0200-01-.19 Mobile Shops
0200-01-.10 Original License Fee	0200-01-.20 Residential Barber Services

Rule 0200-01-.01 Requirements for School License is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) The Board of Cosmetology and Barber Examiners will not approve an application for a new school, change of ownership or change of location of a school of barbering unless the school is equipped with at least the following:
 - (a) A minimum of one (1) working restroom;
 - (b) One (1) work station with adjustable chair per student working on the clinic floor, with a minimum of fifteen (15) stations;
 - (c) Five (5) shampoo basins adequately spaced with hot and cold running water;
 - (d) Two (2) manicure stations;
 - (e) Two (2) hooded dryers;
 - (f) One (1) straight chair in the theory classroom for each student attending class;
 - (g) One (1) wet disinfectant at each student work station;
 - (h) One (1) enclosed and labeled storage area for clean towels;
 - (i) One (1) covered and labeled container for soiled towels;
 - (j) One (1) covered trash container maintained in a sanitary condition;
 - (k) One (1) ultraviolet sanitizer;
 - (l) Posted sign stating that all barber services are performed by students;

- (m) One (1) dry sanitary compartment at each student work station;
 - (n) A time sheet/time clock;
 - (o) One (1) blood exposure kit; and
 - (p) One (1) labeled sharps container at each student work station for biohazard material removal.
- (2) A proposed floor plan must be submitted to and approved by the Board before:
- (a) Issuance of a license to operate a new barber school;
 - (b) Issuance of a license to operate a barber school whose ownership has changed;
 - (c) Reissuance of a license to operate a relocated barber school; or
 - (d) Issuance of a license to operate a branch of an existing school at a new location, which shall be considered a new school for purposes of this rule and shall remain closed to the public until it is inspected and approved by the Board to open.
- (3) The floor plan shall provide for and the school shall contain, at least sixteen hundred square feet (1600 sq. ft.) of instructional floor space, including an enclosed classroom for theory instruction. The building shall meet all applicable fire and building regulations prescribed by state or local government.
- (4) The Board shall have the authority to approve a school without a restroom facility located therein if the school is located within a mall, strip shopping center, or other commercial property and the school owner can demonstrate shared public restroom facilities are standard for the location.
- (5) The requirements of the school for enrollment of students are:
- (a) Every barber school shall maintain documentation in each student's file which evidences age and education which meets eligibility requirements for enrollment;
 - (b) Every enrollment of a student in a barber school shall be evidenced by a written enrollment agreement, signed by both parties, which clearly details the rights and obligations of both parties; and
 - (c) The school shall furnish to the student an executed copy of the enrollment agreement and maintain a copy of the agreement in the student's file.
 - (d) Full-time barber school students shall be defined as students enrolled in school for at least twenty-five (25) hours per week and part-time barber school students shall be defined as students enrolled in school for at least fifteen (15) hours per week.
- (6) Every student enrollment agreement shall:
- (a) Be signed and dated by the student and an authorized representative of the school;
 - (b) Specify the number of clock hours in the course of instruction and an approximate number of weeks or months required for completion;
 - (c) Identify all costs and charges which the student must bear;
 - (d) Indicate any grounds for termination of a student by the school;
 - (e) State in clear and understandable language the school's refund policy;

- (f) List any special conditions or requirements for graduation; and
 - (g) Contain an acknowledgment that the student has read and understands the agreement before making any payment thereunder.
- (7) All documentation and enrollment agreements required under this rule shall be available for inspection by members or inspectors of the Board during business hours.

Authority: T.C.A. §§ 62-3-122, 62-3-123, and 62-3-128.

0200-01-.02 Curriculum is amended by deleting the text of paragraph (3) of the rule and substituting the following so that as amended paragraph (3) shall read:

- (3) The barber instructor-training program curriculum shall consist of the following:
- (a) Lesson Planning:
 - Course outlining and development
 - Lesson planning and motivation
 - Record keeping
 - Testing
 - Grading

Required Total: 100 Hours
 - (b) General:
 - Book Knowledge
 - Teaching Techniques
 - Visual Aid Equipment
 - Classroom Management
 - Student Motivation
 - Product Knowledge
 - State Laws

Required Total: 100 Hours
 - (c) Physical:
 - Permanent Waving
 - Relaxers
 - Shampooing
 - Nail Care
 - Facials
 - Hair Coloring/Lightening
 - Haircutting
 - Clinic Floor Management

Required Total: 100 Hours

Total Hours: 300 Hours

Authority: T.C.A. §§ 62-3-105, 62-3-123, and 62-3-128.

0200-01-.05 Posting of Licenses is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) The Board shall be notified within ten (10) days of the effective date of any change in ownership

of a barber shop, barber school or college.

- (2) All certificates of registration issued to master barbers and technicians must be posted at the station where the registrant works and shall not be laminated.
- (3) All certificates of registration issued to barber shops, barber schools or colleges, and barber instructors must be conspicuously posted on the premises and shall not be laminated.

Authority: T.C.A. §§ 62-3-118 and 62-3-128.

0200-01-.07 Equipment and Location Requirements for Barber Shops is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) Every barber shop shall be equipped with at least:
 - (a) One (1) shampoo bowl with hot and cold running water and a chair;
 - (b) One (1) enclosed and labeled storage area for clean towels;
 - (c) One (1) covered and labeled container for soiled towels;
 - (d) One (1) dry sanitary compartment per station;
 - (e) One (1) work station and mirror for each operator;
 - (f) One (1) covered container for trash, maintained in a sanitary condition;
 - (g) One (1) working restroom;
 - (h) One (1) wet disinfectant solution container per barber chair;
 - (i) One (1) ultraviolet sanitizer; and
 - (j) One (1) labeled sharps container for biohazard material removal at each station.
- (2) 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.
- (3) Unless otherwise licensed as a mobile shop, a barber shop located in a mobile home or mobile unit will not be approved unless it is placed on a permanent foundation or otherwise rendered immobile.
- (4) The Board shall have the authority to approve a shop without a restroom facility located therein if the shop is located within a mall, strip shopping center, or other commercial property and the shop owner can demonstrate shared public restroom facilities are standard for the location.
- (5) Laundry work may be performed on the premises of an establishment only:
 - (a) In an area not frequented by the general public nor used for instruction, rest or study by students;
 - (b) With workable equipment which has hot and cold water; and
 - (c) Bleach and detergent must be used.
- (6) Every shop shall contain sufficient equipment to enable it to perform all services offered competently and efficiently. All equipment must be in working order.

- (7) Every barber providing residential barber services pursuant to T.C.A. § 62-3-135 shall have a kit consisting of at least the following materials at all times when providing services in residences:
- (a) One (1) enclosed and labeled container with clean towels separated from other equipment;
 - (b) One (1) enclosed and labeled container solely for soiled towels;
 - (c) One (1) shampoo cape;
 - (d) One (1) chair cloth;
 - (e) Trash bags;
 - (f) One (1) leak tight container for wet disinfectant solution;
 - (g) One (1) container of wet disinfectant solution;
 - (h) One (1) aerosol spray disinfectant for clippers;
 - (i) One (1) portable ultraviolet sanitizer;
 - (j) One (1) blood exposure kit;
 - (k) Extra disposable gloves;
 - (l) One (1) bottle of alcohol;
 - (m) Hand sanitizer;
 - (n) Cotton balls;
 - (o) Cotton swabs;
 - (p) One (1) sharps container for biohazard material removal;
 - (q) Neck strips; and
 - (r) A portable shampoo bowl, if required under Paragraph (8).
- (8) A portable shampoo bowl shall only be required when a barber is providing services in a residence involving removal of chemicals, including, but not limited to, color, permanents, relaxers and conditioners. If a barber intends to provide such services, the portable shampoo bowl shall be available for inspection prior to the issuance of the residential barber certificate. If a barber decides to provide such services after issuance of the residential barber certificate, the barber shall be obligated to notify the board and obtain a new equipment inspection at the barber's expense.

Authority: T.C.A. §§ 62-3-109, 62-3-113, 62-3-128, and 62-3-135.

0200-01-.12 Inspections is amended by adding paragraph (4) so that as amended the rule shall read:

- (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 therein. This form must be signed personally, by either the school owner, school manager, shop owner or shop manager and a Board member/inspector.

- (3) Upon receipt of an application for a new or relocated barber establishment which will be located in an existing, licensed cosmetology shop, the barber shop may open for business prior to inspection. The shop application must be submitted immediately. Inspection will be conducted within ten (10) days of receipt of application.
- (4) Substantial changes to a school's physical location shall be deemed a relocation. A new license for a relocated school shall be required following an inspection. Substantial changes include, but are not limited to, a significant increase or reduction in a school's square footage as well as changes to the floor plan, physical walls, and entry doors. The Board shall be notified in writing of any substantial changes no less than thirty (30) days prior to the changes being made.

Authority: T.C.A. § 62-3-128.

0200-01-14 Teacher Training Programs is amended by changing the heading to "Instructor-training Programs" and deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) An application for approval to teach an instructor-training program in barbering for licensed barber instructors to obtain continuing credit shall include:
 - (a) A summary of education and experience of each instructor for the program;
 - (b) The scheduled dates for the program; and
 - (c) The proposed curriculum of the program.
- (2) The applying sponsor shall demonstrate to the satisfaction of the board that the instructor-training program submitted for approval will:
 - (a) Contain at least sixteen (16) hours of actual instruction;
 - (b) Emphasize teaching methodology for its entire duration;
 - (c) Restrict the size of classes sufficiently to ensure adequate attention to all participants;
 - (d) Proceed for not more than two (2) hours without a break;
 - (e) Prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and
 - (f) Conform to professional standards as determined by the Board. This may be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. § 62-3-101, et. seq. or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the Board.
- (3) Any online, virtual, or electronic instructor-training program shall further demonstrate to the satisfaction of the Board that the instructor-training program submitted for approval does not allow one to skip through content and meets at least one (1) of the following qualifications:
 - (a) Streamed or real-time presentation that allows the submission of questions, group chat, or solicits responses from registrants through surveys, multiple choice questions, etc.;
 - (b) Requires a unique login; or
 - (c) Monitors registrant participation and includes a testing component that requires a passing grade in order to complete the program.
- (4) Promptly after the completion of an instructor-training program approved by the Board, the sponsor shall send to the Board a roster showing the names, social security numbers, and I.D.

numbers of the persons who attended the program and the number of hours that such persons completed.

- (5) The sponsor shall provide an opportunity for the attendees to evaluate each class and the overall program. The original evaluations shall be forwarded to the office of the Board.
- (6) Continuing Credit for Licensed Instructors Attending Instructor-training Programs
 - (a) A licensed instructor shall complete at least sixteen (16) hours of actual instruction in order to obtain continuing credit. A licensed instructor shall deduct any time in which the licensed instructor failed to attend the program from the amount of credit sought for attendance.
 - (b) A licensed instructor may practice or teach only the discipline in which he or she is licensed; therefore, a licensed instructor may obtain credit only for an instructor-training program in the discipline in which he or she is licensed.
 - (c) In order for a licensed instructor to obtain credit for taking an instructor-training course in a state other than the State of Tennessee, the licensed instructor shall obtain the Board's approval before taking the course by submitting a written request for approval to the Board no less than sixty (60) days before the licensed instructor intends to take the course. Such written request must include a copy of the curriculum.
 - (d) A licensed instructor shall submit a request for an extension of time to complete the instructor-training requirements in writing along with proof showing a medical hardship, a death in the immediate family or entitlement to automatic renewal of the certificate of registration under T.C.A. § 62-3-120 prior to the expiration date of the instructor's license.
 1. A licensed instructor who is not granted an extension prior to the expiration date of the certificate of registration and who fails to obtain the required number of instructor-training hours shall be denied renewal. The Executive Director shall have discretion to allow the licensed instructor up to one hundred eighty (180) additional days to submit instructor-training hours and renew the certificate of registration if a written request is made by the instructor within sixty (60) days following the expiration date of the certificate of registration and the licensed instructor demonstrates a medical hardship, shows a death in the immediate family, or shows entitlement to automatic renewal of the certificate of registration under T.C.A. § 62-3-120.
 2. If the licensed instructor fails to make a written request within sixty (60) days of the expiration date of the certificate of registration, but makes the request within three hundred sixty-five (365) days following the expiration date of the certificate of registration, the Board shall have the discretion to allow the instructor up to one hundred eighty (180) additional days to submit instructor-training if the licensed instructor can demonstrate a medical hardship, a death in the immediate family or entitlement to automatic renewal of the certificate of registration under T.C.A. § 62-3-120.
 - (e) A licensed instructor who fails to obtain the required number of instructor-training hours prior to the expiration date appearing on the certificate of registration and who is either not eligible for an extension or not granted an extension, shall not engage in any activity which requires an instructor's certificate of registration and shall be required to retake the instructor's examination, complete the instructor-training hours, and pay any applicable fees in order for the certificate of registration to be reinstated.

Authority: T.C.A. §§ 62-3-120, 62-3-124, and 62-3-128.

0200-01-.15 Student Kits is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) Each student, with school assistance, shall be required to have a kit consisting of the following materials after one hundred (100) hours of enrollment in a master barber program:
- (a) Four (4) taper combs;
 - (b) Four (4) styling combs;
 - (c) Four (4) picks;
 - (d) Two (2) vent-type brushes;
 - (e) Two (2) styling brushes;
 - (f) Six (6) duckbill clips;
 - (g) Twelve (12) butterfly clips;
 - (h) One (1) blow dryer;
 - (i) One (1) curling iron;
 - (j) Adjustable clippers;
 - (k) T-edger/trimmer;
 - (l) Straight razor and blades;
 - (m) One (1) pair shears and one (1) pair blending shears;
 - (n) One (1) pair nippers;
 - (o) Three (3) orangewood sticks;
 - (p) One (1) box of emery boards;
 - (q) One (1) cuticle pusher;
 - (r) One (1) finger bowl;
 - (s) One (1) sanitizable file;
 - (t) One (1) nail brush;
 - (u) One (1) shampoo cape;
 - (v) One (1) chair cloth;
 - (w) One (1) theory book (electronic or hard copy);
 - (x) One (1) workbook (electronic or hard copy);
 - (y) A mannequin;
 - (z) One (1) hand form and holder or two (2) fingers and holder; and
 - (aa) One (1) set of instructions to access online laws and rules.

- (2) Each student, with school assistance, shall be required to have a kit consisting of the following materials after fifty (50) hours of enrollment in a barber technician program:
- (a) One (1) pair nippers;
 - (b) Three (3) orangewood sticks;
 - (c) One (1) box of emery boards;
 - (d) One (1) cuticle pusher;
 - (e) One (1) finger bowl;
 - (f) One (1) sanitizable file;
 - (g) One (1) nail brush;
 - (h) One (1) chair cloth;
 - (i) One (1) color applicator bottle or color bowl and brush;
 - (j) Four (4) all-purpose combs;
 - (k) One (1) shampoo cape;
 - (l) Six (6) duckbill clips;
 - (m) Twelve (12) butterfly clips;
 - (n) One (1) theory book (electronic or hard copy);
 - (o) One (1) workbook (electronic or hard copy);
 - (p) One (1) set of instructions to access online laws and rules; and
 - (q) One (1) hand form and holder or two (2) fingers and holder.
- (3) It shall be the responsibility of the student to maintain all materials in the kits.
- (4) Each school shall have disposable gloves and safety goggles available to all students.

Authority: T.C.A. §§ 62-3-123 and 62-3-128.

Chapter 0440-01
Licensing

Amendments

The Table of Contents for Chapter 0440-01 is amended by redesignating 0440-01-.09 “Examination Passing Scores and School Attendance Ratio” as “Examinations and School Attendance Ratio ” and by redesignating 0440-01-.11 “Teacher Training Programs” as “Instructor-training Programs” so that, as amended, the Table of Contents shall read:

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0440-01-.01 Requirements for School License	0440-01-.11 Instructor-training Programs
0440-01-.02 Change of School Ownership and Relocation	0440-01-.12 Demonstrations
0440-01-.03 Curriculum	0440-01-.13 Fees
0440-01-.04 High School Equivalents	0440-01-.14 Civil Penalties
0440-01-.05 Requirements for Schools	0440-01-.15 Practice by Instructor
0440-01-.06 Enrollment of Students	0440-01-.16 Schools Providing Limited Instruction
0440-01-.07 Student Kits	0440-01-.17 Communication with the Board
0440-01-.08 Expiration of School Registration Renewal	0440-01-.18 Expedited Licensing for Certain Military Personnel and Spouses
0440-01-.09 Examinations and School Attendance Ratio	0440-01-.19 Mobile Shops
0440-01-.10 Original License Fee	

Rule 0440-01-.01 Requirements for School License is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) The Board of Cosmetology and Barber Examiners (hereinafter the “Board”) will not issue, reissue, or renew a license to operate a school of cosmetology unless the school is equipped with all workable equipment consisting of at least:
 - (a) One (1) work station with adjustable chair per student working on the clinic floor with a minimum of fifteen (15) stations;
 - (b) Five (5) shampoo basins, with hot and cold running water, adequately spaced;
 - (c) Five (5) manicure stations;
 - (d) A minimum of five (5) working hooded dryers;
 - (e) One (1) labeled sharps container for biohazard material removal at each station;
 - (f) One (1) straight chair in the theory classroom for each student attending the class;
 - (g) One (1) wet disinfectant at each student work station;
 - (h) One (1) enclosed and labeled storage area for clean towels;
 - (i) One (1) covered and labeled container for soiled towels;
 - (j) One (1) covered trash container maintained in a sanitary condition;
 - (k) One (1) enclosed dry sanitary compartment at each student work station;
 - (l) One (1) ultraviolet sanitizer;

- (m) Time sheet/time clock;
 - (n) A minimum of one (1) working restroom; and
 - (o) One (1) blood exposure kit.
- (2) A school of cosmetology offering an aesthetics curriculum shall be equipped with all workable equipment consisting of at least:
- (a) Sufficient facial steamers;
 - (b) One (1) suction machine or a Level I or II Microdermabrasion machine;
 - (c) One (1) light based device with the manufacturer's intended commercial use statement for hair removal and skin enhancement of face and body;
 - (d) Sufficient protective eyewear (glasses) recommended by the manufacturer of laser/light devices for each student and instructor;
 - (e) One (1) LED light with the manufacturers intended use statement for skin improvement;
 - (f) One (1) wax depilatory heater pot with the manufacturer's intended commercial use statement;
 - (g) One (1) hands free magnifying lamp;
 - (h) One (1) hot towel cabinet;
 - (i) One (1) reclining facial chair/table;
 - (j) One (1) electric brushing machine or sonic brushing device;
 - (k) One (1) sink which provides hot and cold running water other than the bathroom;
 - (l) One (1) ultraviolet sanitizer;
 - (m) One (1) covered trash container maintained in a sanitary condition at each teaching station;
 - (n) Sufficient work area for each student;
 - (o) One (1) covered and labeled container for soiled towels;
 - (p) One (1) wet disinfectant;
 - (q) One (1) professional makeup station representing a color matrix palette of makeup products;
 - (r) Sufficient disposable applicators for product application;
 - (s) One (1) skin care product kit containing two (2) products from each category: cleansers, astringent and toners, moisturizer, problem prep, and protective products;
 - (t) One (1) Autoclave instrument sanitizer;
 - (u) One (1) labeled sharps container for biohazard material removal at each station; and
 - (v) One (1) blood exposure kit.

- (3) A school of aesthetics shall be equipped with all workable equipment consisting of at least:
- (a) One (1) work station per student working on the clinic floor;
 - (b) One (1) straight chair in the theory classroom for each student attending class;
 - (c) One (1) wet disinfectant at each student work station;
 - (d) One (1) enclosed and labeled storage area for clean towels;
 - (e) One (1) covered and labeled container for soiled towels;
 - (f) One (1) covered trash container maintained in a sanitary condition at each student work station;
 - (g) One (1) enclosed dry sanitary compartment at each student work station;
 - (h) Time sheet/time clock;
 - (i) A minimum of one (1) working restroom;
 - (j) One (1) blood exposure kit;
 - (k) One (1) labeled sharps container for biohazard material removal at each station;
 - (l) Sufficient facial steamers;
 - (m) One (1) suction machine or a Level I or II Microdermabrasion machine;
 - (n) One (1) light based device with the manufacturer's intended commercial use statement for hair removal and skin enhancement of face and body;
 - (o) Sufficient protective eyewear (glasses) recommended by the manufacturer of laser/light devices for each student and instructor;
 - (p) One (1) LED light with the manufacturers' intended use statement for skin improvement;
 - (q) One (1) wax depilatory heater pot with the manufacturer's intended commercial use statement;
 - (r) One (1) hands free magnifying lamp;
 - (s) One (1) hot towel cabinet;
 - (t) One (1) reclining facial chair/table;
 - (u) One (1) electric brushing machine or sonic brushing device;
 - (v) One (1) sink which provides hot and cold running water other than the bathroom;
 - (w) One (1) ultraviolet sanitizer;
 - (x) One (1) professional makeup station representing a color matrix palette of makeup products;
 - (y) One (1) Autoclave instrument sanitizer;
 - (z) One (1) skin care product kit containing two (2) products from each category: cleansers, astringent and toners, moisturizer, problem prep, and protective products; and

- (aa) Sufficient disposable applicators for product application.
- (4) A school of natural hair styling shall be equipped with all workable equipment consisting of at least:
- (a) One (1) work station with adjustable chair per student working on the clinic floor;
 - (b) One (1) straight chair in the theory classroom for each student attending class;
 - (c) Two (2) shampoo bowls with hot and cold running water and chairs in work area;
 - (d) Two (2) working hooded dryers;
 - (e) One (1) enclosed and labeled storage area 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) dry sanitary compartment at each student work station;
 - (i) One (1) wet disinfectant;
 - (j) One (1) ultraviolet sanitizer;
 - (k) One (1) blood exposure kit;
 - (l) One (1) labeled sharps container for biohazard material removal at each station;
 - (m) A minimum of one (1) working restroom; and
 - (n) A time sheet/time clock.
- (5) A school of manicuring shall be equipped with all workable equipment consisting of at least:
- (a) One (1) manicure table with stool or chair per student working on the clinic floor;
 - (b) One (1) straight chair in the theory classroom for each student attending the class;
 - (c) One (1) dry sanitary compartment at each student work station;
 - (d) One (1) wet disinfectant;
 - (e) One (1) ultraviolet sanitizer;
 - (f) One (1) enclosed and labeled storage area for clean towels;
 - (g) One (1) covered and labeled container for soiled towels;
 - (h) One (1) covered and labeled trash container maintained in a sanitary condition;
 - (i) One (1) sink which provides hot and cold running water in the clinic floor area, excluding the bathroom;
 - (j) One (1) finger bowl per table;
 - (k) One (1) covered container per table for cotton balls and swabs;

- (l) One (1) foot bath per student working on the clinic floor;
 - (m) One (1) blood exposure kit;
 - (n) One (1) labeled sharps container at each student work station for biohazard material removal;
 - (o) A minimum of one (1) working restroom;
 - (p) A sign prominently posted stating that the customer has the right not to have drills used on his or her nails; and
 - (q) A time sheet/time clock.
- (6) Requirements for All Schools Licensed Under T.C.A. Title 62, Chapter 4
- (a) All schools shall have a sign prominently posted stating that all services are performed by students; and
 - (b) All containers for cosmetic and any other products must be properly labeled.
- (7) The Board shall have the authority to approve a school without a restroom facility located therein if the school is located within a mall, strip shopping center, or other commercial property and the school owner can demonstrate shared public restroom facilities are standard for the location.
- (8) Requirements for Instructional Floor Space
- (a) "Instructional floor space" means the floor space of a school designated primarily for the instruction of students and shall not include such spaces as storage, restrooms, utility rooms, passageways, or inhabited administrative spaces such as reception areas, offices and break areas.
 - (b) A school of cosmetology offering a manicuring curriculum shall also be equipped with adequate instructional floor space for manicuring so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
 - (c) A school of cosmetology offering a natural hair styling curriculum shall also be equipped with adequate instructional floor space for natural hair styling so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
 - (d) A school of cosmetology offering an aesthetics curriculum shall also be equipped with adequate instructional floor space for aesthetics so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
- (9) Floor Plan
- (a) A proposed floor plan must be submitted to and approved by the Board before:
 1. Issuance of a license to operate a new school of cosmetology;
 2. Issuance of a license to operate a school of cosmetology whose ownership has changed; or
 3. Reissuance of a license to operate a relocated school of cosmetology;
 - (b) For all schools other than specialized schools as described in subparagraph (4)(c), below, the floor plan shall provide for, and the school shall contain, at least two thousand two hundred square feet (2200 sq. ft.) of instructional floor space, including an enclosed classroom for theory instruction.

- (c) The floor plan for a specialized school solely offering a course of study in aesthetics, manicuring, or natural hair styling shall provide for, and the school shall contain, adequate floor space as determined by the Board.

(10) New School

- (a) A new school shall be closed to the public for ninety (90) days after the issuance of its license unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (b) A branch school shall be considered a new school unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (c) If an existing school requires an expansion campus facility, the facility must be located within two (2) miles of the main campus.

Authority: T.C.A. §§ 62-4-105, 62-4-116, 62-4-117, 62-4-120, and 62-4-122.

0440-01-.02 Change of School Ownership and Relocation is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) The Board shall be notified within ten (10) days of the effective date of any change in ownership or name of a school of cosmetology.
- (2) Substantial changes to a school's physical location shall be deemed a relocation. A new license for a relocated school shall be required following an inspection. Substantial changes include, but are not limited to, a significant increase or reduction in a school's square footage as well as changes to the floor plan, physical walls, and entry doors. The Board shall be notified in writing of any substantial changes no less than thirty (30) days prior to the changes being made.

Authority: T.C.A. §§ 62-4-105 and 62-4-120.

Rule 0440-01-.07 Student Kits is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) Each student, with school assistance, shall be required to have a kit consisting of the following materials after two hundred (200) hours of enrollment in a cosmetology program:
 - (a) Six (6) brushes;
 - (b) Four (4) combs;
 - (c) One (1) razor and one (1) pair of cutting shears and thinning shears;
 - (d) One (1) box of roller clips;
 - (e) One (1) box of clips;
 - (f) Twelve (12) butterfly clips;
 - (g) Six (6) duckbill clips;
 - (h) One (1) theory book (electronic or hard copy);
 - (i) One (1) workbook (electronic or hard copy);
 - (j) Three (3) orangewood sticks;

- (k) One (1) box of emery boards;
 - (l) One (1) cuticle pusher;
 - (m) One (1) finger bowl;
 - (n) One (1) styling cape;
 - (o) One (1) shampoo cape;
 - (p) One (1) nail brush;
 - (q) One (1) mannequin;
 - (r) One (1) odorless acrylic kit;
 - (s) One (1) sanitizable file;
 - (t) One (1) blow dryer;
 - (u) One (1) curling iron;
 - (v) Disposable gloves;
 - (w) Disposable caps;
 - (x) One (1) hand form and holder or two (2) fingers and holder; and
 - (y) One (1) set of instructions to access online laws and rules.
- (2) Each student, with school assistance, shall be required to have a kit consisting of the following materials after one hundred (100) hours of enrollment in a manicuring program:
- (a) One (1) theory book (electronic or hard copy);
 - (b) One (1) workbook (electronic or hard copy);
 - (c) One (1) pair nippers;
 - (d) Three (3) orangewood sticks;
 - (e) One (1) box of emery boards;
 - (f) One (1) cuticle pusher;
 - (g) One (1) finger bowl;
 - (h) One (1) sanitizable file;
 - (i) One (1) nail brush;
 - (j) One (1) polish kit;
 - (k) One (1) hand form and holder;
 - (l) One (1) wet disinfectant;
 - (m) One (1) tweezer;

- (n) One (1) pair manicure scissors;
 - (o) Nail glue;
 - (p) Supplies for nail wraps;
 - (q) Supplies for sculptured nails;
 - (r) Goggles;
 - (s) One (1) hand form and holder or two (2) fingers and holder;
 - (t) One (1) odorless acrylic kit;
 - (u) Disposable gloves; and
 - (v) One (1) set of instructions to access online laws and rules.
- (3) Each student, with school assistance, shall be required to have a kit consisting of the following materials after one hundred fifty (150) hours of enrollment in an aesthetics program:
- (a) One (1) theory book (electronic or hard copy);
 - (b) One (1) workbook (electronic or hard copy);
 - (c) One (1) package cotton swabs;
 - (d) One (1) roll of cotton;
 - (e) One (1) box of tissues;
 - (f) Three (3) spatulas;
 - (g) Two (2) sterilizer jars;
 - (h) One (1) tweezer;
 - (i) One (1) make-up kit;
 - (j) One (1) set of make-up brushes;
 - (k) Two (2) head covers;
 - (l) One (1) set of skin care treatment products to include one (1) container each: cleansing cream, astringent, massage cream, night cream, moisturizer, all-purpose masque;
 - (m) Two (2) disposable bags;
 - (n) One (1) shoulder cape;
 - (o) One (1) bottle alcohol;
 - (p) One (1) pair disposable gloves;
 - (q) Two (2) cups;
 - (r) Two (2) small bowls; and
 - (s) One (1) set of instructions to access online laws and rules.

- (4) Each student, with school assistance, shall be required to have a kit consisting of the following materials after fifty (50) hours of enrollment in a natural hair styling program:
 - (a) One (1) theory book (electronic or hard copy);
 - (b) One (1) workbook (electronic or hard copy);
 - (c) Two (2) mannequins (ethnic hair);
 - (d) Two (2) bags of braiding hair;
 - (e) Two (2) bags of kinky textured hair;
 - (f) One (1) pack of track hair;
 - (g) Four (4) all-purpose combs;
 - (h) One (1) styling cape;
 - (i) One (1) shampoo cape;
 - (j) One (1) plastic pick;
 - (k) Two (2) rat tail combs;
 - (l) One (1) barber comb;
 - (m) One (1) detangle comb;
 - (n) One (1) pair scissors;
 - (o) Thread;
 - (p) One (1) hair weaving needle; and
 - (q) One (1) set of instructions to access online laws and rules.
- (5) It shall be the responsibility of the student to maintain all materials in the kits furnished pursuant to this rule.
- (6) Schools shall have disposable gloves and safety goggles available to all students.

Authority: T.C.A. § 62-4-105.

Rule 0440-01-.11 Teacher Training Programs is amended by changing the heading to "Instructor-training Programs" and by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) An application for approval of an instructor-training program in cosmetology, aesthetics, manicuring, or natural hair styling shall include:
 - (a) A summary of the education and experience of each instructor for the program;
 - (b) The scheduled dates of the program; and
 - (c) The proposed curriculum of the program.
- (2) The applicant shall demonstrate to the satisfaction of the Board that the instructor-training program submitted for approval will:

- (a) Contain at least sixteen (16) hours of actual instruction;
 - (b) Emphasize teaching methodology for its entire duration;
 - (c) Restrict the size of classes sufficiently to ensure adequate attention to all participants;
 - (d) Proceed for not more than two (2) hours without a break;
 - (e) Prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and
 - (f) Conform to professional standards as determined by the Board. This can be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. §§ 62-4 et seq., or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the board.
- (3) Any online, virtual or electronic instructor-training program shall further demonstrate to the satisfaction of the Board that the instructor-training program submitted for approval does not allow one to skip through content and meets at least one (1) of the following qualifications:
- (a) Streamed or real-time presentation that allows the submission of questions, group chat, or solicits responses from licensees through surveys, multiple choice questions, etc.;
 - (b) Requires a unique login; or
 - (c) Monitors licensee participation and includes a testing component that requires a passing grade in order to complete the program.
- (4) Promptly after the completion of an instructor-training program approved by the Board, the sponsor shall send to the Board a roster showing the names, social security number and I.D. number of the persons who attended the program and the number of hours that such persons completed.
- (5) The sponsor shall provide an opportunity for the attendees to evaluate each class and the overall program. The original evaluations shall be forwarded to the office of the Board.

Authority: T.C.A. §§ 62-4-105 and 62-4-114.

Rule 0440-01-.15 Practice By Instructor is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) Continuing Education
- (a) An instructor shall complete at least sixteen (16) hours of actual instruction in order to obtain credit. An instructor shall deduct any time in which the instructor failed to attend the program from the amount of credit sought for attendance.
 - (b) In order for a licensed instructor to obtain credit for taking a continuing education course in a state other than the State of Tennessee, the licensed instructor shall obtain the Board's approval before taking the course by submitting a written request for approval to the Board within sixty (60) days before the licensed instructor intends to take the course. Such written request must include a copy of the course's curriculum.
 - (c) A licensed instructor shall submit a request for an extension of time to complete the instructor-training requirements in writing along with proof showing a medical hardship, a death in the immediate family, or other emergency pursuant to T.C.A. § 62-4-114 prior to the expiration date of the instructor's license.

- (2) An instructor may only practice or teach the discipline in which he or she is licensed; therefore, an instructor may only obtain credit for an instructor-training program in the discipline in which he or she is licensed.
- (3) An instructor who is not granted an extension prior to the expiration date of the certificate of registration and who fails to obtain the required number of continuing education hours shall be denied renewal. The Executive Director shall have discretion to allow the instructor up to one hundred eighty (180) additional days to submit continuing education hours and renew the certificate of registration if a written request is made by the instructor within sixty (60) days following the expiration date of the certificate of registration and the instructor shows a causal connection between a medical illness and failure to obtain the continuing education hours or shows a death in the immediate family.
- (4) If the instructor fails to make a written request within sixty (60) days of the expiration date of the certificate of registration, but makes the request within three hundred sixty-five (365) days following the expiration date of the certificate of registration or does not meet the criteria for Executive Director approval in paragraph (3), the Board shall have the discretion to allow the instructor up to one hundred eighty (180) additional days to submit continuing education hours if the instructor can demonstrate a medical illness, a death in the immediate family or other emergency pursuant to T.C.A. § 62-4-114.
- (5) An instructor who fails to obtain the required number of continuing education hours prior to the expiration date appearing on the certificate of registration and is either not eligible for an extension pursuant to paragraphs (3) and (4) or not granted an extension shall not engage in any activity which requires an instructor's certificate of registration and shall be required to retake the instructor's examination, complete the continuing education hours, and pay any applicable fees in order for the certificate of registration to be reinstated.

Authority: T.C.A. §§ 62-4-105, 62-4-108, and 62-4-114.

Chapter 0440-02
Sanitary Rules

Amendments

Rule 0440-02-.07 Equipment is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

- (1) Every cosmetology shop shall be equipped with at least:
 - (a) One (1) shampoo bowl with hot and cold running water and chair in work area;
 - (b) One (1) enclosed and labeled 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 sanitary compartment;
 - (f) One (1) wet disinfectant;
 - (g) One (1) work station (standard size) for each operator;
 - (h) One (1) ultraviolet sanitizer;
 - (i) One (1) blood exposure kit;
 - (j) A minimum of one (1) working restroom; and
 - (k) One (1) labeled sharps container for biohazard material removal at each station.
- (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 and labeled 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 disinfectant;
 - (h) One (1) ultraviolet sanitizer;
 - (i) One (1) blood exposure kit;
 - (j) A minimum of one (1) working restroom;
 - (k) One (1) sharps container for biohazard material removal at each station;
 - (l) One (1) electric hot towel cabin;

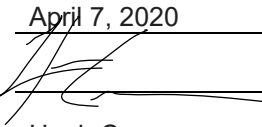
- (m) One (1) facial steamer; and
 - (n) One (1) wax depilatory heater pot with manufacturer's intended commercial use statement.
- (3) Every manicure shop shall be equipped with at least:
- (a) One (1) manicure table with stool or chair, per manicurist;
 - (b) One (1) patron chair;
 - (c) One (1) wet disinfectant;
 - (d) One (1) ultraviolet sanitizer;
 - (e) One (1) enclosed and labeled storage area 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 exposure kit;
 - (m) A minimum of one (1) working restroom;
 - (n) Sign prominently posted stating that the customer has the right not to have drills used on his or her nails; and
 - (o) One (1) labeled sharps container for biohazard material removal at each station.
- (4) Every natural hair stylist shop shall be equipped with at least:
- (a) One (1) shampoo bowl with hot and cold running water and chair in work area;
 - (b) One (1) enclosed and labeled 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 sanitary compartment;
 - (f) One (1) wet disinfectant;
 - (g) One (1) work station (standard size) for each operator;
 - (h) One (1) ultraviolet sanitizer;
 - (i) One (1) blood exposure kit;

- (j) A minimum of one (1) working restroom; and
 - (k) One (1) labeled sharps container for biohazard material removal at each station.
- (5) Every shop shall contain sufficient equipment to enable it to perform all services offered competently and efficiently.
- (a) All equipment must be in working order.
 - (b) All containers for cosmetic and any other products must be properly labeled.
- (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) Unless otherwise licensed as a mobile shop, 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.
- (9) The Board shall have the authority to approve a shop without a restroom facility located therein if the shop is located within a mall, strip shopping center, or other commercial property and the shop owner can demonstrate shared public restroom facilities are standard for the location.

Authority: T.C.A. §§ 62-4-105 and 62-4-125.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: April 7, 2020

Signature: 

Name of Officer: Hugh Cross

Title of Officer: Assistant General Counsel

Department of State Use Only

Filed with the Department of State on: 4/7/2020



Tre Hargett
Secretary of State

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Cancellation of Rulemaking Hearing Form

Agency/Board/Commission:	Tennessee Board of Cosmetology and Barber Examiners
Division:	Regulatory Boards
Contact Person:	Hugh Cross, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, Tenn.
Zip:	37243
Phone:	615-741-3072
Email:	Hugh.Cross@tn.gov

Cancelled Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:			
City:	Nashville, Tenn.		
Zip:	37243		
Hearing Date:	06/01/2020		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

This cancellation refers to the following Notice of Rulemaking Hearing:

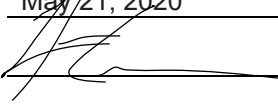
Cancelled Rulemaking Hearing Sequence Number: 04-10-20

Cancelled Rulemaking Hearing File Date: 04/7/2020

Additional Hearing Cancellation Information:

Notice ID(s): 3080-3082

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Date: May 21, 2020
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Name of Officer: Hugh Cross
Title of Officer: Assistant General Counsel