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Sequence Number: 10-16-16
 Notice ID(s): 2622-2623
 File Date: 10/20/16

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:	Laura E. Martin, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, TN 37243
Phone:	6157413072
Email:	Laura.Martin@tn.gov

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
Email:	Don.Coleman@tn.gov

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

Address 1:	Davy Crockett Tower- Room 1A		
Address 2:	500 James Robertson Parkway		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	12/12/2016		
Hearing Time:	10:00 am	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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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
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.01	Definitions
0440-02-.03	Responsibility for Compliance
0440-02-.13	Sanitation and Disinfection

Chapter Number	Chapter Title
0200-03	Sanitary Requirements
Rule Number	Rule Title
0200-03-.14	Responsibility for Compliance

Chapter 0440-02
Sanitary Rules

Amendments

Rule 0440-02-.01 Definitions is amended by adding the new subparagraph (d) so that, as amended, the rule shall read:

- (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, natural hair stylist or shampoo technician;
 - (c) "Shampooing" is cleansing of hair and scalp and includes:
 - 1. brushing and combing;
 - 2. rinsing (includes removal of color, permanents, relaxers and conditioners);
 - 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.
 - (e) "Shop" means a cosmetology shop, manicure shop, skin care shop or natural hair styling shop.
 - (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 and 62-4-105(e).

Rule 0440-02-.03 Responsibility for Compliance is amended by deleting the text of the rule and substituting, instead, the following language so that, as amended, the rule shall read:

- (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 contact information 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 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.

Authority: T.C.A §§ 62-4-105(e), 62-4-118 and 62-4-119. (Authority may change in the event that HB2569/SB2534 is enacted.)

Rule 0440-02-.13 Sanitation and Disinfection is amended by adding the following:

- (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.

Chapter 0200-03
Sanitary Rules

Amendments

Rule 0200-03-.14 Responsibility for Compliance is amended by adding the following language so that, as amended, the rule shall read;

- (1) The manager of an establishment shall be responsible for maintaining all parts thereof in a sanitary condition at all times, and 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 an establishment shall be required to be on the premises at all times barber related 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 contact information 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.
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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: 10/20/16

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 10-20-16

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11-21-17

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Filed with the Department of State on: 10/20/16

Tre Hargett

Tre Hargett
Secretary of State

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Authority: T.C.A §§ 62-4-102 and 62-4-105(e).

Rule 0440-02-.03 Responsibility for Compliance is amended by deleting the text of the rule and substituting, instead, the following language so that, as amended, the rule shall read:

- (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 at all times cosmetology-related, aesthetic or natural hairstyling services are being rendered. 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 contact information 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.~~

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- (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.

Chapter 0200-03
Sanitary Rules

Amendments

Rule 0200-03-.14 Responsibility for Compliance is amended by adding the following language so that, as amended, the rule shall read:

- (1) The manager of an establishment shall be responsible for maintaining all parts thereof in a sanitary condition at all times, and 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 an establishment shall be required to be on the premises at all times barber related 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.

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