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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners
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Revision Type (check all that apply):

☒ Amendment ☐ Content based on previous emergency rule filed on _____
☒ New ☐ Content is identical to the emergency rule
☒ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title
0440-01-.01	Requirements for School License
0440-01-.19	Mobile Shops
Chapter Number	Chapter Title
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.07	Equipment
0440-02-.10	Animals
0440-02-.13	Sanitation and Disinfection
0440-02-.18	Shops Providing Limited Services
Chapter Number	Chapter Title
0200-01	Licensing
Rule Number	Rule Title
0200-01-.01	Requirements For School License
0200-01-.07	Equipment and Location Requirements

Chapter Number	Chapter Title
0200-03	Sanitary Requirements
Rule Number	Rule Title
0200-03-.05	Sanitation and Disinfection
0200-03-.08	Wet Containers
0200-03-.09	Dry Compartments
0200-03-.15	Animals
0200-03-.17	Shops Providing Limited Services

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0440-01
Licensing
Amendments

0440-01-.01 Requirements For School License is amended by deleting the text of paragraphs (1) to (5) of the rule only and substituting the following so that as amended paragraphs (1) to (5) shall read as follows.

0440-01-.01 Requirements For School License.

- (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) straight chair in the theory classroom for each student attending the class;
 - (f) One (1) wet disinfectant at each student work station;
 - (g) One (1) enclosed and labeled storage area for clean towels;
 - (h) One (1) covered and labeled container for soiled towels;
 - (i) One (1) covered trash container maintained in a sanitary condition;
 - (j) One (1) enclosed dry sanitary compartment at each student work station;
 - (k) One (1) ultraviolet sanitizer;
 - (l) Time sheet/time clock;
 - (m) A minimum of one (1) working restroom; and
 - (n) One (1) first aid 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; and
 - (u) One (1) first aid 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) first aid kit;
 - (k) Sufficient facial steamers;
 - (l) One (1) suction machine or a Level I or II Microdermabrasion machine;
 - (m) One (1) light based device with the manufacturer's intended commercial use statement for hair removal and skin enhancement of face and body;
 - (n) Sufficient protective eyewear (glasses) recommended by the manufacturer of laser/light devices for each student and instructor;
 - (o) One (1) LED light with the manufacturers' intended use statement for skin improvement;
 - (p) One (1) wax depilatory heater pot with the manufacturer's intended commercial use statement;
 - (q) One (1) hands free magnifying lamp;

- (r) One (1) hot towel cabinet;
 - (s) One (1) reclining facial chair/table;
 - (t) One (1) electric brushing machine or sonic brushing device;
 - (u) One (1) sink which provides hot and cold running water other than the bathroom;
 - (v) One (1) ultraviolet sanitizer;
 - (w) One (1) professional makeup station representing a color matrix palette of makeup products;
 - (x) One (1) Autoclave instrument sanitizer;
 - (y) One (1) skin care product kit containing two (2) products from each category: cleansers, astringent and toners, moisturizer, problem prep, and protective products; and
 - (z) 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) first aid kit;
 - (l) A minimum of one (1) working restroom; and
 - (m) 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) first aid kit;
 - (n) A minimum of one (1) working restroom;
 - (o) A sign prominently posted stating that the customer has the right not to have drills used on his or her nails; and
 - (p) A time sheet/time clock.

0440-01-.19 Mobile Shops is amended by deleting the text of paragraph (5) of the rule only and substituting the following so that as amended paragraph (5) shall read as follows.

0440-01-.19 Mobile Shops.

(5) Equipment Required

- (a) In lieu of any equipment required for a barber, cosmetology or dual shop, all mobile shops shall be required to have:
 - 1. One (1) shampoo bowl with hot and cold running water in work area and chair;
 - 2. One (1) enclosed storage area for clean towels;
 - 3. One (1) covered and labeled container for soiled towels;
 - 4. One (1) covered and labeled trash container maintained in a sanitary condition;
 - 5. One (1) dry sterilizer, with fumigant, or sanitary compartment;
 - 6. One (1) wet sterilizer;
 - 7. One (1) work station (standard size) for each operator;
 - 8. One (1) ultra violet sanitizer; and
 - 9. One (1) first aid kit.
- (b) In addition to the requirements of subparagraph (5)(a), a mobile shop offering skin care services shall also be required to have:
 - 1. One (1) sink which provides hot and cold running water in the work area;
 - 2. One (1) hands free magnifying lamp;
 - 3. One (1) enclosed storage area for clean towels;
 - 4. One (1) covered and labeled container for soiled towels;
 - 5. One (1) covered and labeled trash container maintained in a sanitary condition;
 - 6. One (1) reclining facial chair/table;

7. One (1) wet sterilizer for the equipment used;
 8. One (1) ultra violet sanitizer;
 9. One (1) first aid kit;
 10. One (1) electric hot towel cabin;
 11. One (1) facial steamer; and
 12. One (1) wax depilatory heater pot with manufacturer's intended commercial use statement.
- (c) In addition to the requirements of subparagraph (5)(a), a mobile shop offering manicure services shall also be required to have:
1. One (1) manicure table with stool or chair, per manicurist;
 2. One (1) wet sterilizer for equipment used;
 3. One (1) finger bowl per table;
 4. One (1) covered container per table for cotton balls and swabs;
 5. One (1) foot bath if pedicures are offered; and
 6. One (1) sign prominently posted stating that the customer has the right not to have drills used on his or her nails.
- (d) The executive director to the Board may, in his/her discretion, waive one or more of the foregoing equipment requirements to accommodate mobile shops offering limited services. If services offered change, the mobile shop is required to complete a new application and receive a new inspection.

Authority: T.C.A. §§ 62-3-109, 62-3-111, 62-3-124, 62-4-105, 62-4-119, 62-4-125 and 62-4-138.

Chapter 0440-02
Sanitary Rules
Amendments

The Table of Contents for Chapter 0440-02 is amended by adding 0440-02-.18 "Shops Providing Limited Services" so that, as amended, the Table of Contents shall read:

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

**CHAPTER 0440-02
SANITARY RULES**

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0440-02-.07 Equipment is amended by deleting the text of paragraphs (1) to (4) of the rule only and substituting the following so that as amended paragraphs (1) to (4) shall read as follows.

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 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) first aid kit; and
 - (j) A minimum of one (1) working restroom.

- (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) first aid kit;
 - (j) A minimum of one (1) working restroom;
 - (k) One (1) electric hot towel cabin;
 - (l) One (1) facial steamer; and
 - (m) 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) first aid kit;
 - (m) A minimum of one (1) working restroom; and
 - (n) Sign prominently posted stating that the customer has the right not to have drills used on his or her nails.
- (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) first aid kit; and
- (j) A minimum of one (1) working restroom.

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

0440-02-.10 Animals is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0440-02-.10 Animals.

- (1) Animals permitted or prohibited in shops, including fish for decorative purposes and birds in cages, shall be controlled by T.C.A. Title 62, Chapter 4, including § 62-4-137.

Authority: T.C.A. §§ 62-4-105, 62-4-125, and 62-4-137.

0440-02-.13 Sanitation and Disinfection is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0440-02-.13 Sanitation and Disinfection.

- (1) No licensee or student shall commence work on any patron before:
 - (a) Washing hands with soap and water; and
 - (b) Placing around the patron's neck a clean cape.
- (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 disinfectant that is mixed and used according to the manufacturer's directions.
 - (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, hospital grade, bactericidal, virucidal, fungicidal disinfectant effective against HIV-1 and Hepatitis B Virus mixed and used according to the manufacturer's direction.
 - (c) A Licensee 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 a service.
 - (d) Every disinfecting solution container must be clean and filled with an EPA registered, bactericidal, virucidal, fungicidal disinfectant that is mixed and used according to the manufacturer's directions.
- (3) Dry Disinfection Standard
 - (a) Disinfected implements must be stored in a disinfected, dry, covered container.
- (4) Before use, manicuring instruments must be cleaned with soap and water, and completely immersed in an EPA registered bactericidal, virucidal, fungicidal disinfectant mixed and used according to the manufacturer's directions.
- (5) Foot Bath

- (a) Foot baths shall be cleaned with soap and water and disinfected with an EPA registered, bactericidal, virucidal disinfectant that is mixed and used according to the manufacturer's directions.
 - (b) The filters and jets shall be flushed, cleaned with soap and water and an EPA registered, bactericidal, virucidal, fungicidal disinfectant circulated through the machine in accordance with the manufacturer's directions.
- (6) Towels
 - (a) A separate, clean towel shall be provided for each patron.
 - (b) Headrests shall be covered with a separate, clean towel or paper for each patron.
 - (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.
- (7) Combs
 - (a) Each licensee shall have a sufficient number of combs to allow for proper disinfection.
 - (b) No operator shall carry combs or other instruments in the pockets of clothing.
- (8) Powders, Lotions and Creams
 - (a) Powders and lotions must be applied with a clean applicator and disposed of immediately after each use.
 - (b) Creams and other semi-solid substances must be removed from their containers with a clean spatula (or similar device), which is disinfected or disposed of immediately after use.
- (9) After exposure to blood or bodily fluids, licensee shall immediately wash hands with soap and water and use hand sanitizer or antiseptic.
- (10) All equipment, shampoo basins, furnishing and work surfaces must be kept in good repair, and disinfected after each service.
- (11) All disposable blades used in razors, safety razors, and/or razor heads must be replaced with a new blade for each patron.

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

Chapter 0440-02
Sanitary Rules
New Rule

0440-02-.18 Shops Providing Limited Services is added to Chapter 0440-02 Sanitary Rules and shall read:

0440-02-.18 Shops Providing Limited Services.

- (1) The executive director to the Board may, in his/her discretion, waive one or more of the equipment requirements as provided in this chapter to accommodate shops offering limited services. A request for such a waiver must be made in writing by the applicant, on forms prescribed by the Board, and shall specifically identify the equipment that the applicant desires to omit and the reasons that the omitted equipment is not necessary for the limited services provided. If the services offered change, the applicant shall complete a new application and receive a new inspection.
- (2) Any shop issued a waiver of the equipment requirements shall meet all other requirements listed in this chapter and pay the fees set out in Rule 0440-01-.13.

Authority: T.C.A. § 62-4-105.
SS-7039 (November 2022)

Chapter 0200-01
Licensing
Amendments

0200-01-.01 Requirements For School License is amended by deleting the text of paragraph (1) of the rule only and substituting the following so that as amended paragraph (1) shall read as follows.

0200-01-.01 Requirements For School License.

- (1) The Board of Cosmetology and Barber Examiners (hereinafter the "Board") 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; and
 - (o) One (1) first aid kit.

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

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

0200-01-.07 Equipment and Location Requirements.

- (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 trash container maintained in a sanitary condition;
 - (g) One (1) working restroom;
 - (h) One (1) wet disinfectant solution container per barber chair; and
 - (i) One (1) ultraviolet sanitizer.
- (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) clean 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) first aid kit;
 - (k) Extra disposable gloves;

- (l) One (1) bottle of alcohol;
 - (m) Hand sanitizer;
 - (n) Cotton balls;
 - (o) Cotton swabs; and
 - (p) A portable shampoo bowl, if required under Paragraph (8).
- (8) A portable shampoo bowl shall only 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.

Chapter 0200-03
Sanitary Requirements
Amendments

The Table of Contents for Chapter 0200-03 is amended by redesignating 0200-03-.08 "Wet Containers" as "Wet Disinfection Containers" and by adding 0200-03-.17 "Shops Providing Limited Services" and by adding "Repealed" to 0200-03-.09 so that, as amended, the Table of Contents shall read:

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

**CHAPTER 0200-03
SANITARY REQUIREMENTS**

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0200-03-.05 Sanitation and Disinfection is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.05 Sanitation and Disinfection.

- (1) No licensee or student shall commence work on any patron before:
 - (a) Washing hands with soap and water; and
 - (b) Placing around the patron's neck a clean cape.
- (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 disinfectant that is mixed and used according to the manufacturer's directions.
- (3) Dry Disinfection Standard.
 - (a) 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, hospital grade, bactericidal, virucidal, fungicidal disinfectant effective against HIV-1 and Hepatitis B Virus mixed and used according to the manufacturer's direction.
 - (b) Disinfected implements must be stored in a disinfected, dry, covered container.
- (4) A licensee 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 a service.
- (5) Before use, manicuring instruments must be cleaned with soap and water, and completely immersed in an EPA registered bactericidal, virucidal, fungicidal disinfectant mixed and used according to the manufacturer's directions.
- (6) Footbath.
 - (a) Foot baths shall be cleaned with soap and water and disinfected with an EPA registered, bactericidal, virucidal disinfectant that is mixed and used according to the manufacturer's directions.
 - (b) The filters and jets shall be flushed, cleaned with soap and water and an EPA registered, bactericidal, virucidal, fungicidal disinfectant circulated through the machine in accordance with the manufacturer's directions.
- (7) Towels.
 - (a) A separate, clean towel shall be provided for each patron.
 - (b) Headrests shall be covered with a separate, clean towel or paper for each patron.
 - (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.
 - (a) Each licensee shall have a sufficient number of combs to allow for proper disinfection.
 - (b) No operator shall carry combs or other instruments in the pockets of clothing.
- (9) Powders, Lotions and Creams.
 - (a) Powders and lotions must be applied with a clean applicator and disposed of immediately after each use.
 - (b) Creams and other semi-solid substances must be removed from their container with a clean spatula (or similar device), which is disinfected or disposed of immediately after use.
- (10) After exposure to blood or bodily fluids, licensee shall immediately wash hands with soap and water and use hand sanitizer or antiseptic.
- (11) All equipment, shampoo basins, furnishing and work surfaces must be kept in good repair, and disinfected after each service.

0200-03-.08 Wet Containers is amended by redesignating "Wet Containers" as "Wet Disinfection Containers" and by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.08 Wet Disinfection Containers.

- (1) Every disinfecting solution container must be clean and filled with an EPA registered, bactericidal, virucidal, fungicidal disinfectant that is mixed and used according to the manufacturer's directions.

Authority: T.C.A. § 62-3-128.

0200-03-.09 Dry Compartments is amended by repealing the rule in its entirety so that as amended the rule shall read:

0200-03-.09 REPEALED.

Authority: T.C.A. § 62-3-128.

0200-03-.15 Animals is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.15 Animals.

- (1) Animals permitted or prohibited in shops, including fish for decorative purposes and birds in cages, shall be controlled by T.C.A. Title 62, Chapter 3, including § 62-3-132.

Authority: T.C.A. §§ 62-3-128 and 62-3-132.

Chapter 0200-03
Sanitary Requirements
New Rule

0200-03-.17 Shops Providing Limited Services is added to Chapter 0200-03 Sanitary Requirements and shall read:

0200-03-.17 Shops Providing Limited Services.

- (1) The executive director to the Board may, in his/her discretion, waive one or more of the equipment requirements as provided in this chapter to accommodate shops offering limited services. A request for such a waiver must be made in writing by the applicant, on forms prescribed by the Board, and shall specifically identify the equipment that the applicant desires to omit and the reasons that the omitted equipment is not necessary for the limited services provided. If the services offered change, the applicant shall complete a new application and receive a new inspection.
- (2) Any shop issued a waiver of the equipment requirements shall meet all other requirements listed in this chapter and pay the fees set out in Rule 0200-01-.11.

Authority: T.C.A. § 62-4-105.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ron R. Gillihan II	X				
Rebecca M. Russell				X	
Monica Lemons	X				
Judy McAllister	X				
Patricia Parsons	X				
Mona Sappenfield				X	
Frank Gambuzza	X				
Amy Tanksley	X				
Anita Charlton	X				
Kimberly Ray				X	
Jeffery Moran	X				
Layne Petty	X				
Vacant	N/A	N/A	N/A	N/A	N/A
Vacant	N/A	N/A	N/A	N/A	N/A

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Cosmetology and Barber Examiners (board/commission/other authority) on 10/03/2022 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: (07/27/2022)

Rulemaking Hearing(s) Conducted on: (add more dates). (10/03/2022)

Date: May 17, 2023

Signature: 

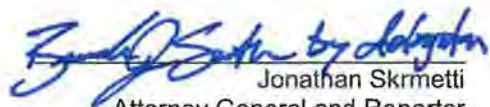
Name of Officer: Hugh Cross

Title of Officer: Assistant General Counsel

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners

Rule Chapter Number(s):
 0440-01 Licensing
 0440-02 Sanitary Rules
 0200-01 Licensing
 0200-03 Sanitary Requirements

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


 Jonathan Skrametti
 Attorney General and Reporter

10-16-23

Date

Department of State Use Only

Filed with the Department of State on: 10/16/2023

Effective on: 1/14/2024



Tre Hargett
Secretary of State

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Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comments made at the rulemaking hearing.

Three (3) public comments were made at the rulemaking hearing.

Comment 1: Ms. Barbara Ann LeNoble asked for clarification regarding removing neck strips as a requirement for use in shops and expressed the concern that students in shops may only have one (1) or two (2) capes.

Response 1: Chairman Ron Gillihan provided the following response during the hearing: The rule has been changed from requiring a neck strip or a towel. The new requirement is simply a clean cape, and that capes should be cleaned using the correct disinfection or sanitation technique to each cape according to the manufacturer's and textbook directions. Chairman Gillihan also stated that licensees are not being prohibited from using neck strips, only that they will no longer be a requirement.

Comment 2: Ms. Barbara Ann LeNoble asked for clarification regarding the vocabulary changes between the terms "sanitation" and "disinfectant."

Response 2: Chairman Ron Gillihan provided the following response during the hearing: Where the new rule indicates "sanitation" that is what is being required. Chairman Gillihan states, where the new rule indicates "disinfection" that is what is being required. "Sanitation" and "disinfection" refer to a slightly different process, and the changes were made to meet current industry standards.

Comment 3: Board member Amy Tanksley asked for clarification regarding the approval process for limited-service shops or salons. Ms. Tanksley wanted more information on how inspectors will know whether a limited-service shop or salon has a valid equipment waiver for any omitted equipment.

Response 3: Executive Director Roxana Gumucio provided the following response during the hearing: The inspection process will not be an issue. The inspectors will be given all documentation needed to determine which equipment, if any, has been waived/omitted for a particular shop or salon. Once a limited-service shop or salon has been approved to waive certain equipment based on the services provided, they will be issued a waiver form. The inspector will also have the waiver form showing the omitted equipment. When the inspector enters the shop for inspection, the inspector will refer to the waiver form to determine what equipment has been waived/omitted from the equipment list.

Comments made in advance of the rulemaking hearing.

Zero (0) comments were submitted in advance.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rules do not affect small businesses directly. The Board does not anticipate the rules to directly impact small businesses. However, these rules will incentivize small business shops to open by reducing the equipment required which will notably off-set the expenses. The promulgation of these rules may allow small businesses operating as a limited-service shop to significantly reduce operating expenses by creating an option to waive equipment that is unnecessary for the services being provided. The Department knows of no other less restrictive or burdensome means than through the promulgation of these rules as amended. The proposed rules would require minimal, if any, costs for compliance. The Department is not aware of similar rules or regulation in other jurisdictions. These rules are designed to reduce the cost for limited-service shops regardless of whether the limited-service shop would be considered a small business. However, there will likely be reduced costs for all shops to purchase equipment.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The Department does not anticipate impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules remove the requirement for shops to maintain a sharps container as part of the equipment required for shops. The purpose behind this change is most shops do not offer services which require use of sharps containers and requiring a sharps container is excessively burdensome to licensees to purchase and maintain. The proposed rules also grant the Executive Director the authority to waive equipment requirements for shops offering limited services. Limited-service shops are distinguished from full-service shops as they offer a smaller selection of services. The purpose behind this change is to allow flexibility in equipment requirements for limited-service shops such that limited-service shops will only be required to purchase and maintain equipment needed for the services offered. The current rules require all shops to have the same equipment regardless of services provided. This results in unnecessary equipment requirements for shops providing limited services that often comes at considerable expense. Under the new rules, a request for such a waiver must be made in writing by the applicant and specifically identify the equipment that the applicant desires to omit and must include the reasons that the omitted equipment is not necessary for the limited services provided. This change will reduce burden on shops offering limited services by only requiring the equipment needed to perform their limited services. The proposed rules also provide essential clarification in terminology such as replacing "sterilize" with "disinfectant" and "blood exposure kits/blood spill kits" with "first aid kits" to make the language more appropriate for the industry.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no known federal law or regulation or any state law or regulation mandating promulgation of these proposed rules.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rules related to equipment waivers/changes impacts current and future shop licensees for limited-service shops, as well as any shop currently required to purchased and maintain a sharps container. The rules related to changes in terminology affect all licensees. The Board does not foresee a particular segment of opponents to these rules. The Board expects a positive response to these rules from licensees and industry stakeholders as these changes better reflect current industry practices such as distinguishing limited-service shops from full-service shops by allowing flexibility in the equipment required, as well as providing essential changes in terminology to make the language more appropriate for the industry.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial ruling that relates directly to these proposed rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The Board anticipates minimal impact to state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Hugh Cross, Assistant General Counsel for the Tennessee Board of Cosmetology and Barber Examiners
Roxana Gumucio, Executive Director for the Tennessee Board of Cosmetology and Barber Examiners

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Hugh Cross, Assistant General Counsel for the Tennessee Board of Cosmetology and Barber Examiners
Roxana Gumucio, Executive Director for the Tennessee Board of Cosmetology and Barber Examiners

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Board of Cosmetology & Barber Examiners
Department of Commerce & Insurance, Division of Regulatory Boards
Hugh Cross, Assistant General Counsel
500 James Robertson Parkway
(615) 741-3072
Hugh.Cross@TN.gov

Tennessee Board of Cosmetology & Barber Examiners
Department of Commerce & Insurance, Division of Regulatory Boards
Roxana Gumucio, Executive Director
500 James Robertson Parkway
(615) 532-7081
Roxana.Gumucio@TN.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no additional information relevant to these proposed rules for continuation that the committee requests.

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Sequence Number: _____

Rule ID(s): _____

File Date: _____

Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form- Redline

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners
Division: Department of Commerce and Insurance
Contact Person: Hugh Cross, Assistant General Counsel
Address: 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-3072
Email: Hugh.Cross@TN.gov

Revision Type (check all that apply):

☒ Amendment ☐ Content based on previous emergency rule filed on _____
☒ New ☐ Content is identical to the emergency rule
☒ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title
0440-01-.01	Requirements for School License
0440-01-.19	Mobile Shops
Chapter Number	Chapter Title
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.07	Equipment
0440-02-.10	Animals
0440-02-.13	Sanitation and Disinfection
0440-02-.18	Shops Providing Limited Services
Chapter Number	Chapter Title
0200-01	Licensing
Rule Number	Rule Title

0200-01-.01	Requirements For School License
0200-01-.07	Equipment and Location Requirements
Chapter Number	Chapter Title
0200-03	Sanitary Requirements
Rule Number	Rule Title
0200-03-.05	Sanitation and Disinfection
0200-03-.08	Wet Containers
0200-03-.09	Dry Compartments
0200-03-.15	Animals
0200-03-.17	Shops Providing Limited Services

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

<https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0440-01
Licensing
Amendments

0440-01-.01 Requirements For School License is amended by deleting the text of paragraphs (1) to (5) of the rule only and substituting the following so that as amended paragraphs (1) to (5) shall read as follows.

0440-01-.01 Requirements For School License.

- (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)~~ (e) One (1) straight chair in the theory classroom for each student attending the class;
 - ~~(g)~~ (f) One (1) wet disinfectant at each student work station;
 - ~~(h)~~ (g) One (1) enclosed and labeled storage area for clean towels;
 - ~~(i)~~ (h) One (1) covered and labeled container for soiled towels;
 - ~~(j)~~ (i) One (1) covered trash container maintained in a sanitary condition;
 - ~~(k)~~ (j) One (1) enclosed dry sanitary compartment at each student work station;
 - ~~(l)~~ (k) One (1) ultraviolet sanitizer;
 - ~~(m)~~ (l) Time sheet/time clock;
 - ~~(n)~~ (m) A minimum of one (1) working restroom; and

(e) (n) One (1) ~~blood-exposure~~ first aid 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; and

~~(u) — One (1) labeled sharps container for biohazard material removal at each station; and~~

~~(v)~~ (u) One (1) blood-exposure first aid 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 first aid kit;

~~(k) — One (1) labeled sharps container for biohazard material removal at each station;~~

~~(l)~~ (k) Sufficient facial steamers;

~~(m)~~ (l) One (1) suction machine or a Level I or II Microdermabrasion machine;

~~(n)~~ (m) One (1) light based device with the manufacturer's intended commercial use statement for hair removal and skin enhancement of face and body;

~~(o)~~ (n) Sufficient protective eyewear (glasses) recommended by the manufacturer of laser/light devices for each student and instructor;

- ~~(p)~~ (o) One (1) LED light with the manufacturers' intended use statement for skin improvement;
- ~~(q)~~ (p) One (1) wax depilatory heater pot with the manufacturer's intended commercial use statement;
- ~~(r)~~ (q) One (1) hands free magnifying lamp;
- ~~(s)~~ (r) One (1) hot towel cabinet;
- ~~(t)~~ (s) One (1) reclining facial chair/table;
- ~~(u)~~ (t) One (1) electric brushing machine or sonic brushing device;
- ~~(v)~~ (u) One (1) sink which provides hot and cold running water other than the bathroom;
- ~~(w)~~ (v) One (1) ultraviolet sanitizer;
- ~~(x)~~ (w) One (1) professional makeup station representing a color matrix palette of makeup products;
- ~~(y)~~ (x) One (1) Autoclave instrument sanitizer;
- ~~(z)~~ (y) 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)~~ (z) 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~~ first aid kit;

~~(l) — One (1) labeled sharps container for biohazard material removal at each station;~~

~~(m)~~ (l) A minimum of one (1) working restroom; and

~~(n)~~ (m) 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~~ first aid kit;
- ~~(n) One (1) labeled sharps container at each student work station for biohazard material removal;~~
- ~~(e)~~ (n) A minimum of one (1) working restroom;
- ~~(p)~~ (o) A sign prominently posted stating that the customer has the right not to have drills used on his or her nails; and
- ~~(q)~~ (p) A time sheet/time clock.

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

0440-01-.19 Mobile Shops is amended by deleting the text of paragraph (5) of the rule only and substituting the following so that as amended paragraph (5) shall read as follows.

0440-01-.19 Mobile Shops.

(5) Equipment Required

- (a) In lieu of any equipment required for a barber, cosmetology or dual shop, all mobile shops shall be required to have:
 1. One (1) shampoo bowl with hot and cold running water in work area and chair;
 2. One (1) enclosed storage area for clean towels;
 3. One (1) covered and labeled container for soiled towels;
 4. One (1) covered and labeled trash container maintained in a sanitary condition;
 5. One (1) dry sterilizer, with fumigant, or sanitary compartment;
 6. One (1) wet sterilizer;
 7. One (1) work station (standard size) for each operator;
 8. One (1) ultra violet sanitizer; and
 9. One (1) ~~blood-spill~~ first aid kit.

(b) In addition to the requirements of subparagraph (5)(a), a mobile shop offering skin care services shall also be required to have:

1. One (1) sink which provides hot and cold running water in the work area;
2. One (1) hands free magnifying lamp;
3. One (1) enclosed storage area for clean towels;
4. One (1) covered and labeled container for soiled towels;
5. One (1) covered and labeled trash container maintained in a sanitary condition;
6. One (1) reclining facial chair/table;
7. One (1) wet sterilizer for the equipment used;
8. One (1) ultra violet sanitizer;
9. One (1) ~~blood-spill~~ first aid kit;

~~10. One (1) sharps container for biohazard material removal;~~

~~11.~~ 10. One (1) electric hot towel cabin;

~~12.~~ 11. One (1) facial steamer; and

~~13.~~ 12. One (1) wax depilatory heater pot with manufacturer's intended commercial use statement.

(c) In addition to the requirements of subparagraph (5)(a), a mobile shop offering manicure services shall also be required to have:

1. One (1) manicure table with stool or chair, per manicurist;
2. One (1) wet sterilizer for equipment used;
3. One (1) finger bowl per table;
4. One (1) covered container per table for cotton balls and swabs;
5. One (1) foot bath if pedicures are offered; and

6. One (1) sign prominently posted stating that the customer has the right not to have drills used on his or her nails.
- (d) The executive director to the Board may, in his/her discretion, waive one or more of the foregoing equipment requirements to accommodate mobile shops offering limited services. If services offered change, the mobile shop is required to complete a new application and receive a new inspection.

Authority: T.C.A. §§ 62-3-109, 62-3-111, 62-3-124, 62-4-105(e), 62-4-119, 62-4-125 and 62-4-138.

Chapter 0440-02
Sanitary Rules
Amendments

The Table of Contents for Chapter 0440-02 is amended by adding 0440-02-.18 "Shops Providing Limited Services" so that, as amended, the Table of Contents shall read:

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

**CHAPTER 0440-02
SANITARY RULES**

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0440-02-.04 Posting of Rules and Licenses	0440-02-.13 Sanitation and Disinfection
0440-02-.05 Inspections	0440-02-.14 Trash Containers
0440-02-.06 Facilities	0440-02-.15 Alcoholic Beverages
0440-02-.07 Equipment	0440-02-.16 Skin Peeling and Invasive Procedures
0440-02-.08 Attire	0440-02-.17 Prohibited Hazardous Substances and Use of Products
0440-02-.09 Laundry Work	0440-02-.18 Shops Providing Limited Services

0440-02-.07 Equipment is amended by deleting the text of paragraphs (1) to (4) of the rule only and substituting the following so that as amended paragraphs (1) to (4) shall read as follows.

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 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-spill~~ first aid kit; and
- (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~~ first aid kit;
- (j) A minimum of one (1) working restroom;
- ~~(k) — One (1) labeled sharps container for biohazard material removal at each station;~~
- ~~(k)~~ (k) One (1) electric hot towel cabin;
- ~~(m)~~ (l) One (1) facial steamer; and
- ~~(n)~~ (m) 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~~ first aid kit;
- (m) A minimum of one (1) working restroom; ~~and~~
- (n) Sign prominently posted stating that the customer has the right not to have drills used on his or her nails; ~~and~~.

~~(e) — 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-spill~~ first aid kit; ~~and~~
 - (j) A minimum of one (1) working restroom; ~~and~~.

~~(k) — One (1) labeled sharps container for biohazard material removal at each station;~~

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

0440-02-.10 Animals is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

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. Animals permitted or prohibited in shops, including fish for decorative purposes and birds in cages, shall be controlled by T.C.A. Title 62, Chapter 4, including § 62-4-137.~~

Authority: T.C.A. §§ 62-4-105~~(e)~~, 62-4-125, ~~and 62-4-125(a)~~, and 62-4-137.

0440-02-.13 Sanitation and Disinfection is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0440-02-.13 Sanitation and Disinfection.

- (1) No licensee or student shall commence work on any patron before:
 - (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~~ clean 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.~~ 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 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.~~ 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, hospital grade, bactericidal, virucidal, fungicidal disinfectant effective against HIV-1 and Hepatitis B Virus mixed and used according to the manufacturer's direction.
 - (c) ~~Disinfected implements must be stored in a disinfected, dry, covered container.~~ A Licensee 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 a service.
 - (d) Every disinfecting solution container must be clean and filled with an EPA registered, bactericidal, virucidal, fungicidal disinfectant that is mixed and used according to the manufacturer's directions.
- (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.~~ Dry Disinfection Standard
 - (a) Disinfected implements must be stored in a disinfected, dry, covered container.
- (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.~~ Before use, manicuring instruments must be cleaned with soap and water, and completely immersed in an EPA registered bactericidal, virucidal, fungicidal disinfectant mixed and used according to the manufacturer's directions.
- ~~(5) —When not in use, manicuring instruments must be dried and kept in a cabinet sanitizer.~~

~~(6)~~(5)Foot Bath

- (a) ~~A foot bath shall be cleaned and disinfected after each use.~~ Foot baths shall be cleaned with soap and water and disinfected with an EPA registered, bactericidal, virucidal disinfectant that is mixed and used according to the manufacturer's directions.

- (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 of a hospital grade tuberculocidal disinfectant circulated through the machine for the minimum time recommended by the manufacturer.~~ The filters and jets shall be flushed, cleaned with soap and water and an EPA registered, bactericidal, virucidal, fungicidal disinfectant circulated through the machine in accordance with the manufacturer's directions.

~~(7)~~(6) Towels

- (a) A separate, clean towel shall be provided for each patron.
- (b) ~~The headrests~~Headrests shall be covered with a separate, clean towel or paper for each customer patron.
- (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)~~(7) Combs

- (a) Each operator licensee shall have a sufficient number of combs to allow for proper sanitation disinfection.
- (b) No operator shall carry combs or other instruments in the pockets of his or her uniform of clothing.

~~(9)~~(8) 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~~ a clean applicator and disposed of immediately after each 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~~ disinfected or disposed of immediately after use.

~~(10)~~(9) ~~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.~~ After exposure to blood or bodily fluids, licensee shall immediately wash hands with soap and water and use hand sanitizer or antiseptic.

~~(11)~~(10) ~~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.~~ All equipment, shampoo basins, furnishing and work surfaces must be kept in good repair, and disinfected after each service.

~~(12)~~(11) ~~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.~~ All disposable blades used in razors, safety razors, and/or razor heads must be replaced with a new blade for each patron.

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

Chapter 0440-02
Sanitary Rules
New Rule

0440-02-.18 Shops Providing Limited Services is added to Chapter 0440-02 Sanitary Rules and shall read:

0440-02-.18 Shops Providing Limited Services.

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RDA 1693

- (1) The executive director to the Board may, in his/her discretion, waive one or more of the equipment requirements as provided in this chapter to accommodate shops offering limited services. A request for such a waiver must be made in writing by the applicant, on forms prescribed by the Board, and shall specifically identify the equipment that the applicant desires to omit and the reasons that the omitted equipment is not necessary for the limited services provided. If the services offered change, the applicant shall complete a new application and receive a new inspection.
- (2) Any shop issued a waiver of the equipment requirements shall meet all other requirements listed in this chapter and pay the fees set out in Rule 0440-01-.13.

Authority: T.C.A. § 62-4-105.

Chapter 0200-01
Licensing
Amendments

0200-01-.01 Requirements For School License is amended by deleting the text of paragraph (1) of the rule only and substituting the following so that as amended paragraph (1) shall read as follows.

0200-01-.01 Requirements For School License.

- (1) The Board of Cosmetology and Barber Examiners (hereinafter the "Board") 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, ~~adequately spaced;~~
 - (d) Two (2) manicure stations;
 - (e) Two (2) hooded dryers;
 - (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) 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 ~~T~~time sheet/time clock; and
 - (o) One (1) ~~blood-exposure~~ first aid kit; ~~and.~~
 - ~~(p) One (1) labeled sharps container at each student work station for biohazard material removal;~~

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

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

0200-01-.07 Equipment and Location Requirements.

- (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 trash container ~~for trash,~~ maintained in a sanitary condition;
 - (g) One (1) working restroom;
 - (h) One (1) wet disinfectant solution container per barber chair; and
 - (i) One (1) ultraviolet sanitizer; ~~and.~~
 - ~~(j) One (1) labeled sharps container for biohazard material 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~~ clean 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~~ first aid kit;
- (k) Extra disposable gloves;
- (l) One (1) bottle of alcohol;
- (m) Hand sanitizer;
- (n) Cotton balls;
- (o) Cotton swabs; and

~~(p) — One (1) sharps container for biohazard material removal;~~

~~(q) — Neck strips; and~~

~~(r)~~ (p) A portable shampoo bowl, if required under Paragraph (8).

- (8) A portable shampoo bowl shall only 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.

Chapter 0200-03 Sanitary Requirements Amendments

The Table of Contents for Chapter 0200-03 is amended by redesignating 0200-03-.08 "Wet Containers" as "Wet Disinfection Containers " and by adding 0200-03-.17 "Shops Providing Limited Services" and by adding "Repealed" to 0200-03-.09 so that, as amended, the Table of Contents shall read:

RULES OF THE TENNESSEE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

CHAPTER 0200-03 SANITARY REQUIREMENTS

TABLE OF CONTENTS

0200-03-.01 Applicability
0200-03-.02 Violations
SS-7039 (November 2022)

0200-03-.09 ~~Dry Compartments~~ Repealed
0200-03-.10 Lavatories and Shampoo Bowls

0200-03-.03 Location
0200-03-.04 Communicable Diseases
0200-03-.05 Sanitation and Disinfection
0200-03-.06 Prohibited Hazardous Substances/Use of Products
0200-03-.07 Furnishings and Equipment
0200-03-.08 Wet Disinfection Containers

0200-03-.11 Rest Rooms in Shops
0200-03-.12 Attire in Barber Schools
0200-03-.13 Repealed
0200-03-.14 Responsibility for Compliance
0200-03-.15 Animals
0200-03-.16 Facial Treatments
0200-03-.17 Shops Providing Limited Services

0200-03-.05 Sanitation and Disinfection is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.05 Sanitation and Disinfection.

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

- (a) Washing hands with soap and water; and
- (b) Placing around the patron's neck a ~~fresh strip or towel, so that the~~ clean cape ~~does not contact the skin.~~

(2) Wet Disinfection Standard.

- (a) ~~All tools and implements which come into contact with the face, neck, feet or hands must be treated after each use by washing thoroughly with soap and water and must be disinfected by complete immersion in a United States Environmental Protection Agency (EPA) registered bactericidal, virucidal, fungicidal and pseudomonacidal (formulated for hospitals) disinfectant that is mixed and used according to the manufacturer's directions.~~ 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 disinfectant that is mixed and used according to the manufacturer's directions.

(3) Dry Disinfection Standard.

- (a) ~~All tools and implements which have come in contact with blood or body fluids must be Disinfected, at minimum, by complete immersion in an EPA registered disinfectant that is effective against HIV-1 and human hepatitis B virus or in a tuberculocidal that is mixed according to the manufacturer's direction.~~ 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, hospital grade, bactericidal, virucidal, fungicidal disinfectant effective against HIV-1 and Hepatitis B Virus mixed and used according to the manufacturer's direction.

(b) Disinfected implements must be stored in a disinfected, dry, covered container.

(4) ~~A licensee shall maintain a supply of seventy percent (70%) alcohol to be used in the event that a patron's skin is accidentally broken during the manicuring process.~~ A licensee 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 a service.

(5) ~~Before use, manicuring instruments must be cleaned with soap and water, and immersed in seventy percent (70%) alcohol for at least ten (10) minutes. The alcohol for this purpose may be kept in a covered container of sufficient size to accommodate the instruments to be immersed.~~ Before use, manicuring instruments must be cleaned with soap and water, and completely immersed in an EPA registered bactericidal, virucidal, fungicidal disinfectant mixed and used according to the manufacturer's directions.

(6) ~~When not in use, manicuring instruments must be dried and kept in a cabinet sanitizer.~~

(7)(6) ~~The foot bath shall be cleaned and disinfected after each use. The filters and jets of the foot bath must be flushed, cleaned and disinfected twice a week with the use of a hospital grade tuberculocidal disinfectant or an equivalent solution circulated through the machine for the minimum~~

~~time recommended by the manufacturer.~~ Footbath.

- (a) Foot baths shall be cleaned with soap and water and disinfected with an EPA registered, bactericidal, virucidal disinfectant that is mixed and used according to the manufacturer's directions.
- (b) The filters and jets shall be flushed, cleaned with soap and water and an EPA registered, bactericidal, virucidal, fungicidal disinfectant circulated through the machine in accordance with the manufacturer's directions.

~~(8)~~(7) Towels.

- (a) A separate, clean towel shall be provided for each patron, ~~as required.~~
- (b) ~~The headrest~~ Headrests shall be covered with a separate, clean towel or paper for each ~~customer~~ patron.
- (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.

~~(9)~~(8) Combs.

- (a) Each licensee shall have a sufficient number of combs to allow for proper ~~sanitation~~ disinfection.
- (b) No ~~licensee~~ operator shall carry combs or other instruments in the pockets of ~~his/her uniform~~ clothing.

~~(10)~~(9) Powders, Lotions and Creams.

- (a) Powders and lotions must be applied with ~~cotton or gauze puffs. Such puffs shall be disposed of in a waste receptacle immediately after use.~~ a clean applicator and disposed of immediately after each use.
- (b) Creams and other semi-solid substances must be removed from their container with a clean spatula (or similar device), ~~and disposed of in a waste receptacle immediately after use. Any device used for the removal of such substances must not contact the skin of a patron~~ which is disinfected or disposed of immediately after use.

~~(11)~~(10) After handling any patron with any eruption or skin disorder, the attendant shall immediately disinfect his/her hands by thoroughly washing with soap and water, followed by rinsing in alcohol (no less than seventy (70%) pure), or some equivalent disinfectant. After exposure to blood or bodily fluids, licensee shall immediately wash hands with soap and water and use hand sanitizer or antiseptic.

~~(12)~~(11) Finger bowls, basins, shampoo boards, cups, etc. shall be thoroughly cleaned after each service, and kept in good repair and in a sanitary condition at all times. ~~Back bars and mirrors shall be kept clean at all times.~~ All equipment, shampoo basins, furnishing and work surfaces must be kept in good repair, and disinfected after each service.

Authority: T.C.A. § 62-3-128~~(a)~~.

0200-03-.08 Wet Containers is amended by redesignating "Wet Containers" as "Wet Disinfection Containers" and by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.08 Wet Disinfection Containers.

- (1) ~~Every sterilizing solution container must be cleaned and supplied with a proper germicidal solution as often as necessary to keep it in a sanitary condition.~~ Every disinfecting solution container must be clean and filled with an EPA registered, bactericidal, virucidal, fungicidal disinfectant that is mixed and used according to the manufacturer's directions.

Authority: T.C.A. § 62-3-128.

0200-03-.09 Dry Compartments is amended by repealing the rule in its entirety so that as amended the rule shall read:

0200-03-.09 ~~Dry Compartments.~~ REPEALED.

~~(1) Every dry compartment must be equipped with either an ultraviolet ray device operational during work hours or a closed compartment containing fumigant, and must be kept clean.~~

Authority: T.C.A. § 62-3-128.

0200-03-.15 Animals is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

0200-03-.15 Animals.

- (1) ~~No animals, birds or fish, shall be permitted in any establishment with the exception of animals used to help disabled person(s), (i.e. guide dogs).~~ Animals permitted or prohibited in shops, including fish for decorative purposes and birds in cages, shall be controlled by T.C.A. Title 62, Chapter 3, including § 62-3-132.

Authority: T.C.A. §§ 62-3-128 and 62-3-132.

Chapter 0200-03
Sanitary Requirements
New Rule

0200-03-.17 Shops Providing Limited Services is added to Chapter 0200-03 Sanitary Requirements and shall read:

0200-03-.17 Shops Providing Limited Services.

- (1) The executive director to the Board may, in his/her discretion, waive one or more of the equipment requirements as provided in this chapter to accommodate shops offering limited services. A request for such a waiver must be made in writing by the applicant, on forms prescribed by the Board, and shall specifically identify the equipment that the applicant desires to omit and the reasons that the omitted equipment is not necessary for the limited services provided. If the services offered change, the applicant shall complete a new application and receive a new inspection.
- (2) Any shop issued a waiver of the equipment requirements shall meet all other requirements listed in this chapter and pay the fees set out in Rule 0200-01-.11.

Authority: T.C.A. § 62-4-105.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ron R. Gillihan II	X				
Rebecca M. Russell				X	
Monica Lemons	X				
Judy McAllister	X				
Patricia Parsons	X				
Mona Sappenfield				X	
Frank Gambuzza	X				
Amy Tanksley	X				
Anita Charlton	X				
Kimberly Ray				X	
Jeffery Moran	X				
Layne Petty	X				
Vacant	N/A	N/A	N/A	N/A	N/A
Vacant	N/A	N/A	N/A	N/A	N/A

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the _____ Tennessee Board of Cosmetology and Barber Examiners _____ (board/commission/other authority) on 10/03/2022 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: (07/27/2022)

Rulemaking Hearing(s) Conducted on: (add more dates). (10/03/2022)

Date: May 17, 2023

Signature: _____

Name of Officer: Hugh Cross

Title of Officer: Assistant General Counsel

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners

Rule Chapter Number(s): 0440-01 Licensing
0440-02 Sanitary Rules
0200-01 Licensing
0200-03 Sanitary Requirements

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


 Jonathan Skrmetti
 Attorney General and Reporter

10-16-23

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comments made at the rulemaking hearing.

Three (3) public comments were made at the rulemaking hearing.

Comment 1: Ms. Barbara Ann LeNoble asked for clarification regarding removing neck strips as a requirement for use in shops and expressed the concern that students in shops may only have one (1) or two (2) capes.

Response 1: Chairman Ron Gillihan provided the following response during the hearing: The rule has been changed from requiring a neck strip or a towel. The new requirement is simply a clean cape, and that capes should be cleaned using the correct disinfection or sanitation technique to each cape according to the manufacturer's and textbook directions. Chairman Gillihan also stated that licensees are not being prohibited from using neck strips, only that they will no longer be a requirement.

Comment 2: Ms. Barbara Ann LeNoble asked for clarification regarding the vocabulary changes between the terms "sanitation" and "disinfectant."

Response 2: Chairman Ron Gillihan provided the following response during the hearing: Where the new rule indicates "sanitation" that is what is being required. Chairman Gillihan states, where the new rule indicates "disinfection" that is what is being required. "Sanitation" and "disinfection" refer to a slightly different process, and the changes were made to meet current industry standards.

Comment 3: Board member Amy Tanksley asked for clarification regarding the approval process for limited-service shops or salons. Ms. Tanksley wanted more information on how inspectors will know whether a limited-service shop or salon has a valid equipment waiver for any omitted equipment.

Response 3: Executive Director Roxana Gumucio provided the following response during the hearing: The inspection process will not be an issue. The inspectors will be given all documentation needed to determine which equipment, if any, has been waived/omitted for a particular shop or salon. Once a limited-service shop or salon has been approved to waive certain equipment based on the services provided, they will be issued a waiver form. The inspector will also have the waiver form showing the omitted equipment. When the inspector enters the shop for inspection, the inspector will refer to the waiver form to determine what equipment has been waived/omitted from the equipment list.

Comments made in advance of the rulemaking hearing.

Zero (0) comments were submitted in advance.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rules do not affect small businesses directly. The Board does not anticipate the rules to directly impact small businesses. However, these rules will incentivize small business shops to open by reducing the equipment required which will notably off-set the expenses. The promulgation of these rules may allow small businesses operating as a limited-service shop to significantly reduce operating expenses by creating an option to waive equipment that is unnecessary for the services being provided. The Department knows of no other less restrictive or burdensome means than through the promulgation of these rules as amended. The proposed rules would require minimal, if any, costs for compliance. The Department is not aware of similar rules or regulation in other jurisdictions. These rules are designed to reduce the cost for limited-service shops regardless of whether the limited-service shop would be considered a small business. However, there will likely be reduced costs for all shops to purchase equipment.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The Department does not anticipate impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules remove the requirement for shops to maintain a sharps container as part of the equipment required for shops. The purpose behind this change is most shops do not offer services which require use of sharps containers and requiring a sharps container is excessively burdensome to licensees to purchase and maintain. The proposed rules also grant the Executive Director the authority to waive equipment requirements for shops offering limited services. Limited-service shops are distinguished from full-service shops as they offer a smaller selection of services. The purpose behind this change is to allow flexibility in equipment requirements for limited-service shops such that limited-service shops will only be required to purchase and maintain equipment needed for the services offered. The current rules require all shops to have the same equipment regardless of services provided. This results in unnecessary equipment requirements for shops providing limited services that often comes at considerable expense. Under the new rules, a request for such a waiver must be made in writing by the applicant and specifically identify the equipment that the applicant desires to omit and must include the reasons that the omitted equipment is not necessary for the limited services provided. This change will reduce burden on shops offering limited services by only requiring the equipment needed to perform their limited services. The proposed rules also provide essential clarification in terminology such as replacing "sterilize" with "disinfectant" and "blood exposure kits/blood spill kits" with "first aid kits" to make the language more appropriate for the industry.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no known federal law or regulation or any state law or regulation mandating promulgation of these proposed rules.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rules related to equipment waivers/changes impacts current and future shop licensees for limited-service shops, as well as any shop currently required to purchase and maintain a sharps container. The rules related to changes in terminology affect all licensees. The Board does not foresee a particular segment of opponents to these rules. The Board expects a positive response to these rules from licensees and industry stakeholders as these changes better reflect current industry practices such as distinguishing limited-service shops from full-service shops by allowing flexibility in the equipment required, as well as providing essential changes in terminology to make the language more appropriate for the industry.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial ruling that relates directly to these proposed rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The Board anticipates minimal impact to state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Hugh Cross, Assistant General Counsel for the Tennessee Board of Cosmetology and Barber Examiners
Roxana Gumucio, Executive Director for the Tennessee Board of Cosmetology and Barber Examiners

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Hugh Cross, Assistant General Counsel for the Tennessee Board of Cosmetology and Barber Examiners
Roxana Gumucio, Executive Director for the Tennessee Board of Cosmetology and Barber Examiners

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no additional information relevant to these proposed rules for continuation that the committee requests.