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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).

<b>Agency/Board/Commission:</b>	State Board of Cosmetology and Barber Examiners
<b>Division:</b>	Division of Regulatory Boards, Department of Commerce and Insurance
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.03	Curriculum
0440-01-.05	Requirements for Schools
0440-01-.06	Enrollment of Students
0440-01-.09	Examination Passing Scores and School Attendance Ratio
0440-01-.11	Teacher Training Programs
0440-01-.13	Fees
0440-01-.14	Civil Penalties
0440-01-.15	Practice by Instructor
0440-01-.16	Schools Providing Limited Instruction
0440-01-.17	Communication with the Board
0440-01-.18	Expedited Licensing for Certain Military Personnel and Spouses

<b>Chapter Number</b>	<b>Chapter Title</b>
0440-02	Sanitary Rules
<b>Rule Number</b>	<b>Rule Title</b>
0440-02-.01	Definitions
0440-02-.04	Posting of Rules and Licenses
0440-02-.07	Equipment
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RULES  
OF  
TENNESSEE STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS

CHAPTER 0440-01  
LICENSING

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

0440-01-.01 REQUIREMENTS FOR SCHOOL LICENSE.

- (1) The Board of Cosmetology and Barbering 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 twenty (20) stations;
  - (b) five (5) shampoo basins, with hot and cold running water, adequately spaced;
  - (c) five (5) manicure tables;
  - (d) a minimum of five (5) working floor-based hooded dryers;
  - (e) ten (10) mannequins;
  - (f) one (1) straight chair in the theory classroom for each student attending the class;
  - (g) one (1) wet sterilizer at each student work station;
  - (h) one (1) enclosed storage area for clean towels;
  - (i) one (1) covered container for soiled towels;
  - (j) one (1) covered trash container maintained in a sanitary condition;
  - (k) dry sterilizer at each student work station;
  - (l) ultra violet sanitizer;

- (m) time sheet/time clock; and
  - (n) access to a minimum of two (2) restrooms.
- (2) A school of cosmetology offering an aesthetics curriculum shall also 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 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 manufacturer's intended commercial use statement;
  - (g) one (1) hands free magnifying lamp;
  - (h) one (1) hot towel cabin;
  - (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 sterilizer;
  - (q) one (1) professional makeup station representing a color matrix palette of makeup products;
  - (r) sufficient disposable applicators for makeup application;
  - (s) one (1) skin care product kit containing two products from each category: cleansers, astringent and toners, moisturizer, problem prep, and protective products;
  - (t) one (1) Autoclave instrument sanitizer;
  - (u) one (1) sharps container for biohazard material removal;
  - (v) one (1) blood spill kit; and
  - (w) all containers for cosmetic products must be properly labeled.

(3) Requirements for Instructional Floor Space

- (a) "Instructional floor space" means the floor space of a school designated primarily for the instruction of students and shall not include such spaces as storage, restrooms, utility rooms, passageways, or inhabited administrative spaces such as reception areas, offices and break areas.
- (b) A school of cosmetology offering a manicuring curriculum shall also be equipped with adequate instructional floor space for manicuring so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
- (c) A school of cosmetology offering a natural hair styling curriculum shall also be equipped with adequate instructional floor space for natural hair styling so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
- (d) A school of cosmetology offering a shampooing curriculum shall also be equipped with adequate instructional floor space for shampooing so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
- (e) A school of cosmetology offering an aesthetics curriculum shall also be equipped with adequate instructional floor space for aesthetics so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.

(4) Floor Plan

- (a) A proposed floor plan must be submitted to and approved by the Board before:
  - 1. issuance of a license to operate a new school of cosmetology;
  - 2. issuance of a license to operate a school of cosmetology whose ownership has changed;
  - 3. reissuance of a license to operate a relocated school of cosmetology;
- (b) For all schools other than specialized schools as described in subparagraph (4)(c), below, The floor plan shall provide for, and the school shall contain, at least 2200 square feet of instructional floor space, including an enclosed classroom for theory instruction.
- (c) The floor plan for a specialized school solely offering a course of study in aesthetics, manicuring, or natural hair styling shall provide for, and the school shall contain adequate floor space as determined by the Board.

(5) New School.

- (a) A new school shall be closed to the public for ninety (90) days after the issuance of its license unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (b) A branch school shall be considered a new school unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (c) If an existing school requires an expansion campus facility, the facility must be located within two (2) miles of the main campus.
- (d) A specialized school solely offering a course of study in aesthetics, manicuring, or natural hair styling shall have a minimum of five (5) students.

Authority: T.C.A. §§62-4-105(e), 62-4-120(f), 62-4-122, and 62-4-122(g)(2)62-4-116, 62-4-117.

Rule 0440-01-.03 Curriculum is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.03 CURRICULUM.

- (1) "Apprenticeship student" means a student enrolled in a school participating in an apprenticeship program with the intention of completing the school's curriculum under that school's apprenticeship program.
- (2) "Supervising licensed professional" means a licensee in the field of study of an enrolled apprenticeship student who is in responsible charge of supervising and accounting for that student's apprenticeship program creditable activities and providing the participating school with the student's apprenticeship activity record.
- (3) (a) The fifteen hundred (1,500) clock hours/ 45 credit hours of instruction required of applicants for a license to practice cosmetology shall be apportioned as follows:
  1. General.....300 clock hours/ 9 credit hours Sterilization, sanitation and bacteriology, anatomy and physiology, shop ethics, personality and salesmanship, state law.
  2. Chemical.....600 clock hours/ 18 credit hours Permanent waves, hair relaxer, hair coloring, bleaching and toning, sculptured nails, hair structure and chemistry.
  3. Physical.....600 clock hours/ 18 credit hours Shampooing and rinses, hair and scalp care, hair shaping, hairdressing and styling, facials, arching, lash and brow tinting, manicures and pedicures.
- (b) The six hundred (600) clock hours/ 18 credit hours of instruction required of an applicant for a license to practice manicuring shall be apportioned as follows:
  1. General.....150 clock hours/ 4.5 credit hours Sterilization, sanitation and bacteriology, anatomy and physiology, state law, salon management, and ethics.
  2. Chemical.....100 clock hours/ 3 credit hours Product knowledge, ingredients and usage of materials, manicuring and pedicuring, EPA and OSHA requirements.
  3. Physical.....350 clock hours/ 10.5 credit hours Massage, manicuring, pedicuring, nail care, nail artistry, nail wraps, sculptured nails, nail tips, gel nails, and nail safety.
- (c) The seven hundred and fifty (750) clock hours/ 22.5 credit hours of instruction required of an applicant for a license to practice aesthetics shall be apportioned as follows:
  1. General.....150 clock hours/ 4.5 credit hours Sterilization, sanitation and bacteriology, professional ethics, personality, salesmanship, anatomy and physiology, and state law.
  2. Chemical.....150 clock hours/ 4.5 credit

hours Skin conditions and disorders, nutrition, aging factors, product ingredients and usage, waxing, lash and brow tinting, OSHA and EPA requirements.

3. Physical.....450 clock hours/ 13.5 credit hours  
Massage movements and manipulations, masks and packs, facial treatments with and without the use of machines, skin analysis and consultation, application of all products and machines, color psychology, make-up and corrective make-up arching.

(d) The three hundred (300) clock hours/ 9 credit hours of instruction required of an applicant for a license to practice shampooing shall be apportioned as follows:

1. General.....100 clock hours/ 3 credit hours  
Sanitation, sterilization, bacteriology, anatomy, physiology, state law, shampooing and draping, hair and scalp massage.
2. Chemical.....50 clock hours/ 1.5 credit hours  
Chemistry and composition of shampoos and conditioners, product knowledge, EPA and OSHA requirements.
3. Physical.....150 clock hours/ 4.5 credit hours  
Hair and scalp massage, hair and scalp care, shampooing and rinsing foreign material from hair, shop management (answering phone, scheduling appointments, ordering supplies, taking inventory, and selling to clients).

(e) The three hundred (300) clock hours/ 9 credit hours of instruction required of an applicant for a natural hair stylist license shall be apportioned as follows:

1. General.....120 clock hours/ 3.6 credit hours  
Sanitation, sterilization, bacteriology, shampooing, draping, disorders of hair and scalp, state law and salon management.
2. Physical.....180 clock hours/ 5.4 credit hours  
Twisting, wrapping, weaving, extending, locking, braiding and natural hair styling, by hand or mechanical appliances.

(f) The three hundred (300) clock hours/ 9 credit hours of instruction required of applicants for an instructor's license shall include no less than a total of one hundred (100) clock hours/ 3 credit hours in lesson planning and motivation.

(4) To the extent that the prescribed curricula for courses of instruction are substantially similar, the Board may allow general hours of credit accumulated by a student to be transferred from one course of instruction to another. A student shall be allowed to transfer hours only once.

(5) Any person holding a valid Tennessee barber license will be given credit for seven hundred and fifty (750) clock hours/ 22.5 credit hours toward a Tennessee cosmetology license. In order to be eligible for this credit, a barber must be enrolled in a cosmetology school full time, a minimum twenty-five (25) hours per week, not to exceed forty-eight (48) hours per week. After the student has completed the first seven hundred and fifty (750) clock hours/ 22.5 credit hours in a cosmetology school, the Board may apply the second seven hundred and fifty (750) hours/ 22.5 credit hours for the purpose of graduating and being permitted to take the cosmetology examination.

- (5) Notwithstanding any provision to the contrary, any school operated under the Tennessee Cosmetology Act of 1986 may develop courses of instruction and practice incorporating an apprenticeship curriculum, which allows an applicant to obtain fifty percent (50%) of the required hours for a specific license through classroom instruction and fifty percent (50%) of the required hours under the direct supervision and responsible charge of a licensed professional who meets the requirements set forth in this rule. Supervised apprenticeship hours may not be used for credit for more than fifty percent (50%) of the required hours in any instruction subcategory (General, Chemical or Physical).
- (a). For purposes of this rule, "supervising licensed professional" shall identify a licensed professional in supervision of a student enrolled in an apprenticeship program curriculum, approved by the Board, and responsible for all aspects of that student's apprenticeship instruction.
  - (b). Any school offering an apprenticeship curriculum shall maintain a record of all hours completed under the apprenticeship program, including classroom hours, for which credit is awarded in a student's academic file. This record shall include the number of hours completed under direct supervision and responsible charge, the dates these hours were earned, the license number of the professional in responsible charge of instruction who directly supervised the student and the signatures of both the student and the supervising licensed professional in responsible charge.
    - (1) The required records shall be maintained in the student's file and made available for inspection during the student's academic career, shall be maintained for a period of not less than seven (7) years after a student is no longer attending the school providing the apprenticeship curriculum, and shall be made available to the Board immediately upon request during this time.
    - (2) A daily log accounting for all apprenticeship hours awarded under this chapter by any school offering an apprenticeship curriculum shall be maintained by the school and updated monthly. This log shall be made available for inspection at any time.
    - (3) The supervising licensed professional shall submit the daily log to the school providing the apprenticeship curriculum no later than the close of business of the first (1st) day of the month for the previous month.
    - (4) Should an apprentice change salon, shop, establishment, or supervising licensed professional, a notarized transcript of the total hours accumulated shall be signed by the salon, shop, or establishment owner or manager along with the supervising licensed professional and submitted to the approving school within ten (10) days of the change.
  - (c). Any supervising licensed professional in responsible charge as provided in this rule shall have at least ten (10) years of experience as a licensed professional in the field of study in which the supervision is provided and hold a current, valid Tennessee license issued by the Board in the field in which supervision is provided. The supervising licensed professional's license must be current at all times while providing supervision.
    - (1) A participating school shall be responsible for confirming a supervising licensed professional's qualifications to be placed in responsible charge of an apprenticeship student as provided by this rule.

- (2) The participating school providing hours for supervised apprenticeship credit shall maintain documented proof of a supervising licensed professional's experience and a copy of the supervising licensed professional's current, valid Tennessee license. This documentation shall be maintained for a minimum of seven (7) years following the date that the supervising licensed professional last provided supervision for that school.
  - (3) Apprenticeship experience earned in any jurisdiction other than Tennessee may be considered for purposes of complying with this rule provided that the supervising licensed professional was appropriately licensed in that jurisdiction at all times when responsible charge was provided for the purpose of earning credit. Proof of the supervising licensed professional's credentials must be provided by the transferring student candidate.
  - (4) The owner of the salon, shop, or establishment providing the student an apprenticeship shall provide the school a written acknowledgement accepting the student.
  - (5) Each supervising licensed professional shall be the responsible charge of no more than one apprenticeship student.
  - (6) Any salon, shop or establishment participating in an apprenticeship program shall provide a work station for the apprentice student.
  - (7) The supervising licensed professional must notify the approving school that the apprentice is no longer under his or her supervision within ten (10) days of termination of the apprenticeship and submit a transcript of all hours completed.
- (d). No participating school shall allow any person not appropriately licensed to provide any supervision for purposes of this rule, nor shall any participating school allow credit for hours under the supervision of unlicensed persons.

Authority: T.C.A. §§62-4-105(e), 62-4-108, 62-4-110, 62-4-120(k).

0440-01-.04 HIGH SCHOOL EQUIVALENTS.

- (1) For the purpose of determining eligibility for enrollment in a school of cosmetology, an applicant must have completed and passed at least two (2) years of high school or obtained a score of at least four hundred and fifty (450) on a General Educational Development test.
- (2) Public and vocational schools are exempt from the provisions of Tenn. Code Ann. § 62-4-122. However, the completion of at least ten (10) high school credits or obtaining a score of at least four hundred and fifty (450) on a General Educational Development test must be met prior to the completion of a cosmetology curriculum.
- (3) The school considering acceptance of any candidate shall be responsible for verifying and accepting any submitted documentation for high school equivalency.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Rule 0440-01-.05 Requirements for Schools is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

#### 0440-01-.05 REQUIREMENTS FOR SCHOOLS.

Every school of cosmetology, including any school solely licensed to teach natural hair styling, manicuring, or aesthetics, shall:

- (1) Publish readily available and clearly expressed admission policies and requirements;
- (2) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a cosmetologist, manicurist, instructor, shampoo technician, natural hair stylist, or aesthetician in the State of Tennessee; however, if a school is licensed to provide instruction solely in natural hair styling, manicuring or aesthetics, the school shall only be responsible for providing documentation relative to licensure in the field in which the school provides instruction.
- (3) Give a receipt to any student from whom money is collected by authorized school personnel; and;
- (4) Submit to the office of the Board, on the prescribed form, a monthly progress report on each student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the Board will be issued for violation of this rule.
- (5) Teach a minimum ten percent (10%) of theory hours each week in each curriculum offered in a school. This requirement does not apply to students enrolled in an apprenticeship program authorized by this chapter.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Rule 0440-01-.06 Enrollment of Students is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

#### 0440-01-.06 ENROLLMENT OF STUDENTS.

- (1) Every licensed school of cosmetology shall maintain documentation of age and education in each student's file which evidences eligibility for enrollment under the terms of Tenn. Code Ann. § 62-4-122(a).
- (2) Every enrollment of a student in a school of cosmetology shall be evidenced by a written enrollment agreement which clearly details the rights and obligations of both parties.
- (3) The school shall:
  - (a) furnish to the student an executed copy of the enrollment agreement; and
  - (b) maintain a copy of the agreement in the student's file.
- (4) Every student enrollment agreement shall:
  - (a) be signed and dated by the student and an authorized representative of the school;
  - (b) specify the number of clock hours in the course of instruction and an approximate number of weeks or months required for completion;

- (c) identify all costs and charges which the student must bear;
  - (d) indicate any grounds for termination of a student by the school;
  - (e) state in clear and understandable language the school's refund policy;
  - (f) list any special conditions or requirements for graduation; and
  - (g) contain an acknowledgment that the student has read and understands the agreement before making any payment thereunder.
- (5) All application information, including documentation and enrollment agreements required under this rule, shall be included in the student's file and made available for inspection by members or inspectors of the Board during business hours.
  - (6) A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.
  - (7) An apprentice program must be completed within 150% of the time allowed for a student to complete a course of study under the school's standard, non-apprenticeship contract agreement.

Authority: T.C.A. §§62-4-105(e), 62-4-120, and 62-4-122.

**Rule 0440-01-.09 Examination Passing Scores and School Attendance Ratio is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:**

0440-01-.09 EXAMINATION PASSING SCORES AND SCHOOL ATTENDANCE RATIO.

- (1) The minimum passing scores on all examinations held by the board shall be seventy percent (70%).
- (2) The school a student attends for sixty percent (60%) or the greatest percentage of all hours, including hours obtained through an apprenticeship program, will be the school responsible for the pass/fail ratio.
- (3) A student who graduates from a licensed school must pass all examinations no more than three (3) years after passing the initial theory examination. All scores of any passed examinations after that date will be vacated and the graduate must retake and pass the initial theory examination.
- (4) Apprenticeship students shall complete instructional hours and pass the initial theory examination prior to initiating apprenticeship activities in a salon, shop, or establishment.

Authority: T.C.A. §§62-4-105(e).

**Rule 0440-01-.11 Teacher Training Programs is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:**

0440-01-.11 TEACHER TRAINING PROGRAMS.

- (1) An application for approval of a teacher training program in cosmetology, aesthetics, manicuring, shampooing or natural hair styling shall include:
  - (a) a summary of the education and experience of each instructor for the program;

- (b) the scheduled dates of the program; and
  - (c) the proposed curriculum of the program.
- (2) The applicant shall demonstrate to the satisfaction of the Board that the teacher training program submitted for approval will:
- (a) contain at least sixteen (16) hours of actual instruction;
  - (b) emphasize teaching methodology for its entire duration;
  - (c) restrict the size of classes sufficiently to ensure adequate attention to all participants;
  - (d) proceed for not more than two (2) hours without a break; and
  - (e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product.
- (3) Promptly after the completion of a teacher training program approved by the Board, the sponsor shall send to the Board a roster showing the names, social security number and I.D. number of the persons who attended the program and the number of hours that such persons completed.
- (4) The sponsor shall provide an opportunity for the attendees to evaluate each class and the overall program. The original evaluations shall be forwarded to the office of the Board.

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

Rule 0440-01-.13 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.13 FEES.

- (1) Application/examination
  - (a) A candidate shall schedule the test needed for a specific license (cosmetologist, manicurist, instructor, aesthetician, shampoo technician, or natural hair stylist) with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency.
  - (b) The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to Tenn. Ann. Code 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.
- (2) Original License
  - (a) Cosmetologist.....fifty dollars (\$50.00)
  - (b) Manicurist.....fifty dollars (\$50.00)
  - (c) Instructor.....seventy dollars (\$70.00)
  - (d) Aesthetician.....fifty dollars (\$50.00)
  - (e) Shampoo Technician.....fifty dollars (\$50.00)
  - (f) Natural Hair Stylist.....fifty dollars (\$50.00)
- (3) Renewal

- (a) Cosmetologist.....fifty dollars (\$50.00)
- (b) Manicurist.....fifty dollars (\$50.00)
- (c) Instructor.....sixty dollars (\$60.00)
- (d) Aesthetician.....fifty dollars (\$50.00)
- (e) Shampoo Technician.....fifty dollars (\$50.00)
- (f) Natural Hair Stylist.....fifty dollars (\$50.00)
- (g) Retired License Reactivation..... fifty dollars (\$50.00)

(4) Penalty for late renewal

Cosmetologist, manicurist, instructor, aesthetician, shampoo technician, and natural hair stylist.....twenty-five dollars (\$25.00)

(5) Cosmetology, manicure, skin care, natural hair stylist or manicure/skin care shops

- (a) Inspection (new shop, relocated shop, shop with change of ownership)
  - .....fifty dollars (\$50.00)
- (b) License
  - new shop.....fifty dollars (\$50.00)
  - relocated shop.....fifty dollars (\$50.00)
  - change of ownership.....fifty dollars (\$50.00)
- (c) Renewal.....fifty dollars (\$50.00)
- (d) Penalty for late renewal.....fifty dollars (\$50.00)
- (e) Change of name only.....ten dollars (\$10.00)
- (f) Change of ownership due to death of immediate family, no charge, with a copy of the death certificate or obituary.

(6) School

- (a) Application/license (new school).....three hundred dollars (\$300.00)
- (b) License for relocated or change of ownership for a school
  - .....one hundred seventy-five dollars (\$175.00)
- (c)Penalty for late monthly report from schools of hours attended by students.....  
twenty-five dollars (\$25.00)

(7) Replacement or correction of license

- (a) Lost, misplaced or mutilated license..... twenty-five dollars (\$25.00)
- (b) Change of name by any cosmetologist, aesthetician, manicurist, instructor, shampoo technician, natural hair stylist or shampoo/manicurist.....ten dollars (\$10.00)
- (c) Certification for licensee.....fifty dollars (\$50.00)

- 1. Fee should be sent with:
  - (i) written request for certification

- (ii) I.D. number
- (d) Student certification of hours.....twenty-five dollars (\$25.00)
  - 1. Fee should be sent with:
    - (i) certification request form
    - (ii) completion/withdrawal form (unless previously submitted)
- (8) Surcharge to issue manicurist license to former shampoo/manicurist as in Tenn. Code Ann. § 62-4-131(c).....twenty-five dollars (\$25.00)
- (9) Reciprocity.....fifty dollars (\$50.00)  
The fee for application through reciprocity must be received along with the applicant's initial application documents. Any reciprocity application received without this fee shall be incomplete and will not be considered.
- (10) In the event that any check, draft or order for the payment of a fee to the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified check or money order will be accepted for the amount due, plus twenty dollars (\$20.00) additional fee.
- (11) Applications for licensure of a salon are valid for ninety (90) days after approval by the Board. Failure to obtain an approved inspection for operation within the ninety (90) days shall invalidate the application and require a new application and fee.

Authority: T.C.A. §§62-4-105(e), 62-4-110, 62-4-112, 62-4-115, 62-4-118, 62-4-120, and 62-4-131.

Rule 0440-01-.14 Civil Penalties is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.14 CIVIL PENALTIES.

- (1) The Tennessee State Board of Cosmetology and Barber Examiners may, in a lawful proceeding with respect to any person licensed or required to be licensed, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violation of statutes, rules or orders enforceable by the Board in accordance with the following schedule: Each individual act, and each day of continued violation, may constitute a separate violation. The amount of any civil penalty shall not exceed one thousand dollars (\$1,000.00) for each violation.

Violation	Penalty
Tenn. Code Ann. § 62-4-127(b)	\$250 - \$1,000

- (2) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
  - (a) willingness of the violation;
  - (b) repetitions of the violation;
  - (c) magnitude of the risk or harm caused by the violation; and
  - (d) extent to which the licensee has sought to compensate any victim(s) of the violation.

- (3) Any owner, manager, or cosmetologist requesting an individual, with a shampoo license only, to perform any services other than those listed for shampooing will be subject to a five hundred dollar (\$500.00) penalty.

Authority: T.C.A. §§56-1-308 and 62-4-105(e).

Rule 0440-01-.15 Practice by Instructor is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

**0440-01-.15. PRACTICE BY INSTRUCTOR.**

(1) Continuing Education

- (a) In order for a licensed instructor to obtain credit for taking a continuing education course in a state other than the State of Tennessee, the licensed instructor shall obtain the Board's approval before taking the course by submitting a written request for approval to the Board within thirty (30) days before the licensed instructor intends to take the course. Such written request must include a copy of the course's curriculum.
- (b) A licensed instructor shall submit a request for an extension of time in which to take his or her continuing education in writing to the Board along with proof showing good cause relative to illness or emergency prior to the expiration date of the instructor's license.

(2) An instructor may only practice or teach the discipline in which he or she is licensed.

Authority: T.C.A. §§62-4-105(e), 62-4-108 and 62-4-114(a)(1) and (2)

Chapter 0440-01  
Licensing  
New Rules

New Rule 0440-01-.16 Schools Providing Limited Instruction is added to Chapter 0440-01, and shall read as follows:

**0440-01-.16 SCHOOLS PROVIDING LIMITED INSTRUCTION.**

- (1) The Board may, at its discretion, issue a license to a school to provide instruction solely in aesthetics, manicuring or natural hair styling. No school with a limited license shall provide services to the public in any area other than those for which it is licensed to provide instruction.
- (2) The Board may, at its discretion, grant a waiver to a school licensed to provide instruction only in natural hair styling, manicuring or aesthetics or an applicant for such a limited license from equipment requirements as provided in this chapter. A request for such a waiver must be made in writing by the school, on forms prescribed by the Board, and shall specifically identify the equipment that the school desires to omit and the reasons that the omitted equipment is not necessary for the school's curriculum.
- (3) Any salon, shop, or establishment participating in an apprenticeship curriculum must post a sign at its entrance announcing its participation, and must allow customers to elect whether to be serviced by an apprentice student. This sign shall be a minimum dimension of eight (8) by ten (10) inches.

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

New Rule 0440-01-.17 Communication with the Board is added to Chapter 0440-01, and shall read as follows:

0440-01-.17 COMMUNICATION WITH THE BOARD.

- (1) Renewals. All cosmetologist, aesthetician, manicurist, natural hair stylist, instructor and shop license renewals shall include the applicant's current address, phone number and if available, email address.
- (2) Mailing Address. All cosmetologist, aesthetician, manicurist, natural hair stylist and instructor licensees shall notify the Board in writing within thirty (30) days of any change in mailing address. Electronic notification is acceptable for purposes of this rule.
- (3) Responses to Board Requests. All cosmetologist, aesthetician, manicurist, natural hair stylist, instructor and shop licensees shall respond in writing to any communication from the Board requesting a response within the time prescribed by the Board pursuant to the request.

Authority: T.C.A. § 62-4-105(e).

New Rule 0440-01-.18 Expedited Licensing for Military Spouses is added to Chapter 0440-01, and shall read as follows:

0440-01-.18 EXPEDITED LICENSING FOR CERTAIN MILITARY PERSONNEL AND SPOUSES.

- (1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
  - (a) Be issued a license or certificate under the Tennessee Cosmetology Act of 1986 upon application and payment of all fees required for issuance of a regular license or certificate of the same type if, in the opinion of the Board, the requirements for certification or licensure of such other state are substantially equivalent to that required in Tennessee; or
  - (b) Be issued a temporary permit as described herein if the Board determines that the applicant's license or certificate does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including - but not limited to - education, training, or experience, in order to meet the requirements for the license or certificate to be substantially equivalent. The Board may issue a temporary permit upon application and payment of all fees required for issuance of a regular license or certificate of the same type, which shall allow such person to perform services as if fully licensed or certified for a set period of time that is determined to be sufficient for the applicant to complete such requirements.
    1. After completing those additional requirements and providing the Board with sufficient proof thereof as may be required, a full certificate of registration shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full certificate of registration had been issued at that time.
    2. A temporary permit shall be issued for a period of less than the length of a renewal cycle for a full certificate of registration.
    3. A temporary permit shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the Board or by an extension of time granted for good cause by the Board.
    4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full certificate of registration, the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by

the Board for all other renewals of a full certificate of registration of the same type.

Authority: T.C.A. §§ 4-3-1304(d), 62-4-105(e).

RULES OF  
TENNESSEE STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS

CHAPTER 0440-2  
SANITARY RULES

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Rule 0440-02-.01 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-02-.01 DEFINITIONS.

- (1) As used in this Chapter, unless the context requires otherwise, the definitions of terms contained in Tenn. Code Ann. § 64-4-102 are applicable. In addition:
- (a) "Establishment" means any cosmetology, manicure, skin care or natural hair stylist shop or school of cosmetology;
  - (b) "Licensee" means any person holding a valid license (issued by the Board) as a cosmetologist, manicurist, aesthetician, shampoo/manicurist, instructor, natural hair stylist or shampoo technician;
  - (c) "Shampooing" is cleansing of hair and scalp and includes:
    - 1. brushing and combing;
    - 2. rinsing (includes removal of color, permanents, relaxers and conditioners); and
    - 3. conditioning (applying).
  - (d) "Shop" means a cosmetology shop, manicure shop, skin care shop or natural hair styling shop.
  - (e) "Unprofessional Conduct" shall include, but not be limited to failure to respond or comply with a board issued request or lawful order.
  - (f) "Violation" means any breach or failure to abide by the statutes, rules and orders enforceable by the Tennessee State Board of Cosmetology and Barber Examiners and any

unprofessional conduct by any individual or entity licensed or required to be licensed under the Tennessee Cosmetology Act.

Authority: T.C.A. §§62-4-102, 62-4-105(e), and 62-4-134.

Rule 0440-02-.04 Posting of Rules and Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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

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

Authority: T.C.A. §62-4-105(e).

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

0440-02-.07 EQUIPMENT.

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

All containers for cosmetic products must be properly labeled.

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

- (l) one (1) electric hot towel cabin;
- (m) one (1) facial steamer; and
- (n) one (1) wax depilatory heater pot with manufacturer's intended commercial use statement.

All containers for cosmetic products must be properly labeled.

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

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

All containers for cosmetic products must be properly labeled.

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

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

All containers for cosmetic products must be properly labeled.

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

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

Rule 0440-02-.08 Attire is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-2-.08 ATTIRE.

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

Authority: T.C.A. §62-4-105(e).

0440-2-.09 LAUNDRY WORK.

- (1) Laundry work may be performed on the premises of an establishment only:
  - (a) in an area neither frequented by the general public nor used for instruction, rest, or study by students;
  - (b) with mechanical equipment installed in accordance with applicable codes and standards;
  - (c) with workable equipment which has hot and cold water; and
  - (d) when bleach and detergent are used.

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

Rule 0440-02-.10 Animals is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-2-.10 ANIMALS.

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

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

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

\* 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	X				
Nina Coppinger	X				
Bobby Finger				X	
Frank Gambuzza	X				
Yvette Granger				X	
Kelly Barger	X				
Patricia Richmond	X				
Mona Sappenfield	X				
Judy McAllister	X				
Amy Tanksley	X				
Diane Teffeteller	X				
Anita Allen				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Cosmetology and Barber Examiners on August 20, 2015, 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: 11/03/14

Rulemaking Hearing(s) Conducted on: (add more dates). (01/05/15)

Date: 8/20/15

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 08/20/2015

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017

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.

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PUBLICATIONS

Herbert H. Slatery III

Herbert H. Slatery III  
Attorney General and Reporter

8/31/2015

Date

Department of State Use Only

Filed with the Department of State on: 9/2/15

Effective on: 12/1/15

*Tre Hargett*  
Tre Hargett  
Secretary of State

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

1. Comment made by Mike Agee: "The Apprenticeship program was never properly debated."

Answer: The Board thanks the public for this comment. The board agrees and does not believe that this was presented to the new board until the apprenticeship program was a bill. However the board does not have a reply to this comment. This debate was in the legislature. The Board is an executive branch agency and is tasked with creating rules that will regulate and enforce this legislation.

2. Comment made by Lisa Thomas: "Will a salon that takes on an apprentice be required to carry a separate kind of insurance?"

Answer: The Board thanks the public for this comment. At this time The Board has not approved any rule that would require a salon to carry a separate or special insurance for the purposes of the apprenticeship program. At this time the board considers this to be under the purview of the salon owners as to what insurance they carry.

3. Comment made by Lisa Thomas: "Will the overall curriculum for apprenticeship students depart from the curriculum that is currently used?"

Answer: The Board thanks the public for this comment. At this time the board has not approved any curriculum changes for students who participate in the apprenticeship program. However, as stated in Rule 0440-01-09 (4) "Apprenticeship students shall complete instructional hours and pass the initial theory examination prior to initiating apprenticeship activities in a salon, shop, or establishment."

4. Comment made by Lisa Thomas and Mike Agee: "Will tuition be paid to the salons?" "Will the apprentice be paid by the salon?"

Answer: The Board thanks the public for this comment. At this time the rules promulgated do not regulate this aspect of the program. The arrangement regarding fees, and wages paid to an apprentice will be under the purview of those participating parties.

5. Comment made by Mike Agee: "Are salons going to become extensions of cosmetology schools?" Who will inspect these extensions?

Answer: The Board thanks the public for this comment. At this time the rules promulgated only regulate this relationship to the following extent; Rule 0440- 01-03 (3)(h) (1) (i) (2) (iii) and (iv), will require the supervising professional of an apprenticeship student to submit a log of apprenticeship hours to the school, and to notify the school when the apprenticeship ends. The hours will be reported to the school at the first of each month. Beyond these regulations the extent to which the school and salons of apprenticeship students are involved with each other is under the purview of the participating parties. The state already inspects all salons.

6. Comment made by Lisa Thomas: "What date will this go into effect?"

Answer: The Board thanks the public for this comment. After the amendments to the rule are approved by the Board the rules are then filed with the Attorney General's office for approval. After approval is gained the rules will be filed with the Secretary of State. Ninety days from that filing the rules will become effective.

7. Comment made by Ryan Herd: "It would be more appropriate for a licensed instructor to be present during the 750 hours of apprenticeship time. The school is required to have a licensed instructor and now salons are allowed to teach students without having that certification."

Answer: The Board thanks the public for this comment. The requirements for a supervisory licensed professional created under Rule 0440- 01-03 (3) (h) (1) (i) (3), does not require him or her to obtain an instructor's license. Legal counsel for the board has advised that the Board does not have the discretion to make such a requirement.

8. Comment made by Ryan Herd: When consumers enter a school facility to obtain services they understand that there are unlicensed persons working. When consumers walk into a salon they will not have this same understanding and will be less forgiving of possible incidents due to unlicensed persons.

Answer: The Board thanks the public for this comment. Salons that are apprenticing students will be required to inform the public that an apprentice is working in their shop. An 8"x10" sign will be displayed in such shops conspicuously. Apprentices will also wear appropriate identification.

9. Comment made by Ryan Herd: How long is the apprenticeship program allowed to take? There needs to be a deadline since there is deadline on school hours.

Answer: The Board thanks the public for this comment. The timeline for apprenticeship hours can be found in Rule 0440-01-06 (7) "The apprenticeship program must be completed within one and half times of the original enrollment contract. The board may grant waiver of this requirement for good cause shown."

10. Comment made by Representative Parkinson: Representative Antonio Parkinson commented on the overall statutory scheme regarding cosmetology apprenticeships and the method by which the bill was passed. He also spoke on the reasoning to introducing and passing this bill.

Answer: The Board thanks Representative Parkinson for his comments regarding the Apprenticeship program and answering the questions of the board members.

## **Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:**

Each agency shall employ a regulatory flexibility analysis utilizing regulatory methods that accomplish the objectives of applicable statutes while minimizing any adverse impact on small business. The agency shall consider, but not be limited to, each of the following methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety, and well-being:

1. The extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state or local governmental rules because the Board is the sole authority for establishing minimum requirements for obtaining and maintaining a license for the professions it regulates.

2. Clarity, conciseness, and lack of ambiguity in the rule:

The rules are clear in purpose and intended application and not subject to varying interpretations.

3. The establishment of flexible compliance and reporting requirements for small businesses:

Regardless of size, all establishments providing services under regulation of the Board in this state are subjected to the same minimum standards.

4. The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses:

There is no variation in reporting requirements for establishments in Tennessee of any size.

5. The consolidation or simplification of compliance or reporting requirements for small businesses:

These amendments address the operation of licensed establishments of all sizes and they strive to simply all requirements as they apply to establishments of any size.

6. The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule:

The Board determines minimum requirements for licensure and does not dictate business practices of establishments.

7. The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The amended rules proposed do not contemplate an impediment to innovation or increase in costs for providing services beyond that which will be required to implement any new variations on business practices authorized by these rules.

**Economic Impact Statement pursuant to T.C.A. § 4-5-401, et seq.:**

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

Answer:

Any barber school, barber shop, cosmetology school, and any shop holding a license to provide regulated cosmetology-related services to the public could be impacted by these rules could be. These rules implement temporary permit system for military spouses and an apprenticeship program for cosmetology students, both of which could provide wage earning service providers to small businesses in an expedited manner. In the case of the apprenticeship program, cosmetology schools would likely bear some cost through the necessity of devising a reporting system for students who participate. However, the apprenticeship program is not required and no additional costs would be associated with Cosmetology schools who decide not to participate.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

Answer:

For cosmetology schools which elect to participate in the apprenticeship program, a system to maintain records for apprentice students would have to be devised in association with the partnering shops. The administrative skills necessary to do so would not exceed those required for existing recordkeeping duties. Registered licensees who serve as overseers for apprentice students while employed at a participating shop would need to be utilized by that shop; the skill level of this employee would need to meet or exceed 10 years of experience.

3. A statement of the probable effect on impacted small businesses and consumers:

Answer:

The potential workforce immediately available for small businesses would be expanded somewhat through the temporary permitting of military spouses who qualify and the apprentice students participating in these programs.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Answer:

These two methods of expediting persons into the barbering and cosmetology professions do not exist prior to these rules; therefore, there are no less burdensome, intrusive or less costly alternative methods of implementing them.

5. A comparison of the proposed rule with any federal or state counterparts:

Answer:

The State Board of Cosmetology and Barber Examiners is the sole agency for licensing and regulating the professions it oversees; there are no counterparts at the state or federal level.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

Answer:

The apprenticeship program is made elective by statute and is therefore not required for any school or shop holding a license with the Board.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The State Board of Cosmetology and Barber Examiners does not project any change in local government revenue at any level as a result of these rules.

## 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;

- Rule 0440-01-.01 Requirements for School License is amended by adjusting the required items necessary to receive a school license from the Board and to further define the requirements for instructional floor space.
- Rule 0440-01-.03 Curriculum is amended by adding requirements and procedures in order for a licensed school to offer a program that includes apprenticeship training.
- Rule 0440-01-.04 High School Equivalents is amended by adding a requirement that a licensed school is responsible for verifying an applicant's high school equivalency.
- Rule 0440-01-.05 Requirements for Schools is amended to allow for schools to receive a license to teach only natural hair styling.
- Rule 0440-01-.06 Enrollment of Students is amended to require that a candidate's application information is included in the student's file.
- Rule 0440-01-.09 Examination Passing Scores and School Attendance Ratio is amended by adjusted by limited that period for passing all examinations to three years.
- 0440-01-.11 Teacher Training Programs by adding the specific disciplines for which an individual may be licensed to teach.
- 0440-01-.13 Fees is amended by adding a fee for retired license reactivation, a penalty for late monthly reporting for schools and requiring that the reciprocity fee must be paid in advance.
- 0440-01-.14 Civil Penalties is amended by compressing the list of authorities for which a civil penalty may be assessed for violation thereof.
- 0440-01-.15 Practice by Instructor is amended by deleting a reference to a pre-approved continuing education provider and requiring an instructor requesting an extension to comply with continuing education requirements to show good cause.
- 0440-01-.16 Schools Providing Limited Instruction is added to clarify that the Board may license a school to provide instruction in only a particular discipline.
- 0440-01-.17 Communication with the Board is added to establish requirements for a registrant's communication with the Board in the course of official business.
- 0440-01-.18 Expedited Licensing for Military Spouses is added to provide a procedure for issuing a temporary permit to practice a Board-regulated profession while applying for a full license.
- 0440-02-.01 Definitions is amended by adding descriptions for shops, unprofessional conduct and violations.
- 0440-02-.04 Posting of Rules is amended by deleting the requirement that licenses be laminated and requiring every license to be prominently displayed.
- 0440-02-.07 Equipment is amended by deleting references to fumigants and adding a requirement that any property approved by the Board for a licensed shop must have a separate entrance.
- 0440-02-.08 Attire is amended by establishing requirements for identifying apprenticeship students while learning in the field.

• 0440-02-.10 Animals is amended to require that all animals present in a licensed establishment must be authorized by the Americans with Disabilities Act.

(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;

- Tenn. Ann. Code § 62-4-105. Powers and duties (e) the board is authorized to promulgate rules that are reasonably necessary to effectuate this chapter. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.
- Tenn. Ann. Code § 62-4-120. Schools; requirements (k) Notwithstanding any law to the contrary, the board shall establish rules and regulations enabling schools operated pursuant to this section to develop courses of instruction in practice and theory that will satisfy the requirements of § 62-4-110,

(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;

Cosmetology licensees and students of cosmetology schools are affected by these rules. Adoption of these rules is urged by the legislator.

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

None known.

(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 fiscal impact to the department from the above rules will be minimal. The fee structure for reciprocity applicants does change, however the amount of revenue that could be raised from this action at its highest amount would still only be 2% or less of the entire Cosmetology budget. Additionally, the change in fee structure will likely deter some reciprocity applicants from applying meaning the overall raise in revenue is even more likely to fall under 2% of the Cosmetology budget.

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

Laura Martin Department of Commerce and Insurance, Assistant General Counsel  
Regulatory Boards Division  
500 James Robertson Parkway, Nashville, Tennessee 37243 (615) 253-3702  
Laura.Martin@tn.gov

Roxana Gumucio Executive Director, State Board of Cosmetology and Barber Examiners  
Tennessee Department of Commerce and Insurance  
500 James Robertson Parkway, Nashville, Tennessee 37243-1162, (615) 532-7081  
Roxana.Gumucio@tn.gov

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

Laura Martin Department of Commerce and Insurance, Assistant General Counsel  
Regulatory Boards Division  
500 James Robertson Parkway, Nashville, Tennessee 37243 (615) 253-3702

Roxana Gumucio Executive Director, State Board of Cosmetology and Barber Examiners  
Tennessee Department of Commerce and Insurance

- (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

Laura Martin Department of Commerce and Insurance, Assistant General Counsel  
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None generally.

**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
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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).*

<b>Agency/Board/Commission:</b>	State Board of Cosmetology and Barber Examiners
<b>Division:</b>	Division of Regulatory Boards, Department of Commerce and Insurance
<b>Contact Person:</b>	Laura E. Martin
<b>Address:</b>	500 James Robertson Parkway Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-253-3702
<b>Email:</b>	Laura.Martin@tn.gov

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.03	Curriculum
0440-01-.05	Requirements for Schools
0440-01-.06	Enrollment of Students
0440-01-.09	Examination Passing Scores and School Attendance Ratio
0440-01-.11	Teacher Training Programs
0440-01-.13	Fees
0440-01-.14	Civil Penalties

0440-01-.15	Practice by Instructor
0440-01-.16	Schools Providing Limited Instruction
0440-01-.17	Communication with the Board
0440-01-.18	Expedited Licensing for Certain Military Personnel and Spouses

Chapter Number	Chapter Title
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.01	Definitions
0440-02-.04	Posting of Rules and Licenses
0440-02-.07	Equipment
0440-02-.08	Attire
0440-02-.10	Animals

RULES  
OF  
TENNESSEE STATE BOARD OF COSMETOLOGY,  
AND BARBER EXAMINERS

CHAPTER 0440-01  
LICENSING

TABLE OF CONTENTS

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

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

0440-01-.01 REQUIREMENTS FOR SCHOOL LICENSE.

- (1) The Board of Cosmetology and Barbering 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 twenty (20) stations;
  - (b) five (5) shampoo basins, with hot and cold running water, adequately spaced;

- (c) five (5) manicure tables;
  - (d) a minimum of five (5) working floor-based hooded dryers;
  - (e) ten (10) mannequins;
  - (f) one (1) straight chair in the theory classroom for each student attending the class;
  - (g) one (1) wet sterilizer at each student work station;
  - (h) one (1) enclosed storage area for clean towels;
  - (i) one (1) covered container for soiled towels;
  - (j) one (1) covered trash container maintained in a sanitary condition;
  - (k) dry sterilizer at each student work station;
  - (l) ultra violet sanitizer;
  - (m) time sheet/time clock; and
  - (n) access to a minimum of two (2) restrooms.
- (2) A school of cosmetology offering an aesthetics curriculum shall also 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) galvanic machine~~ one (1) light based device with the manufacturer's intended commercial use statement for hair removal and skin enhancement of face and body;
  - (d) ~~one (1) magnifying lamp~~ sufficient protective eyewear (glasses) recommended by manufacturer of laser/light devices for each student and instructor;
  - (e) ~~one (1) reclining facial chair;~~ one (1) LED light with the manufacturers intended use statement for skin improvement;
  - (f) ~~one (1) electric brushing machine;~~ one (1) wax depilatory heater pot with manufacturer's intended commercial use statement;
  - (g) ~~one (1) electric heating mask~~ one (1) hands free magnifying lamp;
  - (h) ~~one (1) pair electric heating mitts~~ one (1) hot towel cabin;
  - (i) ~~one (1) sink which provides hot and cold running water other than the bathroom~~ one (1) reclining facial chair/table;
  - (j) ~~one (1) enclosed storage area for clean towels~~ one (1) electric brushing machine or sonic brushing device;
  - (k) ~~one (1) covered container for soiled towels~~ one (1) sink which provides hot and cold running water other than the bathroom;

- (l) ~~one (1) high frequency instrument; one (1) ultraviolet sanitizer~~
- (m) ~~one (1) ultraviolet sanitizer~~ one (1) covered trash container maintained in a sanitary condition at each teaching station;
- (n) ~~one (1) covered trash container maintained in a sanitary condition~~ sufficient work area for each student; and
- (o) ~~sufficient work area for each student~~ one (1) covered and labeled container for soiled towels.
- (p) one (1) wet sterilizer;
- (q) one (1) professional makeup station representing a color matrix palette of makeup products;
- (r) sufficient disposable applicators for makeup application;
- (s) one (1) skin care product kit containing two products from each category: cleansers, astringent and toners, moisturizer, problem prep, and protective products;
- (t) one (1) Autoclave instrument sanitizer;
- (u) one (1) sharps container for biohazard material removal;
- (v) one (1) blood spill kit; and
- (w) all containers for cosmetic products must be properly labeled.

(3) Requirements for Instructional Floor Space

- (a) ~~A school of cosmetology offering a manicuring curriculum shall also be equipped with adequate instructional space for manicuring so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-1-.03. "Instructional floor space" means the floor space of a school designated primarily for the instruction of students and shall not include such spaces as storage, restrooms, utility rooms, passageways, or inhabited administrative spaces such as reception areas, offices and break areas.~~
- (b) ~~A school of cosmetology offering a natural hair styling curriculum shall also be equipped with adequate instructional space for natural hair styling so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-1-.03~~ A school of cosmetology offering a manicuring curriculum shall also be equipped with adequate instructional floor space for manicuring so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.
- (c) ~~A school of cosmetology offering a shampooing curriculum shall also be equipped with adequate instructional space for shampooing so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-1-.03. A school of cosmetology offering a natural hair styling curriculum shall also be equipped with adequate instructional floor space for natural hair styling so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.~~
- (d) ~~A school of cosmetology offering an aesthetics curriculum shall also be equipped with adequate instructional space for aesthetics so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-1-.03~~ A school of

cosmetology offering a shampooing curriculum shall also be equipped with adequate instructional floor space for shampooing so as to not compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.

- (e) A school of cosmetology offering an aesthetics curriculum shall also be equipped with adequate instructional floor space for aesthetics so as not to compromise or disrupt the teaching of cosmetology curriculum prescribed in Rule 0440-01-.03.

(4) Floor Plan

- (a) A proposed floor plan must be submitted to and approved by the Board before:

1. issuance of a license to operate a new school of cosmetology;
2. issuance of a license to operate a school of cosmetology whose ownership has changed;
3. reissuance of a license to operate a relocated school of cosmetology;

- (b) ~~where required under this paragraph, the floor plan shall provide for, and the school shall contain, at least 2200 square feet of instructional floor space, including an enclosed classroom for theory instruction. For all schools other than specialized schools as described in subparagraph (4)(c), below, The floor plan shall provide for, and the school shall contain, at least 2200 square feet of instructional floor space, including an enclosed classroom for theory instruction.~~

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

(5) New School.

- (a) A new school shall be closed to the public for ninety (90) days after the issuance of its license unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (b) A branch school shall be considered a new school unless the school has students enrolled with the required two hundred (200) or more hours to perform cosmetology services on the public.
- (c) If an existing school requires an expansion campus facility, the facility must be located within two (2) miles of the main campus.
- (d) A specialized school solely offering a course of study in aesthetics, manicuring, or natural hair styling shall have a minimum of five (5) students.

Authority: T.C.A. §§62-4-105(e), 62-4-120(f), 62-4-122, and 62-4-122(g)(2)62-4-116, 62-4-117.

Rule 0440-01-.03 Curriculum is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.03 CURRICULUM.

- ((1) "Apprenticeship student" means a student enrolled in a school participating in an apprenticeship program with the intention of completing the school's curriculum under that

school's apprenticeship program.

- (2) "Supervising licensed professional" means a licensee in the field of study of an enrolled apprenticeship student who is in responsible charge of supervising and accounting for that student's apprenticeship program creditable activities and providing the participating school with the student's apprenticeship activity record.
- (3) (a) The fifteen hundred (1,500) clock hours/ 45 credit hours of instruction required of applicants for a license to practice cosmetology shall be apportioned as follows:
- (a)1. General.....300 clock hours/ 9 credit hours Sterilization, sanitation and bacteriology, anatomy and physiology, shop ethics, personality and salesmanship, state law.
  - (b)2. Chemical.....600 clock hours/ 18 credit hours Permanent waves, hair relaxer, hair coloring, bleaching and toning, sculptured nails, hair structure and chemistry.
  - (c)3. Physical.....600 clock hours/ 18 credit hours Shampooing and rinses, hair and scalp care, hair shaping, hairdressing and styling, facials, arching, lash and brow tinting, manicures and pedicures.
- (2)(b) The six hundred (600) clock hours/ 18 credit hours of instruction required of an applicant for a license to practice manicuring shall be apportioned as follows:
- (a)1. General.....150 clock hours/ 4.5 credit hours Sterilization, sanitation and bacteriology, anatomy and physiology, state law, salon management, and ethics.
  - (b)2. Chemical.....100 clock hours/ 3 credit hours Product knowledge, ingredients and usage of materials, manicuring and pedicuring, EPA and OSHA requirements.
  - (c)3. Physical.....350 clock hours/ 10.5 credit hours Massage, manicuring, pedicuring, nail care, nail artistry, nail wraps, sculptured nails, nail tips, gel nails, and nail safety.
- (3)(c) The seven hundred and fifty (750) clock hours/ 22.5 credit hours of instruction required of an applicant for a license to practice aesthetics shall be apportioned as follows:
- (a)1. General.....150 clock hours/ 4.5 credit hours Sterilization, sanitation and bacteriology, professional ethics, personality, salesmanship, anatomy and physiology, and state law.
  - (b)2. Chemical.....150 clock hours/ 4.5 credit hours Skin conditions and disorders, nutrition, aging factors, product ingredients and usage, waxing, lash and brow tinting, OSHA and EPA requirements.
  - (c)3. Physical.....450 clock hours/ 13.5 credit hours Massage movements and manipulations, masks and packs, facial treatments with and without the use of machines, skin analysis and consultation, application of all products and machines, color psychology, make-up and corrective make-up arching.
- (4)(d) The three hundred (300) clock hours/ 9 credit hours of instruction required of an

applicant for a license to practice shampooing shall be apportioned as follows:

- (a)1. General.....100 clock hours/ 3 credit hours Sanitation, sterilization, bacteriology, anatomy, physiology, state law, shampooing and draping, hair and scalp massage.
- (b)2. Chemical.....50 clock hours/ 1.5 credit hours Chemistry and composition of shampoos and conditioners, product knowledge, EPA and OSHA requirements.
- (c)3. Physical.....150 clock hours/ 4.5 credit hours Hair and scalp massage, hair and scalp care, shampooing and rinsing foreign material from hair, shop management (answering phone, scheduling appointments, ordering supplies, taking inventory, and selling to clients).

(5)(e) The three hundred (300) clock hours/ 9 credit hours of instruction required of an applicant for a natural hair stylist license shall be apportioned as follows:

- (a)1. General..... 120 clock hours/ 3.6 credit hours Sanitation, sterilization, bacteriology, shampooing, draping, disorders of hair and scalp, state law and salon management.
- (b)2. Physical.....180 clock hours/ 5.4 credit hours Twisting, wrapping, weaving, extending, locking, braiding and natural hair styling, by hand or mechanical appliances.

(6)(f) The three hundred (300) clock hours/ 9 credit hours of instruction required of applicants for an instructor's license shall include no less than a total of one hundred (100) clock hours/ 3 credit hours in lesson planning and motivation.

(7)(4) To the extent that the prescribed curricula for courses of instruction are substantially similar, the Board may allow general hours of credit accumulated by a student to be transferred from one course of instruction to another. A student shall be allowed to transfer hours only once.

(8)(5) Any person holding a valid Tennessee barber license will be given credit for seven hundred and fifty (750) clock hours/ 22.5 credit hours toward a Tennessee cosmetology license. In order to be eligible for this credit, a barber must be enrolled in a cosmetology school full time, a minimum twenty-five (25) hours per week, not to exceed forty-eight (48) hours per week. After the student has completed the first seven hundred and fifty (750) clock hours/ 22.5 credit hours in a cosmetology school, the Board may apply the second seven hundred and fifty (750) hours/ 22.5 credit hours for the purpose of graduating and being permitted to take the cosmetology examination.

~~(a). In order to be eligible for the above credit, a barber must be enrolled in a cosmetology school full time, a minimum twenty-five (25) hours per week, not to exceed forty-eight (48) hours per week. After the student has completed the first seven hundred and fifty (750) clock hours/ 22.5 credit hours in a cosmetology school, the Board may apply the second seven hundred and fifty (750) hours/ 22.5 credit hours for the purpose of graduating and being permitted to take the cosmetology examination.~~

(5) Notwithstanding any provision to the contrary, any school operated under the Tennessee Cosmetology Act of 1986 may develop courses of instruction and practice incorporating an apprenticeship curriculum, which allows an applicant to obtain fifty percent (50%) of the required hours for a specific license through classroom instruction and fifty percent (50%) of

the required hours under the direct supervision and responsible charge of a licensed professional who meets the requirements set forth in this rule. Supervised apprenticeship hours may not be used for credit for more than fifty percent (50%) of the required hours in any instruction subcategory (General, Chemical or Physical).

- (a) For purposes of this rule, "supervising licensed professional" shall identify a licensed professional in supervision of a student enrolled in an apprenticeship program curriculum, approved by the Board, and responsible for all aspects of that student's apprenticeship instruction.
- (b) Any school offering an apprenticeship curriculum shall maintain a record of all hours completed under the apprenticeship program, including classroom hours, for which credit is awarded in a student's academic file. This record shall include the number of hours completed under direct supervision and responsible charge, the dates these hours were earned, the license number of the professional in responsible charge of instruction who directly supervised the student and the signatures of both the student and the supervising licensed professional in responsible charge.
  - (1) The required records shall be maintained in the student's file and made available for inspection during the student's academic career, shall be maintained for a period of not less than seven (7) years after a student is no longer attending the school providing the apprenticeship curriculum, and shall be made available to the Board immediately upon request during this time.
  - (2) A daily log accounting for all apprenticeship hours awarded under this chapter by any school offering an apprenticeship curriculum shall be maintained by the school and updated monthly. This log shall be made available for inspection at any time.
  - (3) The supervising licensed professional shall submit the daily log to the school providing the apprenticeship curriculum no later than the close of business of the first (1st) day of the month for the previous month.
  - (4) Should an apprentice change salon, shop, establishment, or supervising licensed professional, a notarized transcript of the total hours accumulated shall be signed by the salon, shop, or establishment owner or manager along with the supervising licensed professional and submitted to the approving school within ten (10) days of the change.
- (c) Any supervising licensed professional in responsible charge as provided in this rule shall have at least ten (10) years of experience as a licensed professional in the field of study in which the supervision is provided and hold a current, valid Tennessee license issued by the Board in the field in which supervision is provided. The supervising licensed professional's license must be current at all times while providing supervision.
  - (1) A participating school shall be responsible for confirming a supervising licensed professional's qualifications to be placed in responsible charge of an apprenticeship student as provided by this rule.
  - (2) The participating school providing hours for supervised apprenticeship credit shall maintain documented proof of a supervising licensed professional's experience and a copy of the

supervising licensed professional's current, valid Tennessee license. This documentation shall be maintained for a minimum of seven (7) years following the date that the supervising licensed professional last provided supervision for that school.

- (3) Apprenticeship experience earned in any jurisdiction other than Tennessee may be considered for purposes of complying with this rule provided that the supervising licensed professional was appropriately licensed in that jurisdiction at all times when responsible charge was provided for the purpose of earning credit. Proof of the supervising licensed professional's credentials must be provided by the transferring student candidate.
  - (4) The owner of the salon, shop, or establishment providing the student an apprenticeship shall provide the school a written acknowledgement accepting the student.
  - (5) Each supervising licensed professional shall be the responsible charge of no more than one apprenticeship student.
  - (6) Any salon, shop or establishment participating in an apprenticeship program shall provide a work station for the apprentice student.
  - (7) The supervising licensed professional must notify the approving school that the apprentice is no longer under his or her supervision within ten (10) days of termination of the apprenticeship and submit a transcript of all hours completed.
- (d). No participating school shall allow any person not appropriately licensed to provide any supervision for purposes of this rule, nor shall any participating school allow credit for hours under the supervision of unlicensed persons.

Authority: T.C.A. §§62-4-105(e), 62-4-108, 62-4-110, 62-4-120(k).

#### 0440-01-.04 HIGH SCHOOL EQUIVALENTS.

- (1) For the purpose of determining eligibility for enrollment in a school of cosmetology, an applicant must have completed and passed at least two (2) years of high school or obtained a score of at least four hundred and fifty (450) on a General Educational Development test.
- (2) Public and vocational schools are exempt from the provisions of Tenn. Code Ann. § 62-4-122. However, the completion of at least ten (10) high school credits or obtaining a score of at least four hundred and fifty (450) on a General Educational Development test must be met prior to the completion of a cosmetology curriculum.
- (3) The school considering acceptance of any candidate shall be responsible for verifying and accepting any submitted documentation for high school equivalency.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Rule 0440-01-.05 Requirements for Schools is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

#### 0440-01-.05 REQUIREMENTS FOR SCHOOLS.

~~Every school of cosmetology shall:~~ Every school of cosmetology, including any school solely licensed to teach natural hair styling, manicuring, or aesthetics, shall:

- (1) Publish readily available and clearly expressed admission policies and requirements;
- (2) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a cosmetologist, manicurist, instructor, shampoo technician, natural hair stylist, or aesthetician in the State of Tennessee; however, if a school is licensed to provide instruction solely in natural hair styling, manicuring or aesthetics, the school shall only be responsible for providing documentation relative to licensure in the field in which the school provides instruction.
- (3) Give a receipt to any student from whom money is collected by authorized school personnel; and;
- (4) Submit to the office of the Board, on the prescribed form, a monthly progress report on each student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the Board will be issued for violation of this rule.
- (5) Teach a minimum ten percent (10%) of theory hours each week in each curriculum offered in a school. This requirement does not apply to students enrolled in an apprenticeship program authorized by this chapter.

Authority: T.C.A. §§62-4-105(e) and 62-4-122.

Rule 0440-01-.06 Enrollment of Students is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.06 ENROLLMENT OF STUDENTS.

- (1) Every licensed school of cosmetology shall maintain documentation of age and education in each student's file which evidences eligibility for enrollment under the terms of Tenn. Code Ann. § 62-4-122(a).
- (2) Every enrollment of a student in a school of cosmetology shall be evidenced by a written enrollment agreement which clearly details the rights and obligations of both parties.
- (3) The school shall:
  - (a) furnish to the student an executed copy of the enrollment agreement; and
  - (b) maintain a copy of the agreement in the student's file.
- (4) Every student enrollment agreement shall:
  - (a) be signed and dated by the student and an authorized representative of the school;
  - (b) specify the number of clock hours in the course of instruction and an approximate number of weeks or months required for completion;
  - (c) identify all costs and charges which the student must bear;
  - (d) indicate any grounds for termination of a student by the school;

- (e) state in clear and understandable language the school's refund policy;
  - (f) list any special conditions or requirements for graduation; and
  - (g) contain an acknowledgment that the student has read and understands the agreement before making any payment thereunder.
- (5) ~~All documentation and enrollment agreements required under this rule shall be available for inspection by members or inspectors of the Board during business hours. All application information, including documentation and enrollment agreements required under this rule, shall be included in the student's file and made available for inspection by members or inspectors of the Board during business hours.~~
- (6) A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.
- (7) An apprentice program must be completed within 150% of the time allowed for a student to complete a course of study under the school's standard, non-apprenticeship contract agreement.

Authority: T.C.A. §§62-4-105(e), and 62-4-120, and 62-4-122.

**Rule 0440-01-.09 Examination Passing Scores and School Attendance Ratio is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:**

0440-01-.09 EXAMINATION PASSING SCORES AND SCHOOL ATTENDANCE RATIO.

- (1) The minimum passing scores on all examinations held by the board shall be seventy percent (70%).
- (2) ~~The school a student attends for sixty percent (60%) or the greatest percentage of hours will be the school responsible for the pass/fail ratio. The school a student attends for sixty percent (60%) or the greatest percentage of all hours, including hours obtained through an apprenticeship program, will be the school responsible for the pass/fail ratio.~~
- (3) A student who graduates from a licensed school must pass all examinations no more than three (3) years after passing the initial theory examination. All scores of any passed examinations after that date will be vacated and the graduate must retake and pass the initial theory examination.
- (4) Apprenticeship students shall complete instructional hours and pass the initial theory examination prior to initiating apprenticeship activities in a salon, shop, or establishment.

Authority: T.C.A. §§62-4-105(e).

**Rule 0440-01-.11 Teacher Training Programs is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:**

0440-01-.11 TEACHER TRAINING PROGRAMS.

- (1) ~~An application for approval of a teacher training program in cosmetology shall include:~~ An application for approval of a teacher training program in cosmetology, aesthetics, manicuring, shampooing or natural hair styling shall include:
  - (a) a summary of the education and experience of each instructor for the program;

- (b) the scheduled dates of the program; and
  - (c) the proposed curriculum of the program.
- (2) The applicant shall demonstrate to the satisfaction of the Board that the teacher training program submitted for approval will:
- (a) ~~Contain~~ contain at least sixteen (16) hours of actual instruction;
  - (b) emphasize teaching methodology for its entire duration;
  - (c) restrict the size of classes sufficiently to ensure adequate attention to all participants;
  - (d) proceed for not more than two (2) hours without a break; and
  - (e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product.
- (3) Promptly after the completion of a teacher training program approved by the Board, the sponsor shall send to the Board a roster showing the names, social security number and I.D. number of the persons who attended the program and the number of hours that such persons completed.
- (4) The sponsor shall provide an opportunity for the attendees to evaluate each class and the overall program. The original evaluations shall be forwarded to the office of the Board.

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

Rule 0440-01-.13 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.13 FEES.

(1) Application/examination

- (a) ~~Cosmetologist.....set by contractor~~
- (b) ~~Manicurist.....set by contractor~~
- (c) ~~Instructor.....set by contractor~~
- (d) ~~Aesthetician.....set by contractor~~
- (e) ~~Shampoo Technician.....set by contractor~~
- (f) ~~Natural Hair Stylist.....set by contractor~~

a) A candidate shall schedule the test needed for a specific license (cosmetologist, manicurist, instructor, aesthetician, shampoo technician, or natural hair stylist) with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency.

b) The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to Tenn. Ann. Code 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

(2) Original License

- (a) Cosmetologist.....fifty dollars (\$50.00)
- (b) Manicurist.....fifty dollars (\$50.00)
- (c) Instructor.....seventy dollars (\$70.00)
- (d) Aesthetician.....fifty dollars (\$50.00)
- (e) Shampoo Technician.....fifty dollars (\$50.00)
- (f) Natural Hair Stylist.....fifty dollars (\$50.00)

(3) Renewal

- (a) Cosmetologist.....fifty dollars (\$50.00)
- (b) Manicurist.....fifty dollars (\$50.00)
- (c) Instructor.....sixty dollars (\$60.00)
- (d) Aesthetician.....fifty dollars (\$50.00)
- (e) Shampoo Technician.....fifty dollars (\$50.00)
- (f) Natural Hair Stylist.....fifty dollars (\$50.00)
- (g) Shampoo/Manicurist.....fifty dollars (\$50.00)
- Retired License Reactivation.....fifty dollars (\$50.00)

(4) Penalty for late renewal

Cosmetologist, manicurist, instructor, aesthetician, shampoo technician, and natural hair stylist.....twenty-five dollars (\$25.00)

(5) Cosmetology, manicure, skin care, natural hair stylist or manicure/skin care shops

- (a) Inspection (new shop, relocated shop, shop with change of ownership)
  - .....fifty dollars (\$50.00)
- (b) License
  - new shop.....fifty dollars (\$50.00)
  - relocated shop.....fifty dollars (\$50.00)
  - change of ownership.....fifty dollars (\$50.00)
- (c) Renewal.....fifty dollars (\$50.00)
- (d) Penalty for late renewal.....fifty dollars (\$50.00)
- (e) Change of name only.....ten dollars (\$10.00)
- (f) Change of ownership due to death of immediate family, no charge, with a copy of the death certificate or obituary.

(6) School

- (a) Application/license (new school).....three hundred dollars (\$300.00)
- (b) License for relocated or change of ownership for a school
  - .....one hundred seventy-five dollars (\$175.00)
- (c) Penalty for late monthly report from schools of hours attended by students
  - .....twenty-five dollars (\$25.00)

(7) Replacement or correction of license

- (a) Lost, misplaced or mutilated license.....~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00)
- (b) Change of name by any cosmetologist, aesthetician, manicurist, instructor, shampoo technician, natural hair stylist or shampoo/manicurist.....ten dollars (\$10.00)
- (c) Certification for licensee.....fifty dollars (\$50.00)
  - 1. Fee should be sent with:
    - (i) written request for certification
    - (ii) I.D. number
- (d) Student certification of hours.....twenty-five dollars (\$25.00)
  - 1. Fee should be sent with:
    - (i) certification request form
    - (ii) completion/withdrawal form (unless previously submitted)
- (8) Surcharge to issue manicurist license to former shampoo/manicurist as in Tenn. Code Ann. § 62-4-131(c).....twenty-five dollars (\$25.00)
- (9) Reciprocity.....fifty dollars (\$50.00)  
The fee for application through reciprocity must be received along with the applicant's initial application documents. Any reciprocity application received without this fee shall be incomplete and will not be considered.
- (10) In the event that any check, draft or order for the payment of a fee to the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified check or money order will be accepted for the amount due, plus twenty dollars (\$20.00) additional fee.
- (11) Applications for licensure of a salon are valid for ninety (90) days after approval by the Board. Failure to obtain an approved inspection for operation within the ninety (90) days shall invalidate the application and require a new application and fee.

Authority: T.C.A. §§62-4-105(e), 62-4-110, 62-4-112, 62-4-115, 62-4-118, 62-4-120, and 62-4-131.

Rule 0440-01-.14 Civil Penalties is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.14 CIVIL PENALTIES.

- (1) ~~The Tennessee State Board of Cosmetology may, in a lawful proceeding with respect to any person licensed or required to be licensed, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violation of statutes, rules or orders enforceable by the Board in accordance with the following schedule:~~

Violation	Penalty
<del>Tenn. Code Ann. §62-4-127(b)(1)</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-127(b)(2)</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-127(b)(3)</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-127(b)(4)</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-127(b)(5)</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-127(b)(6)</del>	<del>\$0-\$1000</del>

Tenn. Code Ann. §62-4-127(b)(7)	\$0-\$1000
Tenn. Code Ann. §62-4-127(b)(8)	\$0-\$1000
Tenn. Code Ann. §62-4-127(b)(9)	\$0-\$1000
Tenn. Code Ann. §62-4-127(b)(10)	\$0-\$1000

(2) ~~With respect to any person required to be registered in this state as a cosmetologist, manicurist, aesthetician, shampoo technician or natural hair stylist, the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:~~

~~Violation Penalty~~

<del>Tenn. Code Ann. §62-4-108</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-118</del>	<del>\$0-\$1000</del>
<del>Tenn. Code Ann. §62-4-120</del>	<del>\$0-\$1000</del>

(1) The Tennessee State Board of Cosmetology and Barber Examiners may, in a lawful proceeding with respect to any person licensed or required to be licensed, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violation of statutes, rules or orders enforceable by the Board in accordance with the following schedule: Each individual act, and each day of continued violation, may constitute a separate violation. The amount of any civil penalty shall not exceed one thousand dollars (\$1,000.00) for each violation.

<u>Violation</u>	<u>Penalty</u>
<u>Tenn. Code Ann. § 62-4-127(b)</u>	<u>\$250 - \$1,000</u>

~~(2)-(3)~~ In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

- (a) willingness of the violation;
- (b) repetitions of the violation;
- (c) magnitude of the risk or harm caused by the violation; and
- (d) extent to which the licensee has sought to compensate any victim(s) of the violation.

~~(3)~~ (4) Any owner, manager, or cosmetologist requesting an individual, with a shampoo license only, to perform any services other than those listed for shampooing will be subject to a five hundred dollar (\$500.00) penalty.

Authority: T.C.A. §§56-1-308 and 62-4-105(e).

Rule 0440-01-.15 Practice by Instructor is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-01-.15. PRACTICE BY INSTRUCTOR.

(1) Continuing Education

- (a) ~~In order for a licensed instructor to obtain credit for taking a continuing education course in a state other than the State of Tennessee, with the exception of seminars conducted by the Cosmetology Educators of America, the licensed instructor shall obtain the Board's approval before taking the course by submitting a written request for approval to the Board within thirty (30) days before the licensed instructor intends to take the course. Such written request must include a copy of the course's curriculum. In~~

order for a licensed instructor to obtain credit for taking a continuing education course in a state other than the State of Tennessee, the licensed instructor shall obtain the Board's approval before taking the course by submitting a written request for approval to the Board within thirty (30) days before the licensed instructor intends to take the course. Such written request must include a copy of the course's curriculum.

- (b) A licensed instructor shall submit a request for an extension of time in which to take his or her continuing education in writing to the Board sixty (60) days prior to the expiration date of the instructor's license. A licensed instructor shall submit a request for an extension of time in which to take his or her continuing education in writing to the Board along with proof showing good cause relative to illness or emergency prior to the expiration date of the instructor's license.
- (2) An instructor may only practice or teach the discipline in which he or she is licensed.

Authority: T.C.A. §§62-4-105(e), 62-4-108 and 62-4-114(a)(1) and (2)

Chapter 0440-01  
Licensing  
New Rules

New Rule 0440-01-.16 Schools Providing Limited Instruction is added to Chapter 0440-01, and shall read as follows:

0440-01-.16 SCHOOLS PROVIDING LIMITED INSTRUCTION.

- (1) The Board may, at its discretion, issue a license to a school to provide instruction solely in aesthetics, manicuring or natural hair styling. No school with a limited license shall provide services to the public in any area other than those for which it is licensed to provide instruction.
- (2) The Board may, at its discretion, grant a waiver to a school licensed to provide instruction only in natural hair styling, manicuring or aesthetics or an applicant for such a limited license from equipment requirements as provided in this chapter. A request for such a waiver must be made in writing by the school, on forms prescribed by the Board, and shall specifically identify the equipment that the school desires to omit and the reasons that the omitted equipment is not necessary for the school's curriculum.
- (3) Any salon, shop, or establishment participating in an apprenticeship curriculum must post a sign at its entrance announcing its participation, and must allow customers to elect whether to be serviced by an apprentice student. This sign shall be a minimum dimension of eight (8) by ten (10) inches.

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

New Rule 0440-01-.17 Communication with the Board is added to Chapter 0440-01, and shall read as follows:

0440-01-.17 COMMUNICATION WITH THE BOARD.

- (1)- Renewals. All cosmetologist, aesthetician, manicurist, natural hair stylist, instructor and shop license renewals shall include the applicant's current address, phone number and if available, email address.
- (2) Mailing Address. All cosmetologist, aesthetician, manicurist, natural hair stylist and instructor licensees shall notify the Board in writing within thirty (30) days of any change in mailing address. Electronic notification is acceptable for purposes of this rule.

- (3) Responses to Board Requests. All cosmetologist, aesthetician, manicurist, natural hair stylist, instructor and shop licensees shall respond in writing to any communication from the Board requesting a response within the time prescribed by the Board pursuant to the request.

Authority: T.C.A. § 62-4-105(e).

New Rule 0440-01-.18 Expedited Licensing for Military Spouses is added to Chapter 0440-01, and shall read as follows:

0440-01-.18 EXPEDITED LICENSING FOR CERTAIN MILITARY PERSONNEL AND SPOUSES.

- (1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
- (a) Be issued a license or certificate under the Tennessee Cosmetology Act of 1986 upon application and payment of all fees required for issuance of a regular license or certificate of the same type if, in the opinion of the Board, the requirements for certification or licensure of such other state are substantially equivalent to that required in Tennessee; or
  - (b) Be issued a temporary permit as described herein if the Board determines that the applicant's license or certificate does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including - but not limited to - education, training, or experience, in order to meet the requirements for the license or certificate to be substantially equivalent. The Board may issue a temporary permit upon application and payment of all fees required for issuance of a regular license or certificate of the same type, which shall allow such person to perform services as if fully licensed or certified for a set period of time that is determined to be sufficient for the applicant to complete such requirements.
    - 1. After completing those additional requirements and providing the Board with sufficient proof thereof as may be required, a full certificate of registration shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full certificate of registration had been issued at that time.
    - 2. A temporary permit shall be issued for a period of less than the length of a renewal cycle for a full certificate of registration.
    - 3. A temporary permit shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the Board or by an extension of time granted for good cause by the Board.
    - 4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full certificate of registration, the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Board for all other renewals of a full certificate of registration of the same type.

Authority: T.C.A. §§ 4-3-1304(d), 62-4-105(e).

RULES OF  
TENNESSEE STATE BOARD OF COSMETOLOGY,  
AND BARBER EXAMINERS

CHAPTER 0440-2  
SANITARY RULES

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Rule 0440-02-.01 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-02-.01 DEFINITIONS.

- (1) As used in this Chapter, unless the context requires otherwise, the definitions of terms contained in Tenn. Code Ann. § 64-4-102 are applicable. In addition:
- (a) "Establishment" means any cosmetology, manicure, skin care or natural hair stylist shop or school of cosmetology;
  - (b) "Licensee" means any person holding a valid license (issued by the Board) as a cosmetologist, manicurist, aesthetician, shampoo/manicurist, instructor, natural hair stylist or shampoo technician;
  - (c) "Shampooing" is cleansing of hair and scalp and includes:
    - 1. brushing and combing;
    - 2. rinsing (includes removal of color, permanents, relaxers and conditioners); and
    - 3. conditioning (applying).
  - (d) "Shop" means a cosmetology shop, manicure shop, skin care shop or natural hair styling shop.
  - (e) "Unprofessional Conduct" shall include, but not be limited to failure to respond or comply with a board issued request or lawful order.
  - (f) "Violation" means any breach or failure to abide by the statutes, rules and orders enforceable by the Tennessee State Board of Cosmetology and Barber Examiners and any unprofessional conduct by any individual or entity licensed or required to be licensed under the Tennessee Cosmetology Act.

Authority: T.C.A. §§62-4-102, 62-4-105(e), and 62-4-134.

Rule 0440-02-.04 Posting of Rules and Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

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

- (1) A copy of the cosmetology law (current Tennessee Cosmetology Act) shall be readily available at each shop and school.

~~Licenses shall not be laminated.~~ (2) Every holder of a shop license shall prominently display such license in a clear and conspicuous place at all times.

- (3) Every holder of a personal license shall prominently display such license at any location that the licensee practices or teaches.

Authority: T.C.A. §62-4-105(e).

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

0440-02-.07 EQUIPMENT.

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

All containers for cosmetic products must be properly labeled.

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

- (i) adequate restroom facilities with hot and cold water;
- (k) one (1) sharps container for biohazard material removal;
- (l) one (1) electric hot towel cabin;
- (m) one (1) facial steamer; and
- (n) one (1) wax depilatory heater pot with manufacturer's intended commercial use statement.

All containers for cosmetic products must be properly labeled.

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

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

All containers for cosmetic products must be properly labeled.

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

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

All containers for cosmetic products must be properly labeled.

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

- (8) A cosmetology, skin care, natural hair stylist or manicure shop must have a separate entrance from any other business except in malls, or strip shopping centers, or other commercial property approved by the Board.

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

Rule 0440-02-.08 Attire is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-2-.08 ATTIRE.

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

Authority: T.C.A. §62-4-105(e).

0440-2-.09 LAUNDRY WORK.

- (1) Laundry work may be performed on the premises of an establishment only:
- (a) in an area neither frequented by the general public nor used for instruction, rest, or study by students;
  - (b) with mechanical equipment installed in accordance with applicable codes and standards;
  - (c) with workable equipment which has hot and cold water; and
  - (d) when bleach and detergent are used.

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

Rule 0440-02-.10 Animals is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0440-2-.10 ANIMALS.

- ~~(1) No animals, birds, or fish shall be permitted in any establishment with the exception of animals used to help disabled persons.~~

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

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