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Sequence Number: 11-02-14  
 Notice ID(s): 2256, 2257  
 File Date: 11/3/14

# Notice of Rulemaking Hearing

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

<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>	Robert Herndon, Assistant General Counsel
<b>Address:</b>	500 James Robertson Parkway Nashville, Tennessee 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman Tennessee Department of Commerce and Insurance 500 James Robertson Parkway Nashville, Tennessee 37243
<b>Address:</b>	Nashville, Tennessee 37243
<b>Phone:</b>	(615) 741-0481
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**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Davy Crockett Tower, Conference Room 1-A 500 James Robertson Parkway		
Address 2:			
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	01/05/2015		
Hearing Time:	9:00 AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
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0440-01	Licensing
<b>Rule Number</b>	<b>Rule Title</b>
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
0440-02-.08	Attire
0440-02-.10	Animals

Chapter 0440-01  
Licensing

Amendments

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:

- (1) The Board of Cosmetology (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 for each student;
  - (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;
  - (c) one (1) galvanic machine;
  - (d) one (1) magnifying lamp;
  - (e) one (1) reclining facial chair;
  - (f) one (1) electric brushing machine;
  - (g) one (1) pair electric heating mitts;

- (h) one (1) sink which provides hot and cold running water other than the bathroom;
- (i) one (1) enclosed storage area for clean towels;
- (j) one (1) covered container for soiled towels;
- (k) one (1) high frequency instrument;
- (l) one (1) ultraviolet sanitizer;
- (m) one (1) covered trash container maintained in a sanitary condition; and
- (n) sufficient work area for each student.

(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) 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.

(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.

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

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:

- (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 credible 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.....600 clock hours/ 18 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.
- (g) 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.
- (h) 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.
1. 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.
- (i) 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 curricula, 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. Supervision hours received may not be used for credit for more than fifty percent (50%) of the required hours in any instruction subcategory (General, Chemical or Physical).

1. For purposes of this rule, "responsible charge" 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.
2. 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 professional in responsible charge.
  - (i) 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 providing school, and shall be made available to the Board immediately upon request during this time.
  - (ii) 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. Any supervising licensed professional in responsible charge as provided in this rule shall have at least ten (10) consecutive 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.
  - (i) A participating school shall be responsible for confirming a supervising professional's qualifications to be placed in responsible charge of an apprenticeship student as provided by this rule.
  - (ii) The participating school providing hours for supervised apprenticeship credit shall maintain documented proof of a supervising professional's experience and a copy of the supervising professional's current, valid Tennessee license. This documentation shall be maintained for a minimum of seven (7) years following the date that the supervising professional last provided supervision for that school.
  - (iii) Apprenticeship experience earned in any jurisdiction other than Tennessee may be considered for purposes of complying with this rule provided that the supervising 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 professional's credentials must be provided by the transferring student candidate.
4. 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 purposes.

Authority: T.C.A. § 62-4-105(e).

Rule 0440-01-.04 High School Equivalents 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:

- (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 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:

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 student (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 (10<sup>th</sup>) 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.

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:

- (1) Every 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.

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

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:

- (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 graduation. All scores of any passed examinations after that date will be vacated and the graduate must reapply for a license with the Board.

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:

- (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 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:

- (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
- (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
  - (a) 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 of school hours
    - ..... 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 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:

- (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: 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)(4)	\$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 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. §§ 55-1-308 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:

- (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).

#### 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 solely to training 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 only to provide instruction 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 curricula.
- (3) Any shop 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.

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) Any person who is certified or licensed to perform cosmetology, aesthetics, manicuring, or natural hair styling in a state other than Tennessee upon application by reciprocity shall be issued a license to practice or teach in Tennessee if:
  - (a) Such person's certifications and/or licensure in such other state are substantially equivalent to the requirements for licensure in Tennessee;
  - (b) Such person's spouse is a member of the armed forces of the United States and is the subject of a military transfer to this state;
  - (c) Such person left employment to accompany their spouse to this state; and
  - (d) Such person provides satisfactory evidence of a legal marriage and of such person's spouse's transfer orders.
- (2) If such person provides satisfactory evidence of the requirements above, except item (a), the board shall issue such person a temporary permit to practice while such person works to satisfy the state's licensure requirements.
- (3) Any temporary permit issued by the board shall automatically expire six (6) months from the date of the Board's issuance of such temporary permit. On or before the expiration date, the person shall submit proof of completion of the additional licensing requirements in order to receive licensure in Tennessee. If such requirements have not been substantially met, then the individual must apply for a license under the standard procedures and prescribed by the Board's law and rules.

Authority: T.C.A. § 62-4-105(e).

Chapter 0440-02  
Sanitary Requirements

Amendments

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:

- (1) As used in this Chapter, unless the context requires otherwise, the definitions of terms contained in Tenn. Code Ann. § 64-4-102 are applicable. In addition;
  - (a) "Establishment" means any cosmetology, manicure, skin care or natural hair stylist shop or school of cosmetology;
  - (b) "Licensee" means any person holding a valid license (issued by the Board) as a cosmetologist, manicurist, aesthetician, shampoo/manicurist, instructor, natural hair stylist or shampoo technician;
  - (c) Shampooing is cleansing of hair and scalp and includes:
    1. brushing and combing;
    2. rinsing (includes removal of color, permanents, relaxers and conditioners);
    3. conditioning (applying).
  - (d) "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 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:

- (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.

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:

- (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 container for soiled towels;
  - (d) one (1) covered trash container maintained in a sanitary condition;
  - (e) one (1) dry sterilizer 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.

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 container for soiled towels;
- (g) one (1) covered 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 container for soiled towels;
- (d) one (1) covered trash container maintained in a sanitary condition;
- (e) one (1) dry sterilizer 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:

- (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 licensed school 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 identify the school under which the student is participating in the apprenticeship program.

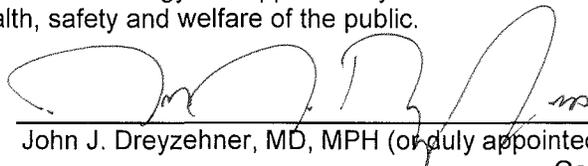
Authority: T.C.A. § 62-4-105(e).

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:

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

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

Pursuant to Tenn. Code Ann. § 62-4-125(a), the proposed amendments to Chapter 0440—02 [SANITARY RULES] of the rules of the Tennessee State Board of Cosmetology are approved by the Tennessee Department of Health as representing the best interest of the health, safety and welfare of the public.



John J. Dreyzehner, MD, MPH (or duly appointed designee)  
Commissioner  
Tennessee Department of Health

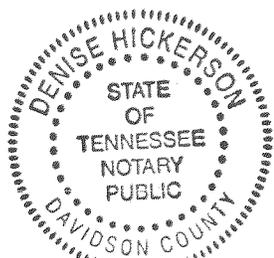
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: OCTOBER 31, 2014

Signature: 

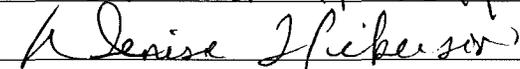
Name of Officer: Robert Herndon

Title of Officer: Assistant General Counsel



My Commission Expires SEPT. 11, 2017

Subscribed and sworn to before me on: OCTOBER 31, 2014

Notary Public Signature: 

My commission expires on: 9-11-2015

**Department of State Use Only**

Filed with the Department of State on: 11/03/2014



Tre Hargett  
Secretary of State

