Agency Name: Board of Cosmetology

Statutory Authority: 40-1-70 and 40-13-60

Document Number: 4337

Proposed in State Register Volume and Issue: 37/1

House Committee: Medical, Military, Public and Municipal Affairs Committee

Senate Committee: Labor, Commerce and Industry Committee

120 Day Review Expiration Date for Automatic Approval 02/04/2014

Status: Withdrawn due to end of two-year session

Subject: Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)

History: 4337

By Date Action Description Jt. Res. No. Expiration Date

- 01/25/2013 Proposed Reg Published in SR

- 02/27/2013 Received by Lt. Gov & Speaker 02/03/2014

S 02/27/2013 Referred to Committee

H 02/28/2013 Referred to Committee

H 04/16/2013 Committee Requested Withdrawal

 120 Day Period Tolled

- 04/17/2013 Withdrawn and Resubmitted 02/04/2014

H 05/15/2013 Resolution Introduced to Approve 4134

S 01/30/2014 Committee Requested Withdrawal

 120 Day Period Tolled

- 06/06/2014 Withdrawn due to end of two-year session

Resubmitted: April 17, 2013

Document No. 4337

**BOARD OF COSMETOLOGY**

CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-60

35-15. Licensure of Cosmetology, Nail Technology, and Esthetic Salons

35-16. Salon Equipment Requirements

35-20. Sanitary and Safety Rules for Salons and Schools

35-22. Civil Penalties

35-26. Minimum Requirements for Crossover Between Licensed Cosmetologists and Master Hair Care Specialists

**Synopsis:**

 To satisfy the requirements of licensure in the field of cosmetology, Regulations 35-15, 35-16, 35-20, and Regulation 35-26 must be updated, and Regulation 35-22 must be added, in conformance with the current Board of Cosmetology Practice Act.

 The Notice of Drafting was published in the *State Register* on October 26, 2012.

**Instructions:**

 The following sections of Chapter 35 are modified as provided below. All other items and sections remain unchanged.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

35-15. Licensure of Cosmetology, Nail Technology, and Esthetics Salons.

(A) Application for Licensure.

(1) ~~For the purpose of this regulation, a salon is defined as a location, other than a cosmetology school, at which cosmetology, nail technology or esthetics is practiced.~~ For the purpose of this regulation, a salon is defined as either a separate salon or an independent contractor. In order to qualify as an independent contractor, the individual licensee must hold a separate booth renter license.

(2) Any firm, person or corporation desiring to open a salon of cosmetology, nail technology or esthetics shall make application to the State Board of Cosmetology at least ten (10) ~~working~~ business days prior to opening date, stating the approximate date the salon will be ready to open. Such application shall be made on a form provided by the board and shall be accompanied by the required application fee.

(3) The applicant shall designate a manager of the salon, who must be licensed by the board, who will be responsible for compliance with this chapter and responsible for all personnel physically located in the salon. The salon manager is the licensed responsible party.

(4) If an applicant fails to meet all the licensure requirements, the board shall deny the application, in writing, and shall list the specific requirements not met.

(5) An applicant denied salon licensure because of failure to meet the requirements set by the board is not precluded from reapplying for licensure.

(B) Temporary Permit.

(1) When an application to operate a salon is approved by the board and an inspection cannot be completed before the projected opening date, the board may issue a temporary permit for not more than ~~ninety (90)~~ thirty (30) days to the owner to operate the salon until an inspection can be made.

(2) If, upon inspection, the salon fails to meet all licensure requirements, the board may, in its discretion, extend the temporary permit for not more than thirty (30) additional days.

(3) Upon completion of a satisfactory salon inspection, any temporary permit previously issued shall be relinquished to the board’s representative and a salon license will be issued by the board.

(C) Inspections.

(1) The board or its designee shall conduct an inspection of the salon to ensure that all licensure requirements have been met, within ~~ten working~~ thirty (30) calendar days, prior to issuance of a salon license.

(2) Licensed salons will be inspected periodically by a representative of the board. No mobile salons are permitted.

(3) All licenses shall be current and posted in public view. Individual licenses shall have a recent photo of the licensee attached. An individual license is not valid without a recent photo attached. The licensee shall have one form of valid government issued photo identification available during inspection. The license must be an original.

(D) Change in Salon Location.

(1) A salon license shall be valid only for the location named and shall not be transferable.

(2) Any request for a change in salon location shall be submitted to the board through a new application, together with the required fee, ~~twenty~~ ten (10) working days prior to the proposed opening in the new location.

(E) Change in Salon Name and/or Salon Owner.

(1) A salon license shall be valid only for the owner named and the salon named, and shall not be transferable.

(2) Any request for a change in salon name and/or salon owner shall be submitted to the board through a new application, together with the required fee.

(F) Salon Closure.

(1) If a salon is closed permanently, the salon license shall be immediately returned to the board. If a salon is temporarily closed for more than sixty (60) days, the salon owner shall notify the board.

(G) Renewal of Salon License.

(1) A salon license shall be renewed upon application, accompanied by the required renewal fee, to the board before July 1 of the year in which such license expires.

 (H) Lost or Stolen Licenses.

 (1) If the professional license is lost or stolen one (1) duplicate may be issued. Additional replacements must have approval by the board or its designee.

35-16. Salon Equipment Requirements.

(A) Salons offering services in all phases of cosmetology shall maintain the following minimum equipment:

(1) one (1) Disinfectant (wet), large enough to totally immerse implements, with an EPA-registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal activity used according to manufacturer’s instructions.

(2) Sharps container for the disposal of used and/or contaminated implements. These containers must be disposed of according to local bio-hazard disposal requirements.

(B) All salons shall have direct access to the following:

(1) ~~H~~hot and ~~C~~cold ~~R~~running ~~W~~water

(2) ~~R~~rest ~~R~~room ~~F~~facilities

(3) ~~C~~closed ~~C~~cabinet for ~~C~~clean ~~L~~linens ~~S~~storage

(4) ~~S~~storage for ~~S~~soiled ~~L~~linens

(5) ~~F~~fire ~~E~~extinguisher

(6) ~~F~~first ~~A~~aid ~~K~~kit

(7) ~~C~~covered ~~T~~trash ~~C~~containers

(8) Sharp’s container

All salons shall provide other equipment as is necessary to offer those services available in the salon in a safe and sanitary manner.

35-20. Sanitary and Safety Rules for Salons and Schools.

(A) Enforcement.

(1) The holder or holders of a salon license or a school license, and the person in charge of any such salon or school, shall be liable for implementing and maintaining the sanitary rules in such salon or school individually and jointly with all persons in or employed by or working in or on the premises of such salon or school. All licensed cosmetologists, instructors, nail technicians and estheticians shall be held individually liable for implementation and maintenance of the sanitary rules applicable to them.

(2) To assure compliance with the laws and regulations governing the operations of salons and schools, the ~~authorized~~ board approved representative~~s~~ shall have access to the premises of any salon or school, at any time that the instruction or practice of cosmetology is being conducted.

(3) Refusal to permit, or interference with, an inspection constitutes a cause for disciplinary action.

(4) A licensee’s failure to observe all rules and regulations on sanitation and to maintain adequate precautionary measures for the public’s protection and safety is cause for disciplinary action up to revocation of license. Failure to display, in full public view, all licenses applicable to the salon or school and the persons therein engaged in the practice of cosmetology as well as the sanitary rules and regulations and the sanitary rating given to said salon or school, is sufficient cause for revocation of licenses.

(5) A salon’s or school’s failure to receive a passing inspection is sufficient cause for disciplinary action up to revocation of license, if not corrected by the next inspection. Thirty (30) days thereafter the board may schedule a show cause hearing in accordance with the provisions as established by the statutes regulating cosmetology.

(B) Rules.

(1) Every salon and school must occupy a separate building, or part of a building which is suitable to render adequate sanitary services to the public, wherein cosmetology may be taught or practiced. Salons, schools, and barber shops must be separated from each other by a solid wall from the floor to the ceiling. Salons and schools must also be separated by solid walls and separate entrances.

(2) Salons and schools shall comply with all state and local building, plumbing and electrical codes.

(3) Salons and schools shall comply with all relevant federal/state workplace safety laws.

(4) The use of a salon or school as living, dining or sleeping quarters is prohibited.

(C) Residential Salons.

(1) Residential salons must maintain a separate entrance for clients, which entrance shall not open from the living, dining or sleeping quarters, and all doors previously opening into such quarters must be permanently sealed.

(2) No portion of the salon may be used as a portion of a private residence.

(3) Entrances must permit patrons to enter salon directly without requiring passage through any portion of the residence.

(4) Separate toilet facilities for patrons must be provided apart from the living quarters.

(D) Physical Facilities of Salons and Schools.

(1) Cleanliness and Repair. Each salon and school must keep the floors, walls, woodwork, ceilings, furniture, furnishings, and fixtures clean and in good repair.

(2) Water Supply. Each salon and school must provide a supply of hot and cold running water.

(3) Toilet Facilities. Each salon and school must provide toilet and hand washing facilities consisting of at least one commode and one lavatory in good working order, with hot and cold running water, soap and individual towels. These facilities must be separate and apart from living, dining or sleeping quarters. Restrooms may not be used for storage.

(4) Drinking Water. Each salon and school must supply potable drinking water.

(E) Animals in Salons and Schools.

No person may bring any animal into, permit any animal to be brought into, or permit any animal other than a service animal for the disabled to remain in, a salon or school.

(F) Infectious Disease.

(1) Licensees must not permit any person afflicted with an infestation of parasites or with an infectious or communicable disease which may be transmitted during the performance of the acts of cosmetology or any of its branches, to work or train in a salon or in a school.

(2) No salon or school may knowingly require or permit a student or person licensed by the Board of Cosmetology to work upon a person known to suffer from any infectious or communicable disease which may be transmitted during the performance of the acts of cosmetology or any of its branches.

(3) No salon or school may require or allow a student or licensee of the Board of Cosmetology to perform any service on a patron with a known infestation of parasites.

(G) ~~Personal~~ Cleanliness and Personal Hygiene.

(1) ~~Person and Wearing Apparel. The person and the uniform or attire worn by an individual serving a patron must be clean and appropriate at all times.~~

~~(2)~~ Washing Hands. Every person performing ~~cosmetological~~ cosmetology or related services in a salon or school must thoroughly wash his or her hands with soap and water or any equally effective ~~cleansing solution~~ hand sanitizer before serving each patron.

(H) ~~Instruments~~ Implements and Supplies.

(1) Licensees and students must dispose of all supplies or ~~instruments~~ implements which come in direct contact with a patron and cannot be disinfected (for example, cotton pads, emery boards used on the natural nail, and neck strips) in a covered waste receptacle immediately after their use.

(I) Disinfecting Nonelectrical ~~Instruments~~ Implements and Equipment.

(1) Before use upon a patron, all non‑electric~~al~~ ~~instruments~~ implements with a sharp point or edge which may on occasion pierce the skin and draw blood (scissors, razors, tweezers, cuticle nippers, nail technician scissors, etc.) and all non-electric~~al~~ ~~instruments~~ implements without sharp points or edges (combs, brushes, rollers) and all ~~instruments~~ implements and accessories used in all branches of cosmetology, including nail technology, must be disinfected in the following manner:

(a) clean with soap (or detergent) and water, dry, and then

(b) totally immerse implements with an EPA-registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal ~~or tuberculocidal~~ activity used according to manufacturer’s instructions.

(2) All disinfected ~~instruments~~ implements must be stored in a clean, dry covered ~~place~~ container.

(3) The disinfectant solutions specified in subdivision (1):

(a) shall remain covered at all times;

(b) shall be changed at least once per week, ~~or~~ whenever ~~visibly~~ visible debris is present or cloudy ~~or dirty~~, or as the manufacturer mandates; and

(c) shall be of sufficient size to accommodate all ~~instruments~~ implements.

(4) All non-disinfected ~~instruments~~ implements (those that have been used on a patron or soiled in any manner) must be placed in a properly labeled receptacle.

(J) Disinfecting Electrical ~~Instruments~~ Implements.

(1) Licensees and students must disinfect clippers, scalp vibrators, and other electrical ~~instruments~~ implements prior to each use by:

(a) first removing all foreign matter; and

(b) disinfecting with EPA‑registered hospital level disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal ~~or tuberculocidal~~ activity used according to manufacturer's instructions.

(2) All disinfected electrical ~~instruments~~ implements shall be stored in a clean, covered ~~place~~ container.

(K) Liquids, Creams, Powders and Other Cosmetic Preparations.

(1) Storage. All liquids, creams and other cosmetic preparations must be kept in properly labeled clean and closed containers. Powders may be kept in a clean shaker.

(2) Removal from Container. When only a portion of a cosmetic preparation is to be used on a patron, licensees and students shall remove it from the container in such a way as not to contaminate the remaining portion. Cosmetic pencils must be sharpened after each use.

(L) Headrests, Shampoo Bowls, and Treatment Tables.

(1) Licensees and students must cover the headrest of chairs with a clean towel or paper sheet for each patron.

(2) Shampoo trays and bowls must be cleansed with soap and water or other ~~detergent~~ approved disinfectant after each shampoo and kept in good repair and in a sanitary condition at all times.

(3) Licensees and students must cover treatment tables with a clean sheet of examination paper or fresh linens for each patron.

(M) Towels.

(1) Used ~~T~~towels are to ~~B~~be ~~Discarded~~ stored in a separate receptacle until properly laundered and disinfected. After a towel has been used once, it must be deposited in a closed receptacle, and shall not be used again until properly laundered and ~~sanitized~~ disinfected.

(2) Methods of Laundering. Used towels must be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at 140 degrees F for not less than fifteen (15) minutes during the washing or rinsing operation.

(3) Storage. All clean towels must be stored in a closed cabinet.

(N) Bottles and Containers.

Licensees and students must ~~distinctly and correctly label~~ clearly, distinctly, and properly label, in English, all bottles and containers in use in a school or salon to disclose their contents. All bottles containing poisonous substances shall be additionally and distinctly marked as such.

(O) Neck Strips.

Licensees and students must use sanitary neck strips or towels to keep the protective covering from coming in direct contact with a patron's neck.

 (P) Licensees may not use any of the following substances, implements, or products in performing cosmetology or cosmetology related services. Possession on licensed premises of any item listed in this section is a violation under this chapter:

 (1) Methyl Methacrylate Liquid Monomers (MMA);

 (2) Razor-type callus shavers designed and intended to cut growths of skin such as corns and calluses (e.g. credo blades);

 (3) Alum or other astringents in stick or lump form (Alum or other astringents in powder or liquid form are acceptable);

 (4) Fumigants such as formalin (formaldehyde) tablets or liquids;

 (5) The use of any product, preparation or procedure that comes into contact with or penetrates the dermis layer of the skin is prohibited.

35-22. Civil Penalties.

(A) Any person who violates any provision of 1976 South Carolina Code of Laws Section 40-13-10 *et seq.*, any regulation of Chapter 35 promulgated by the South Carolina State Board of Cosmetology, or any duly issued Order of the Board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of not more than five hundred ($500.00) dollars for each violation. In establishing the amount of the penalty for each violation, the Board shall consider, but not be limited to, the following factors:

(1) The gravity and magnitude of the violation;

(2) The person’s previous record of complying or of failing to comply with the provisions of Section 40-13-10 *et seq.* or with the rules adopted under South Carolina Chapter 35;

(3) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation;

(4) Such other factors as the Board may consider appropriate.

(B) Establishing Civil Penalty Amounts.

In assessing civil penalties, the Board desires to be both consistent and equitable and to consider and evaluate each case on an individual basis. By majority vote, the Board may reduce or waive a penalty. The actual civil penalty which the Board assesses shall be based on the Board's consideration of the factors listed in (A) above, but the fine for any one violation shall not exceed five hundred ($500.00) dollars.

35-26. Minimum Requirements for Crossover Between Licensed Cosmetologists and Master Hair Care Specialists.

(A) The board will issue Crossover Cosmetologist licenses to those licensed as Master Hair Care Specialists by the South Carolina State Board of Barber Examiners, who will submit a completed application, fee and proof of a current South Carolina Master Hair Care Specialist license. Crossover Cosmetologist applicants must have a passing score on the theory examination for that license and the total number of years experience and training prescribed hereunder, and thereafter perform satisfactorily in all portions of the practical examination prescribed by the board.

(B) Experience and training prerequisites to examinations.

(1) Five (5) years of work experience as a Master Hair Care Specialist license.

(2) Four (4) years work experience under such a license and one hundred (100) hours of cosmetology school training approved by the board.

(3) Three (3) years work experience under such a license and two hundred (200) hours of cosmetology school training approved by the board.

(4) Any licensed Master Hair Care Specialist with less than three (3) years experience must have three hundred fifty (350) hours of cosmetology school training approved by the board.

(5) Any applicant must possess equal to or greater than current cosmetology education.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions.

**Statement of Rationale:**

 These regulations are updated in conformance with the current Board of Cosmetology Practice Act.