



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY
VOLUME:
ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume, issue, and date of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: NC Board of Cosmetic Art Examiners
2. Agency website postings: <ul style="list-style-type: none">• Text of proposed rule posted at: www.nccosmeticarts.com/uploads/board/PRAugust2012.pdf• Explanation and reason for proposed rule posted at: www.nccosmeticarts.com/uploads/board/PRAugust2012.pdf• Federal Certification posted at:• Instructions for oral and written comments posted at: www.nccosmeticarts.com/uploads/board/PRAugust.2012.pdf• Fiscal Note if prepared posted at:
3. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input type="checkbox"/> ADOPTION: <input checked="" type="checkbox"/> AMENDMENT: 21 NCAC 14 H .0401, 21 NCAC 14H .0402, 21 NCAC 14R .0105 <input type="checkbox"/> REPEAL:
4. Proposed effective date: January 1, 2013
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: 10/2/2012 Public Hearing time: 9:00 am Public Hearing Location: 1207 Front Street Suite 110 Raleigh, NC 27609
6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:
7. Explain Reason For Proposed Action: These rules prohibit licensees from working in a fraudulent manner and allow licensees to discard CE documents on a retention schedule.

Interested persons may present oral or written comments at the rule-making hearing. In addition, the record will be open for receipt of written comments from August 24, 2012 until November 16, 2012. Written comments not presented at the hearing should be directed to Stefanie Kuzdrall

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

9. The person to whom written comments may be submitted on the proposed rule:

Name: Stefanie Kuzdrall
 Address: 1207 Front Street Suite 110 Raleigh, NC 27609

Phone (optional):
 Fax (optional):
 E-Mail (optional):

10. Comment Period Ends November 16, 2012

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

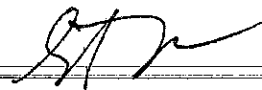
- State funds affected
- Environmental permitting of DOT affected
 Analysis submitted to Board of Transportation
- Local funds affected
 Date submitted to OSBM:
- Substantial economic impact (≥\$500,000)
- Approved by OSBM
- Approval by OSBM not required

12. Rule-making Coordinator:

Stefanie Kuzdrall
 Address: 1207 Front Street Suite 110 Raleigh, NC 27609

Phone: 919-715-0018
 E-Mail: skuzdrall@nccosmeticarts.com
 Agency contact, if any:
 Phone:
 E-mail:

13. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Stefanie Kuzdrall
 Title:

1 **21 NCAC 14H .0401 LICENSEES AND STUDENTS IS PROPOSED FOR AMENDMENT AS FOLLOWS:**

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3 **21 NCAC 14H .0401 LICENSEES AND STUDENTS**

4 (a) Each licensee and student shall wash his or her hands with soap and water or an equally effective cleansing agent
5 immediately before and after serving each client.

6 (b) Each licensee and student shall wear clean garments and shoes while serving patrons.

7 (c) Licensees or students must not use or possess in a cosmetic art school or shop any of the following:

- 8 (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA;
- 9 (2) Razor-type callus shavers designed and intended to cut growths of skin including but not limited to
10 skin tags, corns and calluses;
- 11 (3) FDA rated Class III devices;
- 12 (4) Carboic acid (phenol) over two percent strength;
- 13 (5) Animals including insects, fish, amphibians, reptiles, birds or mammals to perform any service; or
- 14 (6) Variable speed electrical nail file on the natural nail unless it has been designed for use on the natural
15 nail.

16 (d) A licensee or student must not:

- 17 (1) Use any product, implement or piece of equipment in any manner other than the product, implement or
18 equipment's intended use as described or detailed by the manufacturer;
- 19 (2) Diagnose any medical condition or treat any medical condition unless referred by a physician;
- 20 (3) Provide any service unless trained prior to performing the service;
- 21 (4) Perform services on a client if the licensee has reason to believe the client has any of the following:
22 (A) a contagious condition or disease;
23 (B) an inflamed, infected, broken, raised or swollen skin or nail tissue; or
24 (C) an open wound or sore in the area to be worked on;
- 25 (5) Alter or duplicate a license issued by the Board;
- 26 (6) Advertise or solicit clients in any form of communication in a manner that is false or misleading;
- 27 (7) Use any FDA rated Class II device without the documented supervision of a licensed physician; or
28 (8) Use any product that will penetrate the dermis.

29 (9) Make any statement to member of the public either verbally or in writing stating or implying action is
30 required or forbidden by Board rules when such action is not required or forbidden by Board rules. A
31 violation of this prohibition is considered practicing or attempting to practice by fraudulent
32 misrepresentation.

33 (e) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by the
34 manufacturer in the Material Safety Data Sheet.

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36 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
37 *Eff. April 1, 2012-2012;*

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Amended Eff. January 1, 2013.

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1 21 NCAC 14R .0105 CONTINUING EDUCATION IS PROPOSED FOR AMENDMENT AS FOLLOWS:

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3 21 NCAC 14R .0105 CONTINUING EDUCATION

4 (a) Each licensee wishing to maintain his/her license shall obtain continuing education during each licensing period. The
5 licensee shall maintain records of attendance of a continuing education course including the following information:

- 6 (1) Course title and description;
7 (2) Date conducted;
8 (3) Address of location where the course was conducted; and
9 (4) Continuing education hours earned.

10 (b) Each licensee must ensure at least 50 percent of subject matter broadens the licensee's knowledge of the cosmetic arts
11 ~~profession,~~ profession in which licensed.

12 (c) Each instructor must ensure at least 50 percent of subject matter relates to teacher training techniques and enhance
13 the ability to communicate.

14 (d) The continuing education shall be approved by the board providing it meets the requirements above.

15 (e) Audits of the licensee's continuing education may be conducted at any time. Upon the Board's request each licensee
16 shall provide completed records to the ~~Board.~~ Board to support the last affirmation given. Records must be maintained
17 until the end of the next renewal cycle after the affirmation for audit purposes.

18 (f) The Board may suspend a license, revoke a license, or deny the renewal of any license of any licensee who fails to
19 comply with any provision of the rules in this Subchapter. Written justification of the suspension, denial, or revocation
20 shall be given.

21 (g) Continuing education courses completed prior to an individual's being licensed by the Board shall not qualify for
22 continuing education credit.

23 (h) Apprentices do not need to earn continuing education for renewal.

24 (i) Licensees are exempt from eight hours of continuing education requirements until the licensing period commencing
25 after their initial licensure.

26 (j) After completion of the continuing education requirements for any licensing cycle the licensee shall forward the
27 following:

- 28 (1) the license renewal application;
29 (2) the license renewal fee; and
30 (3) A date and signature affirming the following pledge: "I hereby certify that I have obtained all
31 continuing education hours required in accordance with the general statute and board rules and
32 regulations. I am aware that false or dishonest misleading information may be grounds for 1)
33 disciplinary action against my license; and further that 2) false statements are punishable by law."

34 (k) Failure to produce documents or file a response to a request for audit from the Board within 30 days of the request
35 shall result in civil penalty to the licensee in the amount of two hundred fifty dollars (\$250.00).

36 (l) The presentation of fraudulent continuing education documentation to the Board by a licensee shall result in civil
37 penalty of five hundred dollars (\$500.00).

38 (m) Licensees in inactive status can reactivate licensure by taking no less than eight hours of continuing education per
39 year of inactivity up to 24 total hours.

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41 *History Note: Authority G.S. 88B-2; 88B-4; 88B-21; 88B-24; 88B-29;*

42 *Eff. April 1, ~~2012-2012~~;*

43 *Amended Eff. January 1, 2013.*

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1 **21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS IS PROPOSED FOR AMENDMENT AS**
2 **FOLLOWS:**

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4 **21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS**

- 5 (a) The cosmetic art facility shall be kept clean.
6 (b) Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall
7 be maintained in a sanitary manner.
8 (c) All doors and windows shall be kept clean.
9 (d) Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.
10 (e) Animals or birds shall not be in a cosmetic art shop or school. Fish in an enclosure and animals trained for the
11 purpose of accompanying disabled persons are exempt.
12 (f) Cosmetic art shops and schools shall designate the entrance by a sign or lettering.
13 (g) The owner of a cosmetic art shop or school shall not post any sign that states or implies that some action is required
14 or forbidden by Board rules when such action is required or forbidden by Board rules. A violation of this prohibition is
15 considered practicing or attempting to practice by fraudulent misrepresentation.

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17 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
18 *Eff. April 1, 2012-2012;*
19 *Amended Eff. January 1, 2013.*