



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/proctober2011.pdf• Explanation and reason for proposed rule posted at: www.nccosmeticarts.com/uploads/board/proctober2011.pdf• Federal Certification posted at:• Instructions for oral and written comments posted at: www.nccosmeticarts.com/uploads/board/proctober2011.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 checked="" type="checkbox"/> ADOPTION: 21 NCAC 14B .0607, 21 NCAC 14H .0201, .0202, .0203, .0204, .0301, .0302, .0303, .0401, .0402, .0403, .0404, .0501, .0502, .0503, .0504, .0505, 21 NCAC 14R .0105 <input checked="" type="checkbox"/> AMENDMENT: 21 NCAC 14B .0307 <input type="checkbox"/> REPEAL:
4. Proposed effective date: April 1, 2012
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: December 16, 2011 Public Hearing time: 9:00 am Public Hearing Location: 1201 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 have been written by the Board to more clearly define the processes of public hearings for proposed Board rules, to provide clearer language for sanitation standards and to address regulations for the continuing education review process as required by G.S 88B.

8. The procedure by which a person can object to the agency on a proposed rule:

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 October 24, 2011 to January 30, 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: 1201 Front Street Suite 110 Raleigh, NC 27609

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends: January 30, 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 (\geq \$500,000)
- Approved by OSBM
- Approval by OSBM not required

12. Rule-making Coordinator:

Stefanie Kuzdrall

Address:

1201 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 14R .0105 CONTINUING EDUCATION IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2
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.

5 The licensee shall maintain records of attendance of a continuing education course including the following information:

6 (1) Course title and detail description;

7 (2) Date conducted;

8 (3) Address 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 knowledge of the cosmetic arts
11 profession.

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

14 (d) The continued 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.

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

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

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

22 (i) Licensees are exempt from 8 hours of continuing education requirements until the licensing period commencing after
23 their initial licensure.

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

26 (1) the license renewal application;

27 (2) the license renewal fee; and

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

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

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

36 (m) The failure to attend continuing education courses as required by GS 88-B and determined through Board audit shall
37 result in civil penalty in the amount of five hundred dollars (\$500.00) per renewal cycle.

38 (n) 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.

40

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

42 Eff. March 1, 2012

43

1 **21 NCAC 14H .0505 RULE COMPLIANCE AND ENFORCEMENT MEASURES IS PROPOSED FOR**
2 **ADOPTION AS FOLLOWS:**

3
4 **21 NCAC 14H .0505 RULE COMPLIANCE AND ENFORCEMENT MEASURES**

5 (a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty in the
6 amount of three hundred dollars (\$300.00) per container of product or piece of equipment:

- 7 (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or
- 8 (2) Razor-type callus shavers designed and intended to cut growths of skin including but not limited to
9 skin tags, corns and calluses.

10 (b) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty in the
11 amount of one hundred dollars (\$100.00) per container of product or piece of equipment:

- 12 (1) FDA rated Class III devices; or
- 13 (2) Carbolic acid (phenol) over two percent strength; or
- 14 (3) Animals including insects, fish, amphibians, reptiles, birds or mammals to perform any service; or
- 15 (4) Variable speed electrical nail file on the natural nail unless it has been designed for use on the natural
16 nail.

17 (c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil penalty in
18 the amount of one hundred dollars (\$100.00) per instance of each action:

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

31 (d) The presence of an animals or birds in a cosmetic art shop or school shall result in civil penalty in the amount of
32 twenty-five dollars (\$25.00) per animal or bird. Animals trained for the purpose of accompanying disabled persons are
33 exempt.

34 (e) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or shop
35 as required by this subchapter including the date, time, reason and name of the staff member that performed the cleaning
36 or the failure to keep or make such record available for at least 90 days upon request by either a patron or inspector shall
37 result in civil penalty in the amount of twenty-five dollars (\$25.00) per footspa.

- 38 (f) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this subchapter shall result
39 in civil penalty in the amount of one hundred dollars (\$100.00) per footspa.
- 40 (g) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, sterile bandages
41 available to provide first aid shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per item.
- 42 (h) The failure to have in a cosmetic art shop or school to maintain a sink with hot and cold running water in the clinic
43 area, separate from restrooms shall result in civil penalty in the amount of one hundred dollars (\$100.00).
- 44 (i) The failure to maintain a water supply within 20 feet of the door or 25 feet from the service table or chair shall result
45 in civil penalty in the amount of fifty dollars (\$50.00) per inspection occurrence.
- 46 (j) The failure to provide necessary ventilation at all times in the areas where patrons are serviced in all cosmetic art
47 shops, there must be a continuous exchange of air shall result in civil penalty in the amount of twenty-five dollars
48 (\$25.00).
- 49 (k) The failure to effectively screen all doors and windows, open for ventilation shall result in civil penalty in the amount
50 of twenty-five dollars (\$25.00).
- 51 (l) The failure to provide light in the service area shall result in civil penalty in the amount of twenty-five dollars
52 (\$25.00).
- 53 (m) The failure to adhere to any federal, state and local government regulation or ordinance regarding fire safety codes,
54 plumbing and electrical work shall result in civil penalty in the amount of twenty-five dollars (\$25.00).
- 55 (n) The failure to provide toilet and hand washing facilities consisting of at least one commode and one hand washing
56 sink with hot and cold running water, liquid soap and individual clean towels shall result in civil penalty in the amount of
57 twenty-five dollars (\$25.00).
- 58 (o) The failure to maintain equipment and supplies to safely perform any cosmetic art service offered in the shop shall
59 result in civil penalty in the amount of one hundred dollars (\$100.00).
- 60 (p) The failure to maintain a sanitation grade of 80% or higher shall result in a civil penalty in the amount of two hundred
61 dollars (\$200.00).
- 62 (q) The failure to display in a conspicuous place a current grade card shall result in a civil penalty in the amount of one
63 hundred dollars (\$100.00).
- 64 (r) Repeated violations of the rules in this subchapter exceeding 3 written notifications of any one rule documented to any
65 one individual, shop or school shall result in a mandatory disciplinary hearing.

66
67 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27;
68 Eff. March 1, 2012
69

21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS IS PROPOSED FOR ADOPTION AS FOLLOWS:

21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS

The system of grading the sanitary rating of cosmetic art schools and shops based on the rules set out in this subchapter shall be as follows, setting out areas to be inspected and considered, and the maximum points given for compliance:

<u>Sanitation</u>	<u>Point Value</u>
<u>Each licensee and student shall wash his or her hands with soap and water or an equally effective cleansing agent immediately before and after serving each client.</u>	<u>2</u>
<u>Each licensee and student shall wear clean garments and shoes while serving patrons.</u>	<u>2</u>
<u>The cosmetic art facility shall be kept clean.</u>	<u>3</u>
<u>Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall be maintained in a sanitary manner.</u>	<u>4</u>
<u>All doors and windows shall be kept clean.</u>	<u>2</u>
<u>Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.</u>	<u>3</u>
<u>Clean protective capes, drapes, linens and towels shall be used for each patron</u>	<u>3</u>
<u>After a cape, drape, linen or towel has been in contact with a patron's skin it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer.</u>	<u>5</u>
<u>Any paper or nonwoven protective drape or covering shall be discarded after one use.</u>	<u>2</u>
<u>There shall be a supply of clean protective drapes, linens and towels at all times.</u>	<u>2</u>
<u>Clean drapes, capes, linens and towels shall be stored in a clean area.</u>	<u>5</u>
<u>Bathroom facilities must be kept cleaned.</u>	<u>3</u>
<u>All implements shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.</u>	<u>2</u>
<u>All implements shall be disinfected</u>	<u>10</u>
<u>All disinfected electrical implements shall be stored in a clean area.</u>	<u>2</u>
<u>Disposable and porous implements and supplies must be discarded after use or upon completion of the service.</u>	<u>10</u>
<u>Product that comes into contact with the patron must be discarded upon completion of the service.</u>	<u>3</u>
<u>Disinfected implements must be kept in a clean closed cabinet or clean closed container and must not be stored with any implement or item that has not been disinfected.</u>	<u>10</u>
<u>Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.</u>	<u>2</u>
<u>All creams, lotions, wax, cosmetics, and other products dispensed to come in contact patron's skin must be kept in clean, closed containers and dispensed in a sanitary manner. No product dispensed in portions may be returned to the container.</u>	<u>10</u>
<u>After each patron each whirlpool or footspa must be cleaned and disinfected</u>	<u>10</u>
<u>The water in a vaporizer machine must be emptied daily and the unit disinfected.</u>	<u>2</u>

The area where services are performed that come in contact with the patron's skin including chairs, tables and beds shall be disinfected between patrons.

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8 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-26;*

9 *Eff. March 1, 2012*

10

11

1 21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS IS PROPOSED FOR
2 ADOPTION AS FOLLOWS:

3
4 21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS

5 (a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter.

6 Based on the grading, all establishments shall be rated in the following manner:

7 (1) all establishments receiving a rating of at least 90 percent or more, shall be awarded a grade A;

8 (2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded
9 grade B;

10 (3) all establishments receiving a rating of at least 70 percent or more, and less than 80 shall be awarded
11 grade C;

12 (4) any cosmetic art shop or school with a sanitation grade of 70 or below shall be awarded a failed
13 inspection notice.

14 (b) Every beauty establishment shall be given a sanitary rating. A cosmetic art school shall be graded no less than three
15 times a year, and a cosmetic art shop shall be graded once a year.

16 (c) The sanitary rating or failed inspection notice given to a beauty establishment shall be posted in a conspicuous place
17 near the front entryway at all times.

18 (d) All new establishments must receive a rating of at least 90 percent before a license will be issued.

19 (e) The operation of a cosmetic art shop or school which fails to receive a sanitary rating of at least 70 percent (grade C)
20 shall be sufficient cause for revoking or suspending the license.

21 (f) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30
22 days of the last inspection, unless the rating at the last inspection was less than 80 percent.

23 (g) A whirlpool and footspa sanitation record must be kept on each whirlpool and footspa for inspection on a form
24 provided by the Board.

25 (h) All cosmetic art shops and schools with a failed inspection report shall be sufficient cause for the immediate
26 suspension of licensure. All cosmetic art shops and schools with a failed inspection report must close until the sanitation
27 conditions have improved to be awarded a passing grade.

28 (i) Mobile cosmetic art shops and schools are prohibited.

29
30 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-26; 88B-27;

31 Eff. March 1, 2012
32

1 **21 NCAC 14H .0502 FAILURE TO PERMIT INSPECTION IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3

4 **21 NCAC 14H .0502 FAILURE TO PERMIT INSPECTION**

5 If an inspector is unable to inspect a salon twice with appointment, the Board may initiate proceedings to revoke or
6 suspend the salon license or may refuse to renew the shop license.

7

8 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27;

9 Eff. March 1, 2012

1 **21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3
4 **SECTION .0500 ENFORCEMENT, MAINTENANCE OF LICENSURE**

5
6 **21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS**

7 (a) A newly established cosmetic art shop, a shop which has been closed for more than 90 days, or a shop which has
8 changed ownership, must file an application for licensure with the Board prior to opening. A newly established cosmetic
9 art shop, a shop which has been closed for more than 90 days, a shop which has changed ownership or a shop which has
10 been operating without a license shall be inspected before a license will be issued.

11 (b) Each cosmetic art shop must pass inspection by an agent of the Board pursuant to 21 NCAC 14H. Inspections shall
12 be conducted at least annually and may be conducted without notice.

13
14 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27;

15 Eff. March 1, 2012

1 **21 NCAC 14H .0404 FIRST AID IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2

3 **21 NCAC 14H .0404 FIRST AID**

4 (a) Each cosmetic art shop and school must have antiseptics, gloves or finger guards, sterile bandages and other
5 necessary supplies available to provide first aid.

6 (b) If the skin of the licensee or student is punctured, the licensee or student shall immediately do the following:

7 (1) Apply antiseptic and a sterilized bandage;

8 (2) Disinfect any implement exposed to blood before proceeding; and

9 (3) Put on disposable, protective gloves or a finger guard.

10 (c) If the skin of the patron is punctured, the licensee or student shall immediately do the following:

11 (1) Make available to the patron antiseptic and a sterilized bandage;

12 (2) Disinfect any implement exposed to blood before proceeding; and

13 (3) Put on disposable, protective gloves or a finger guard.

14

15 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

16 Eff. March 1, 2012

1 **21 NCAC 14H .0403 DISINFECTION PROCEDURES IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2
3 **21 NCAC 14H .0403 DISINFECTION PROCEDURES**

4 (a) Sanitation rules which apply to towels and cloths are as follows:

5 (1) Clean protective capes, drapes linens and towels shall be used for each patron;

6 (2) After a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed
7 container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be
8 laundered and dried in a heater dryer may be disinfected with an EPA registered hospital grade
9 disinfectant mixed and used in accordance with the manufacturer directions; and

10 (3) After a drape, linen or towel has been in contact with a patron's skin it shall be placed in a clean,
11 covered container until laundered with soap and hot water and dried in a heated dryer. A covered
12 container may have an opening so soiled items may be dropped into the container.

13 (b) Any paper or nonwoven protective drape or covering shall be discarded after one use.

14 (c) There shall be a supply of clean protective drapes, linens and towels at all times.

15 (d) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

16 (e) Bathroom facilities must be kept cleaned.

17 (f) All implements shall be cleaned and disinfected after each use in the following manner:

18 (1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and
19 dried.

20 (2) They shall be disinfected in accordance with the following:

21 (A) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) or
22 tuberculocidal, that is mixed and used according to the manufacturer's directions; They shall
23 be rinsed with hot tap water and dried with a clean towel before their next use. They shall be
24 stored in a clean, closed cabinet or container until they are needed; or

25 (B) 1 and 1/3 cup of 5.25 percent household bleach to one gallon of water for 10 minutes. They
26 shall be rinsed with hot tap water and dried with a clean towel before their next use. They
27 shall be stored in a clean, closed cabinet or container until they are needed; or

28 (C) UV-C, ultraviolet germicidal irradiation used accordance with the manufacturer's directions.

29 (3) If the implement is not immersible or is not disinfected by UV-C irradiation, it shall be cleaned by
30 wiping it with a clean cloth moistened or spraying with a disinfectant EPA registered,
31 hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) or tuberculocidal, used in
32 accordance with the manufacturer's directions.

33 (4) Implements that come in contact with blood, shall be disinfected by:

34 (A) disinfectant, used in accordance with the manufacturer's instructions, that states the solution
35 will destroy HIV, TB or HBV viruses and approved by the Federal Environmental Protection
36 Agency; or

- 37 (B) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) and
38 tuberculocidal, that is mixed and used according to the manufacturer's directions; or
39 (C) household bleach in a 10 percent solution for 10 minutes.
- 40 (g) All disinfected non-electrical implements shall be stored in a clean closed cabinet or clean closed container.
41 (h) All disinfected electrical implements shall be stored in a clean area.
42 (i) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.
43 (j) Product that comes into contact with the patron must be discarded upon completion of the service.
44 (k) Disinfected implements must be kept in a clean closed cabinet or clean closed container and must not be stored with
45 any implement or item that has not been disinfected.
46 (l) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.
47 (m) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be kept
48 in clean, closed containers, and must conform in all respects to the requirements of the Pure Food and Drug Law. Any
49 product apportioned for use and removed from original containers must be distributed in a sanitary manner that prevents
50 contamination of product or container. Any product dispensed in portions into another container must be dispensed into a
51 sanitized container and applied to patrons by means of a disinfected or disposable implement or other sanitized methods.
52 Any product dispensed in portions not dispensed into another container must be used immediately and applied to patrons
53 by means of a disinfected or disposable implement or other sanitized methods. No product dispensed in portions may be
54 returned to the original container.
55 (n) As used in this Rule whirlpool or footspa means any basin using circulating water.
56 (o) After each patron each whirlpool or footspa must be cleaned and disinfected as follows:
57 (1) All water must be drained and all debris removed from the basin;
58 (2) The basin must be disinfected by filling the basin with water and circulating:
59 (A) Two tablespoons of automatic dishwashing powder and ¼ cup of 5.25 percent household
60 bleach to one gallon of water through the unit for 10 minutes; or
61 (B) Surfactant or enzymatic soap with an EPA registered disinfectant with bactericidal,
62 tuberculocidal, fungicidal and virucidal activity used according to manufacturer's instructions
63 through the unit for 10 minutes;
64 (3) The basin must be drained and rinsed with clean water; and
65 (4) The basin must be wiped dry with a clean towel.
- 66 (p) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:
67 (1) The screen must be removed and all debris trapped behind the screen removed;
68 (2) The screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed
69 with clean water;
70 (3) Before replacing the screen one of the following procedures must be performed:
71 (A) The screen must be totally immersed in a household bleach solution of ¼ cup of 5.25percent
72 household bleach to one gallon of water for 10 minutes; or

73 (B) The screen must be totally immersed in an EPA registered disinfectant with bactericidal
74 tuberculocidal, fungicidal and virucidal activity in accordance to the manufacturer's
75 instructions for 10 minutes;

76 (4) The inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to
77 remove all visible debris and residue; and

78 (5) The spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water for at
79 least 10 minutes and then rinsed and drained.

80 (q) Every week after cleaning and disinfecting pursuant to Paragraphs (a) and (b) of this Rule each whirlpool and footspa
81 must be cleaned and disinfected in the following manner:

82 (1) The whirlpool or footspa basin must be filled with water and ¼ cup of 5.25 percent household bleach
83 for each one gallon of water or EPA registered disinfectant with bactericidal, tuberculocidal, fungicidal
84 and virucidal activity in accordance to the manufacturer's instructions; and

85 (2) The whirlpool or footspa system must be flushed with the bleach and water or EPA registered
86 disinfectant solution pursuant to Subparagraph (d)(1) of this Rule for 10 minutes and allowed to sit for
87 at least six hours; and

88 (3) The whirlpool or footspa system must be drained and flushed with water before use by a patron.

89 (r) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including the
90 date, time, reason and name of the staff member that performed the cleaning. This record must be made for each
91 whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or
92 inspector.

93 (s) The water in a vaporizer machine must be emptied daily and the unit disinfected.

94 (t) The area where services are performed that come in contact with the patron's skin including treatment chairs,
95 treatment tables and beds shall be disinfected between patrons.

96

97 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

98 Eff. March 1, 2012

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

3
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
13 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

14 Eff. March 1, 2012
15

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

2
3 **SECTION .0400 SANITATION PROCEDURES AND PRACTICES**

4
5 **21 NCAC 14H .0401 LICENSEES AND STUDENTS**

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

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

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

10 (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA;

11 (2) Razor-type callus shavers designed and intended to cut growths of skin including but not limited to
12 skin tags, corns and calluses;

13 (3) FDA rated Class III devices;

14 (4) Carbolic acid (phenol) over two percent strength;

15 (5) Animals including insects, fish, amphibians, reptiles, birds or mammals to perform any service; or

16 (6) Variable speed electrical nail file on the natural nail unless it has been designed for use on the natural
17 nail.

18 (d) A licensee or student must not:

19 (1) Use any product, implement or piece of equipment in any manner other than the product, implement or
20 equipment's intended use as described or detailed by the manufacturer;

21 (2) Diagnose any medical condition or treat any medical condition unless referred by a physician;

22 (3) Provide any service unless trained prior to performing the service;

23 (4) Perform services on a client if the licensee has reason to believe the client has any of the following:

24 (A) a contagious condition or disease;

25 (B) an inflamed, infected, broken, raised or swollen skin or nail tissue; or

26 (C) an open wound or sore in the area to be worked on;

27 (5) Alter or duplicate a license issued by the Board;

28 (6) Advertise or solicit clients in any form of communication in a manner that is false or misleading;

29 (7) Use any Class II device without the documented supervision of a licensed physician; or

30 (8) Use any product that will penetrate the dermis.

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

33
34 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*

35 *Eff. March 1, 2012*

36

37

1 **21 NCAC 14H .0304 EQUIPMENT IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2

3 **21 NCAC 14H .0304 EQUIPMENT**

4 Cosmetic art shops shall maintain equipment and supplies to safely perform any cosmetic art service offered in the shop.

5

6 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

7

Eff. March 1, 2012

1 **21 NCAC 14H .0303 BATHROOM FACILITIES IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2

3 **21 NCAC 14H .0303 BATHROOM FACILITIES**

4 Toilet and hand washing facilities consisting of at least one commode and one hand washing sink with hot and cold
5 running water, liquid soap and individual clean towels or hand air dryer shall be provided.

6

7 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

8 Eff. March 1, 2012

1 **21 NCAC 14H .0302 VENTILATION AND LIGHT IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2
3 **21 NCAC 14H .0302 VENTILATION AND LIGHT**

4 (a) Necessary ventilation shall be provided at all times in the areas where patrons are serviced in all cosmetic art shops,
5 there must be a continuous exchange of air.

6 (b) All doors and windows, if open for ventilation, effectively screened.

7 (c) Light shall be provided in the service area.

8 (d) All cosmetic art shops must adhere to any federal, state and local government regulation or ordinance regarding fire
9 safety codes, plumbing and electrical work.

10
11 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

12 Eff. March 1, 2012

1 **21 NCAC 14H .0301 WATER SUPPLY IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2 **SECTION .0300 COSMETIC ART SHOP AND EQUIPMENT**

3

4 **21 NCAC 14H .0301 WATER SUPPLY**

5 (a) Cosmetic art shops shall have a sink with hot and cold running water in the clinic area, separate from restrooms.

6 (b) When a service is provided in a room closed off by a door, the water supply required in this Rule must be within 20
7 feet of the door or 25 feet from the service table or chair. The restroom sink shall not be used to meet this requirement.

8

9 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

10 Eff. March 1, 2012

1 **21 NCAC 14H .0204 DIMENSIONS OF COSMETIC ART SHOPS IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3
4 **21 NCAC 14H .0204 DIMENSIONS OF COSMETIC ART SHOPS**

5 Within the clinic area each shop shall maintain no less than the following working distances:

6 (1) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring
7 table;

8 (2) 24 inches from the center of the chair forward;

9 (3) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring
10 table; and

11 (4) at least 30 inches of space from the back of each styling chair, esthetics table or manicuring table to the
12 wall of the shop.

13
14 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

15 Eff. March 1, 2012

1 **21 NCAC 14H .0203 NEWLY ESTABLISHED RESIDENTIAL SHOPS IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3
4 **21 NCAC 14H .0203 NEWLY ESTABLISHED RESIDENTIAL SHOPS**

5 (a) A cosmetic art shop shall be separate and apart from any building or room used for any other business or purpose,
6 separated by a solid wall of at least seven feet in height and must have a separate outside entrance.

7 (b) A newly established cosmetic art shop, shall be separate and apart from any building or room used for living, dining
8 or sleeping and shall be separate and apart from any other room used for any other purpose by a solid wall of ceiling
9 height, making separate and apart rooms used for a cosmetic art shop. All entrances to the cosmetic art shop shall be
10 through solid, full length doors installed in solid walls of ceiling height.

11 (c) A residential cosmetic art shop shall furnish bathroom facilities separate and apart from the residence.

12
13 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

14 Eff. March 1, 2012

1 **21 NCAC 14H .0202 SEPARATION OF COSMETIC ART SHOPS IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3

4 **21 NCAC 14H .0202 SEPARATION OF COSMETIC ART SHOPS**

5 (a) A cosmetic art shop, whether residential or non-residential, shall be separated from any building or room used for
6 any other business by solid walls at least seven ft. in height.

7 (b) An entrance to a cosmetic art shop from a passageway, walkway or mall area used only for access to the shop, or to
8 the shop and other businesses, may be open.

9

10 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

11 Eff. March 1, 2012

12

1 **21 NCAC 14H .0201 Application for Shop License is proposed for adoption as follows:**

2

3 **Section .0200 SHOP LICENSING AND PHYSICAL DIMENSIONS**

4 **21 NCAC 14H .0201 APPLICATION FOR SHOP LICENSE**

5 Persons desiring to open as cosmetic art shop in the State of North Carolina shall make application to the North Carolina
6 State Board of Cosmetic Art Examiner on the Board's application form. Persons desiring to change ownership of a
7 cosmetic art shop, relocate or reopen a shop which has been closed more than 90 days shall make application to the North
8 Carolina State Board of Cosmetic Art Examiner on the Board's application form.

9

10 History Note: Authority G.S. 88B-2; 88B-4; 88 B-14; 88B-22;

11 Eff. March 1, 2012

12

1 **21 NCAC 14B .0607 WAIVERS IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2
3 **21 NCAC 14B .0607 WAIVERS**

4 (a) Individuals who wish to request a waiver of an administrative rule shall submit a written request to the Board, which
5 includes:

- 6 (1) The rule for which a waiver is requested;
7 (2) The reason for requesting the waiver along with supporting documents;
8 (3) Evidence of how the waiver will provide for the health and safety of the consumer or licensee; and
9 (4) The signature of applicant.

10 (b) The Board shall approve a waiver request only if:

- 11 (1) The administrative rule for which the waiver is being requested is not mandated by law; and
12 (2) The Board finds that approval of the requested waiver shall not jeopardize the health and safety of
13 employees or the public.

14
15 History Note: Authority G.S. 88B-4;

16 Eff. March 1, 2012

1 **21 NCAC 14B .0307 CONTROL OF HEARINGS IS PROPOSED FOR AMENDEMENT AS FOLLOWS:**

2
3 **21 NCAC 14B .0307 CONTROL OF HEARINGS**

4 (a) Purpose. The purpose of this Rule is to provide uniform procedures for the conduct of public comment hearings.

5 ~~(a)~~ (b) The presiding officer at the hearings shall have complete control of the proceedings including the following:

- 6 (1) extension of any time requirements,
7 (2) recognition of speakers,
8 (3) time allotment for presentations, and
9 (4) direction of the flow of discussion and the management of the hearing.

10 ~~(b)~~ (c) The presiding officer at all times shall take care that each person participating in the hearing is given a fair
11 opportunity to present views, data and comments.

12 (d) Public comment hearing shall be open to the public, and members of the public shall be entitled to testify, subject to
13 the provisions of this Rule.

14 (e) Public comment hearing shall be open to print and electronic media, subject to the following limitations by the board,
15 or the person designated by the board to preside over the hearing, when such limitations are necessary to allow the
16 hearing to go forward:

- 17 (1) Limitation of the number of media representatives when their number together with the number of
18 members of the public present exceeds the capacity of the hearing room;
19 (2) Limitation on the placement of cameras to specific locations within the hearing room; or
20 (3) Prohibition of interviews conducted within the hearing room during the hearing.

21 (f) Public comment hearings shall be presided over by the board or an individual knowledgeable in the subject area of
22 the proposed rules who has been designated by the director to preside over the hearing.

23 (g) The person presiding over the hearing shall:

- 24 (1) Call the hearing to order;
25 (2) Identify the proposed rules which are the subject matter of the hearing, and provide copies of them
26 upon request;
27 (3) Cause a recording of the hearing to be made;
28 (4) Establish limits;
29 (5) Recognize those who wish to be heard;
30 (6) If necessary, refuse to recognize people for speaking, or revoke recognition of speakers;
31 (7) If necessary, limit the activity of the media;
32 (8) If necessary, postpone or move the hearing; and
33 (9) Adjourn or continue the hearing.

34 (h) The hearing shall be postponed when:

- 35 (1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing
36 are unable to do so;

- 37 (2) The chairman or the individual designated by the chairman to preside over the hearing is ill or
38 unavoidably absent; or
- 39 (3) Postponement will facilitate greater participation by the public.
- 40 (i) The hearing shall be moved to another location when the original location is not able to accommodate the number of
41 people who wish to attend the hearing.
- 42 (j) The hearing shall be continued past the scheduled time or to another date when:
- 43 (1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity
44 to do so; or
- 45 (2) The capacity of the room in which the hearing is to be held does not accommodate the number of
46 people who wish to attend the hearing and it is not possible to move the hearing to another location.
- 47 (k) People who wish to speak about the rules which are the subject matter of the hearing shall be asked to write on the
48 speaker's list their full names and if they represent other persons, the identity of the persons represented.
- 49 (l) People who wish to speak shall be asked to provide the information called for by Paragraph (a) no later than before
50 the last speaker on the list has finished speaking.
- 51 (m) People whose names appear on the speaker's list shall be afforded an opportunity to speak at the hearing within the
52 limits on public participation.
- 53 (n) Written comments, may be submitted by the deadline listed in the rule making notice.
- 54 (o) The person presiding over the hearing shall:
- 55 (1) Refuse to recognize for speaking or revoke the recognition of any person who:
- 56 (A) Speaks or acts in an abusive or disruptive manner; or
- 57 (B) Refuses to keep comments relevant to the proposed rules which are the subject matter of the
58 hearing;
- 59 (2) Limit the duration of the hearing and limit the amount of time each speaker may speak to a time which
60 allocates approximately equal speaking time to each person shown on the speaker's list as wishing to
61 speak; and
- 62 (3) Limit presentations on behalf of the same organization or entity to no more than three, provided that all
63 those representing such organization or entity may enter their names and addresses into the record as
64 supporting the position of the organization or entity.

65

66 *History Note: Authority G.S. ~~150B-11(1)~~;150B 21.2;*
67 *Eff. February 1, 1976;*
68 *Amended Eff. March 1, 2012;*

69

1 **21 NCAC 14R .0105 Continuing Education is proposed for adoption as follows:**

2
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.
5 The licensee shall maintain records of attendance of a continuing education course including the following
6 information:

7 (1) Course title and detail description;

8 (2) Date conducted;

9 (3) Address location where the course was conducted; and

10 (4) Continuing education hours earned.

11 (b) Each licensee must ensure at least 50 percent of subject matter broadens the licensee knowledge of the cosmetic
12 arts profession.

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

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

16 (e) Audits of the licensee's continuing education may be conducted at any time. Upon the Board's request each
17 licensee shall provide completed records to the Board.

18 (f) The Board may suspend a license, revoke a license, or deny the renewal of any licensee, who fails to comply with
19 any provision of the rules in this Subchapter. Written justification of the suspension, denial, or revocation shall be
20 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 8 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 regulations.
32 I am aware that false or dishonest misleading information may be grounds for 1) disciplinary action against
33 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
35 request shall result in civil penalty to the licensee in the amount of two hundred and fifty (\$250).

36 (l) The presentation of fraudulent continuing education documentation to the Board by a licensee shall result in civil
37 penalty of five hundred (\$500).

38 (m) The failure to attend continuing education courses as required by GS 88-B and determined through Board audit
39 shall result in civil penalty in the amount of five hundred (\$500) per renewal cycle.

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

42
43 History Note: Authority G.S. 88B-2; 88B-4; 88B-21; 88B-24; 88B-29;
44 Eff. March 1, 2012
45

1 **21 NCAC 14H .0505 Rule Compliance and Enforcement Measures is proposed for adoption as follows:**

2
3 **21 NCAC 14H .0505 Rule Compliance and Enforcement Measures**

4 (a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty
5 in the amount of three hundred (\$300) per container of product or piece of equipment:

6 (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or

7 (2) Razor-type callus shavers designed and intended to cut growths of skin including but not limited
8 to skin tags, corns and calluses.

9 (b) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty
10 in the amount of one hundred (\$100) per container of product or piece of equipment:

11 (1) FDA rated Class III devices; or

12 (2) Carbolic acid (phenol) over two percent strength; or

13 (3) Animals including insects, fish, amphibians, reptiles, birds or mammals to perform any service; or

14 (4) Variable speed electrical nail file on the natural nail unless it has been designed for use on the
15 natural nail.

16 (c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil
17 penalty in the amount of one hundred (\$100) per instance of each action:

18 (1) use any product, implement or piece of equipment in any manner other than the product,
19 implement or equipment's intended use as described or detailed by the manufacturer; Diagnosis of any
20 medical condition or treat any medical condition unless referred by a physician; or

21 (2) Use any product that will penetrate the dermis; or

22 (3) Provide any service unless trained prior to performing the service; or

23 (4) Perform services on a client if the licensee has reason to believe the client has any of the
24 following:

25 (A) a contagious condition or disease; an inflamed;

26 (B) infected, broken, raised or swollen skin or nail tissue; or

27 (C) an open wound or sore in the area to be worked on; or

28 (5) Alter or duplicate a license issued by the Board; or

29 (6) Advertise or solicit clients in any form of communication in a manner that is false or misleading;

30 or

31 (7) Use any class II device without the documented supervision of a licensed physician.

32 (d) The presence of an animals or birds in a cosmetic art shop or school shall result in civil penalty in the amount of
33 twenty-five (\$25) per animal or bird. Animals trained for the purpose of accompanying disabled persons are
34 exempt.

35 (e) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or
36 shop as required by this subchapter including the date, time, reason and name of the staff member that performed the

37 cleaning or the failure to keep or make such record available for at least 90 days upon request by either a patron or
38 inspector shall result in civil penalty in the amount of twenty-five (\$25) per footspa.

39 (f) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this subchapter shall
40 result in civil penalty in the amount of one hundred (\$100) per footspa.

41 (g) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, sterile bandages
42 available to provide first aid shall result in civil penalty in the amount of twenty-five (\$25) per item.

43 (h) The failure to have in a cosmetic art shop or school to maintain a sink with hot and cold running water in the
44 clinic area, separate from restrooms shall result in civil penalty in the amount of one hundred (\$100).

45 (i) The failure to maintain a water supply within 20 feet of the door or 25 feet from the service table or chair shall
46 result in civil penalty in the amount of fifty (\$50) per inspection occurrence.

47 (j) The failure to provide necessary ventilation at all times in the areas where patrons are serviced in all cosmetic art
48 shops, there must be a continuous exchange of air shall result in civil penalty in the amount of twenty-five (\$25).

49 (k) The failure to effectively screen all doors and windows, open for ventilation shall result in civil penalty in the
50 amount of twenty-five (\$25).

51 (l) The failure to provide light in the service area shall result in civil penalty in the amount of twenty-five (\$25).

52 (m) The failure to adhere to any federal, state and local government regulation or ordinance regarding fire safety
53 codes, plumbing and electrical work shall result in civil penalty in the amount of twenty-five (\$25).

54 (n) The failure to provide toilet and hand washing facilities consisting of at least one commode and one hand
55 washing sink with hot and cold running water, liquid soap and individual clean towels shall result in civil penalty in
56 the amount of twenty-five (\$25).

57 (o) The failure to maintain equipment and supplies to safely perform any cosmetic art service offered in the shop
58 shall result in civil penalty in the amount of one hundred (\$100).

59 (p) The failure to maintain a sanitation grade of 80% or higher shall result in a civil penalty in the amount of two
60 hundred (\$200).

61 (q) The failure to display in a conspicuous place a current grade card shall result in a civil penalty in the amount of
62 one hundred (\$100).

63 (r) Repeated violations of the rules in this subchapter exceeding 3 written notifications of any one rule documented
64 to any one individual, shop or school shall result in a mandatory disciplinary hearing.

65

66 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27;
67 Eff. March 1, 2012

68

1 **21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS IS PROPOSED FOR**
 2 **ADOPTION AS FOLLOWS:**

3
 4 **21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS**

5 The system of grading the sanitary rating of cosmetic art schools and shops based on the rules set out in this
 6 subchapter shall be as follows, setting out areas to be inspected and considered, and the maximum points given for
 7 compliance:

8

<u>Sanitation</u>	<u>Point Value</u>
<u>Each licensee and student shall wash his or her hands with soap and water or an equally effective cleansing agent immediately before and after serving each client.</u>	<u>2</u>
<u>Each licensee and student shall wear clean garments and shoes while serving patrons.</u>	<u>2</u>
<u>The cosmetic art facility shall be kept clean.</u>	<u>3</u>
<u>Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall be maintained in a sanitary manner.</u>	<u>4</u>
<u>All doors and windows shall be kept clean.</u>	<u>2</u>
<u>Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.</u>	<u>3</u>
<u>Clean protective capes, drapes, linens and towels shall be used for each patron</u>	<u>3</u>
<u>After a cape, drape, linen or towel has been in contact with a patron's skin it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer.</u>	<u>5</u>
<u>Any paper or nonwoven protective drape or covering shall be discarded after one use.</u>	<u>2</u>
<u>There shall be a supply of clean protective drapes, linens and towels at all times.</u>	<u>2</u>
<u>Clean drapes, capes, linens and towels shall be stored in a clean area.</u>	<u>5</u>
<u>Bathroom facilities must be kept cleaned.</u>	<u>3</u>
<u>All implements shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.</u>	<u>2</u>
<u>All implements shall be disinfected</u>	<u>10</u>
<u>All disinfected electrical implements shall be stored in a clean area.</u>	<u>2</u>
<u>Disposable and porous implements and supplies must be discarded after use or upon completion of the service.</u>	<u>10</u>
<u>Product that comes into contact with the patron must be discarded upon completion of the service.</u>	<u>3</u>
<u>Disinfected implements must be kept in a clean closed cabinet or clean closed container and must not be stored with any implement or item that has not been disinfected.</u>	<u>10</u>
<u>Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.</u>	<u>2</u>
<u>All creams, lotions, wax, cosmetics, and other products dispensed to come in contact patron's skin must be kept in clean, closed containers and dispensed in a sanitary manner. No product dispensed in portions may be returned to the container.</u>	<u>10</u>

<u>After each patron each whirlpool or footspa must be cleaned and disinfected</u>	<u>10</u>
<u>The water in a vaporizer machine must be emptied daily and the unit disinfected.</u>	<u>2</u>
<u>The area where services are performed that come in contact with the patron's skin including chairs, tables and beds shall be disinfected between patrons.</u>	<u>3</u>

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*History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-26;
Eff. March 1, 2012*

1 **21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS IS PROPOSED FOR**
2 **ADOPTION AS FOLLOWS:**

3
4 **21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS**

5 (a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter.

6 Based on the grading, all establishments shall be rated in the following manner:

7 (1) all establishments receiving a rating of at least 90 percent or more, shall be awarded a grade A;

8 (2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be
9 awarded grade B;

10 (3) all establishments receiving a rating of at least 70 percent or more, and less than 80 shall be
11 awarded grade C;

12 (4) any cosmetic art shop or school with a sanitation grade of 70 or below shall be awarded a failed
13 inspection notice.

14 (b) Every beauty establishment shall be given a sanitary rating. A cosmetic art school shall be graded no less than
15 three times a year, and a cosmetic art shop shall be graded once a year.

16 (c) The sanitary rating or failed inspection notice given to a beauty establishment shall be posted in a conspicuous
17 place near the front entryway at all times.

18 (d) All new establishments must receive a rating of at least 90 percent before a license will be issued.

19 (e) The operation of a cosmetic art shop or school which fails to receive a sanitary rating of at least 70 percent
20 (grade C) shall be sufficient cause for revoking or suspending the license.

21 (f) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within
22 30 days of the last inspection, unless the rating at the last inspection was less than 80 percent.

23 (g) A whirlpool and footspa sanitation record must be kept on each whirlpool and footspa for inspection on a form
24 provided by the Board.

25 (h) All cosmetic art shops and schools with a failed inspection report shall be sufficient cause for the immediate
26 suspension of licensure. All cosmetic art shops and schools with a failed inspection report must close until the
27 sanitation conditions have improved to be awarded a passing grade.

28 (i) Mobile cosmetic art shops and schools are prohibited.

29
30 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-26; 88B-27;
31 Eff. March 1, 2012
32
33

1 **21 NCAC 14H .0502 FAILURE TO PERMIT INSPECTION IS PROPOSED FOR ADOPTION AS**
2 **FOLLOWS:**

3

4 **21 NCAC 14H .0502 FAILURE TO PERMIT INSPECTION**

5 If an inspector is unable to inspect a salon twice with appointment, the Board may initiate proceedings to revoke or
6 suspend the salon license or may refuse to renew the shop license.

7

8 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27;
9 Eff. March 1, 2012

10

11

1 **21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS IS PROPOSED FOR ADOPTION AS**

2 **FOLLOWS:**

3 **Section .0500 Enforcement, Maintenance of Licensure**

4 **21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS**

5 (a) A newly established cosmetic art shop, a shop which has been closed for more than 90 days, or a shop which has
6 changed ownership, must file an application for licensure with the Board prior to opening. A newly established
7 cosmetic art shop, a shop which has been closed for more than 90 days, a shop which has changed ownership or a
8 shop which has been operating without a license shall be inspected before a license will be issued.

9 (b) Each cosmetic art shop must pass inspection by an agent of the Board pursuant to 21 NCAC 14H. Inspections
10 shall be conducted at least annually and may be conducted without notice.

11
12 History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27;
13 Eff. March 1, 2012
14

1 **21 NCAC 14H .0404 First Aid is proposed for adoption as follows:**

2

3 **21 NCAC 14H .0404 First Aid**

4 (a) Each cosmetic art shop and school must have antiseptics, gloves or finger guards, sterile bandages and other
5 necessary supplies available to provide first aid.

6 (b) If the skin of the licensee or student is punctured, the licensee or student shall immediately do the following:

7 (1) Apply antiseptic and a sterilized bandage;

8 (2) Disinfect any implement exposed to blood before proceeding; and

9 (3) Put on disposable, protective gloves or a finger guard.

10 (c) If the skin of the patron is punctured, the licensee or student shall immediately do the following:

11 (1) Make available to the patron antiseptic and a sterilized bandage;

12 (2) Disinfect any implement exposed to blood before proceeding; and

13 (3) Put on disposable, protective gloves or a finger guard.

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15 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

16 Eff. March 1, 2012

17

1 **21 NCAC 14H .0403 Disinfection Procedures is proposed for adoption as follows:**

2 **21 NCAC 14H .0403 Disinfection Procedures**

3 (a) Sanitation rules which apply to towels and cloths are as follows:

4 (1) Clean protective capes, drapes linens and towels shall be used for each patron;

5 (2) After a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed
6 container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be
7 laundered and dried in a heater dryer may be disinfected with an EPA registered hospital grade disinfectant
8 mixed and used in accordance with the manufacturer directions; and

9 (3) After a drape, linen or towel has been in contact with a patron's skin it shall be placed in a clean,
10 covered container until laundered with soap and hot water and dried in a heated dryer. A covered container
11 may have an opening so soiled items may be dropped into the container.

12 (b) Any paper or nonwoven protective drape or covering shall be discarded after one use.

13 (c) There shall be a supply of clean protective drapes, linens and towels at all times.

14 (d) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

15 (e) Bathroom facilities must be kept cleaned.

16 (f) All implements shall be cleaned and disinfected after each use in the following manner:

17 (1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and
18 dried.

19 (2) They shall be disinfected in accordance with the following:

20 (A) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) or
21 tuberculocidal, that is mixed and used according to the manufacturer's directions; They shall be
22 rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored
23 in a clean, closed cabinet or container until they are needed; or

24 (B) 1 and 1/3 cup of 5.25 percent household bleach to one gallon of water for 10 minutes. They
25 shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be
26 stored in a clean, closed cabinet or container until they are needed; or

27 (C) UV-C , ultraviolet germicidal irradiation used accordance with the manufacturer's directions.

28 (3) If the implement is not immersible or is not disinfected by UV-C irradiation, it shall be cleaned by
29 wiping it with a clean cloth moistened or spraying with a disinfectant EPA registered,
30 hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) or tuberculocidal , used in accordance
31 with the manufacturer's directions.

32 (4) Implements that come in contact with blood, shall be disinfected by:

33 (A) disinfectant, used in accordance with the manufacturer's instructions, that states the solution
34 will destroy HIV, TB or HBV viruses and approved by the Federal Environmental Protection
35 Agency; or

36 (B) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) and
37 tuberculocidal, that is mixed and used according to the manufacturer's directions; or

- 38 (C) household bleach in a 10 percent solution for 10 minutes.
- 39 (g) All disinfected non-electrical implements shall be stored in a clean closed cabinet or clean closed container.
- 40 (h) All disinfected electrical implements shall be stored in a clean area.
- 41 (i) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.
- 42 (j) Product that comes into contact with the patron must be discarded upon completion of the service.
- 43 (k) Disinfected implements must be kept in a clean closed cabinet or clean closed container and must not be stored
- 44 with any implement or item that has not been disinfected.
- 45 (l) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.
- 46 (m) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be
- 47 kept in clean, closed containers, and must conform in all respects to the requirements of the Pure Food and Drug
- 48 Law. Any product apportioned for use and removed from original containers must be distributed in a sanitary
- 49 manner that prevents contamination of product or container. Any product dispensed in portions into another
- 50 container must be dispensed into a sanitized container and applied to patrons by means of a disinfected or disposable
- 51 implement or other sanitized methods. Any product dispensed in portions not dispensed into another container must
- 52 be used immediately and applied to patrons by means of a disinfected or disposable implement or other sanitized
- 53 methods. No product dispensed in portions may be returned to the original container.
- 54 (n) As used in this Rule whirlpool or footspa means any basin using circulating water.
- 55 (o) After each patron each whirlpool or footspa must be cleaned and disinfected as follows:
- 56 (1) All water must be drained and all debris removed from the basin;
- 57 (2) The basin must be disinfected by filling the basin with water and circulating:
- 58 (A) Two tablespoons of automatic dishwashing powder and ¼ cup of 5.25 percent household
- 59 bleach to one gallon of water through the unit for 10 minutes; or
- 60 (B) Surfactant or enzymatic soap with an EPA registered disinfectant with bactericidal,
- 61 tuberculocidal, fungicidal and virucidal activity used according to manufacturer's instructions
- 62 through the unit for 10 minutes;
- 63 (3) The basin must be drained and rinsed with clean water; and
- 64 (4) The basin must be wiped dry with a clean towel.
- 65 (p) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:
- 66 (1) The screen must be removed and all debris trapped behind the screen removed;
- 67 (2) The screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed
- 68 with clean water;
- 69 (3) Before replacing the screen one of the following procedures must be performed:
- 70 (A) The screen must be totally immersed in a household bleach solution of ¼ cup of 5.25percent
- 71 household bleach to one gallon of water for 10 minutes; or
- 72 (B) The screen must be totally immersed in an EPA registered disinfectant with bactericidal,
- 73 tuberculocidal, fungicidal and virucidal activity in accordance to the manufacturer's instructions
- 74 for 10 minutes;

75 (4) The inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to
76 remove all visible debris and residue; and

77 (5) The spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water
78 for at least 10 minutes and then rinsed and drained.

79 (q) Every week after cleaning and disinfecting pursuant to Paragraphs (a) and (b) of this Rule each whirlpool and
80 footspa must be cleaned and disinfected in the following manner:

81 (1) The whirlpool or footspa basin must be filled with water and ¼ cup of 5.25 percent household
82 bleach for each one gallon of water or EPA registered disinfectant with bactericidal,
83 tuberculocidal, fungicidal and
84 virucidal activity in accordance to the manufacturer's instructions; and

85 (2) The whirlpool or footspa system must be flushed with the bleach and water or EPA registered
86 disinfectant solution pursuant to Subparagraph (d)(1) of this Rule for 10 minutes and allowed to sit for at
87 least six hours; and

88 (3) The whirlpool or footspa system must be drained and flushed with water before use by a patron.

89 (r) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including
90 the date, time, reason and name of the staff member that performed the cleaning. This record must be made for each
91 whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or
92 inspector.

93 (s) The water in a vaporizer machine must be emptied daily and the unit disinfected.

94 (t) The area where services are performed that come in contact with the patron's skin including treatment chairs,
95 treatment tables and beds shall be disinfected between patrons.

96

97 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

98 Eff. March 1, 2012

99

100

1 **21 NCAC 14H .0402 Cosmetic Art Shops and Schools is proposed for adoption as follows:**

2

3 **21 NCAC 14H .0402 Cosmetic Art Shops and Schools**

4 (a) The cosmetic art facility shall be kept clean.

5 (b) Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles
6 shall be maintained in a sanitary manner.

7 (c) All doors and windows shall be kept clean.

8 (d) Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.

9 (e) Animals or birds shall not be in a cosmetic art shop or school. Fish in an enclosure and animals trained for the
10 purpose of accompanying disabled persons are exempt.

11

12 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
13 Eff. March 1, 2012

14

1 **21 NCAC 14H .0401 Licensees and Students is proposed for adoption as follows:**

2 **Section .0400 Sanitation Procedures and Practices**

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
5 agent 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 products:

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
10 to skin tags, corns and calluses;

11 (3) FDA rated Class III devices;

12 (4) Carbolic 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
15 natural 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,
18 implement or 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
22 following:

23 (A) a contagious condition or disease;

24 (B) an inflamed, infected, broken, raised or swollen skin or nail tissue; or

25 (C) an open wound or sore in the area to be worked on;

26 (5) Alter or duplicate a license issued by the Board;

27 (6) Advertise or solicit clients in any form of communication in a manner that is false or misleading;

28 (7) Use any Class II device without the documented supervision of a licensed physician; or

29 (8) Use any product that will penetrate the dermis.

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

32
33 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
34 Eff. March 1, 2012
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36

1 **21 NCAC 14H .0304 Equipment is proposed for adoption as follows:**

2 **21 NCAC 14H .0304 Equipment**

3 Cosmetic art shops shall maintain equipment and supplies to safely perform any cosmetic art service offered in the
4 shop.

5 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
6 Eff. March 1, 2012

7

1 **21 NCAC 14H .0303 Bathroom Facilities is proposed for adoption as follows:**

2 **21 NCAC 14H .0303 Bathroom Facilities**

3 Toilet and hand washing facilities consisting of at least one commode and one hand washing sink with hot and cold
4 running water, liquid soap and individual clean towels or hand air dryer shall be provided.

5 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
6 Eff. March 1, 2012

7

1 **21 NCAC 14H .0302 Ventilation and Light is proposed for adoption as follows:**

2 **21 NCAC 14H .0302 Ventilation and Light**

3 (a) Necessary ventilation shall be provided at all times in the areas where patrons are serviced in all cosmetic art
4 shops, there must be a continuous exchange of air.

5 (b) All doors and windows, if open for ventilation, effectively screened.

6 (c) Light shall be provided in the service area.

7 (d) All cosmetic art shops must adhere to any federal, state and local government regulation or ordinance regarding
8 fire safety codes, plumbing and electrical work.

9

10 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

11 Eff. March 1, 2012

12

1 **21 NCAC 14H .0301 Water Supply is proposed for adoption as follows:**

2 **Section .0300 Cosmetic Art Shop and Equipment**

3

4 **21 NCAC 14H .0301 Water Supply**

5 (a) Cosmetic art shops shall have a sink with hot and cold running water in the clinic area, separate from restrooms.

6 (b) When a service is provided in a room closed off by a door, the water supply required in this Rule must be within
7 20 feet of the door or 25 feet from the service table or chair. The restroom sink shall not be used to meet this
8 requirement.

9 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
10 Eff. March 1, 2012
11

1 **21 NCAC 14H .0204 Dimensions of Cosmetic Art Shops is proposed for adoption as follows:**

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3 **21 NCAC 14H .0204 Dimensions of Cosmetic Art Shops**

4 Within the clinic area each shop shall maintain no less than the following working distances:

5 (a) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring
6 table;

7 (b) 24 inches from the center of the chair forward;

8 (c) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring
9 table; and

10 (d) at least 30 inches of space from the back of each styling chair, esthetics table or manicuring table to the
11 wall of the shop.

12

13 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
14 *Eff. March 1, 2012*

15

1 **21 NCAC 14H .0203 Newly Established Residential Shops is proposed for adoption as follows:**

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3 **21 NCAC 14H .0203 Newly Established Residential Shops**

4 (a) A cosmetic art shop shall be separate and apart from any building or room used for any other business or
5 purpose, separated by a solid wall of at least seven feet in height and must have a separate outside entrance.

6 (b) A newly established cosmetic art shop, shall be separate and apart from any building or room used for living,
7 dining or sleeping and shall be separate and apart from any other room used for any other purpose by a solid wall of
8 ceiling height, making separate and apart rooms used for a cosmetic art shop. All entrances to the cosmetic art shop
9 shall be through solid, full length doors installed in solid walls of ceiling height.

10 (c) A residential cosmetic art shop shall furnish bathroom facilities separate and apart from the residence.

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12 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14;*
13 *Eff. March 1, 2012*

14

1 **21 NCAC 14H .0202 Separation of Cosmetic Art Shops is proposed for adoption as follows:**

2

3 **21 NCAC 14H .0202 Separation of Cosmetic Art Shops**

4 (a) A cosmetic art shop, whether residential or non-residential, shall be separated from any building or room used
5 for any other business by solid walls at least seven ft. in height.

6 (b) An entrance to a cosmetic art shop from a passageway, walkway or mall area used only for access to the shop,
7 or to the shop and other businesses, may be open.

8

9 History Note: Authority G.S. 88B-2; 88B-4; 88B-14;

10 Eff. March 1, 2012

11

1 **21 NCAC 14H .0201 Application for Shop License is proposed for adoption as follows:**

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3 **Section .0200 Shop Licensing and Physical Dimensions**

4 **21 NCAC 14H .0201 Application for Shop License**

5 Persons desiring to open as cosmetic art shop in the State of North Carolina shall make application to the North
6 Carolina State Board of Cosmetic Art Examiner on the Board's application form. Persons desiring to change
7 ownership of a cosmetic art shop, relocate or reopen a shop which has been closed more than 90 days shall make
8 application to the North Carolina State Board of Cosmetic Art Examiner on the Board's application form.

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10 History Note: Authority G.S. 88B-2; 88B-4; 88 B-14; 88B-22;
11 Eff. March 1, 2012

12

1 **21 NCAC 14B .0607 WAIVERS IS PROPOSED FOR ADOPTION AS FOLLOWS:**

2 **21 NCAC 14B .0607 WAIVERS**

3 (a) Individuals who wish to request a waiver of an administrative rule shall submit a written request to the Board,
4 which includes:

- 5 (1) The rule for which a waiver is requested;
6 (2) The reason for requesting the waiver along with supporting documents;
7 (3) Evidence of how the waiver will provide for the health and safety of the consumer or licensee; and
8 (4) The signature of applicant.

9 (b) The Board shall approve a waiver request only if:

- 10 (1) The administrative rule for which the waiver is being requested is not mandated by law; and
11 (2) The Board finds that approval of the requested waiver shall not jeopardize the health and safety of
12 employees or the public.

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14 History Note: Authority G.S. 88B-4;
15 Eff. March 1, 2012

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21 NCAC 14B .0307 CONTROL OF HEARINGS IS PROPOSED FOR AMENDMENT AS FOLLOWS:

21 NCAC 14B .0307 CONTROL OF HEARINGS

- (a) Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings.
- ~~(a)~~ (b) The presiding officer at the hearings shall have complete control of the proceedings including the following:
 - (1) extension of any time requirements,
 - (2) recognition of speakers,
 - (3) time allotment for presentations, and
 - (4) direction of the flow of discussion and the management of the hearing.
- ~~(b)~~ (c) The presiding officer at all times shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.
- (d) Public comment hearing shall be open to the public, and members of the public shall be entitled to testify, subject to the provisions of this Rule.
- (e) Public comment hearing shall be open to print and electronic media, subject to the following limitations by the board, or the person designated by the board to preside over the hearing, when such limitations are necessary to allow the hearing to go forward:
 - (1) Limitation of the number of media representatives when their number together with the number of members of the public present exceeds the capacity of the hearing room;
 - (2) Limitation on the placement of cameras to specific locations within the hearing room; or
 - (3) Prohibition of interviews conducted within the hearing room during the hearing.
- (f) Public comment hearings shall be presided over by the board or an individual knowledgeable in the subject area of the proposed rules who has been designated by the director to preside over the hearing.
- (g) The person presiding over the hearing shall:
 - (1) Call the hearing to order;
 - (2) Identify the proposed rules which are the subject matter of the hearing, and provide copies of them upon request;
 - (3) Cause a recording of the hearing to be made;
 - (4) Establish limits;
 - (5) Recognize those who wish to be heard;
 - (6) If necessary, refuse to recognize people for speaking, or revoke recognition of speakers;
 - (7) If necessary, limit the activity of the media;
 - (8) If necessary, postpone or move the hearing; and
 - (9) Adjourn or continue the hearing.
- (h) The hearing shall be postponed when:
 - (1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing are unable to do so;

38 (2) The chairman or the individual designated by the chairman to preside over the hearing is ill or
39 unavoidably absent; or

40 (3) Postponement will facilitate greater participation by the public.

41 (i) The hearing shall be moved to another location when the original location is not able to accommodate the
42 number of people who wish to attend the hearing.

43 (j) The hearing shall be continued past the scheduled time or to another date when:

44 (1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity
45 to do so; or

46 (2) The capacity of the room in which the hearing is to be held does not accommodate the number of
47 people who wish to attend the hearing and it is not possible to move the hearing to another location.

48 (k) People who wish to speak about the rules which are the subject matter of the hearing shall be asked to write on
49 the speaker's list their full names and if they represent other persons, the identity of the persons represented.

50 (l) People who wish to speak shall be asked to provide the information called for by Paragraph (a) no later than
51 before the last speaker on the list has finished speaking.

52 (m) People whose names appear on the speaker's list shall be afforded an opportunity to speak at the hearing within
53 the limits on public participation.

54 (n) Written comments, may be submitted by the deadline listed in the rule making notice.

55 (o) The person presiding over the hearing shall:

56 (1) Refuse to recognize for speaking or revoke the recognition of any person who:

57 (A) Speaks or acts in an abusive or disruptive manner; or

58 (B) Refuses to keep comments relevant to the proposed rules which are the subject matter of the
59 hearing;

60 (2) Limit the duration of the hearing and limit the amount of time each speaker may speak to a time
61 which allocates approximately equal speaking time to each person shown on the speaker's list as wishing to
62 speak; and

63 (3) Limit presentations on behalf of the same organization or entity to no more than three, provided
64 that all those representing such organization or entity may enter their names and addresses into the record as
65 supporting the position of the organization or entity.

66 *History Note: Authority G.S. ~~150B-11(1)~~;150B 21.2;*

67 *Eff. February 1, 1976;*

68 *Amended Eff. March 1, 2012;*

69