



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 and issue 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. Link to agency website pursuant to G.S. 150B-19.1(c): www.nccosmeticarts.com/uploads/Board/Rules7-18.pdf
3. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input type="checkbox"/> ADOPTION: <input type="checkbox"/> READOPTION <u>with</u> substantive changes: <input type="checkbox"/> READOPTION <u>without</u> substantive changes: <input checked="" type="checkbox"/> AMENDMENT: NCAC 14H .0401, 21 NCAC 14H .0505 <input type="checkbox"/> REPEAL:
4. Proposed effective date: February 1, 2019
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: September 4, 2018 Public Hearing time: 9:00am 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 Rule(s): Changes are proposed to correct rule references, update definitions with rules in other chapters and to correct inadvertent changes from previous rule-making.

8. 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.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):
Name: Stefanie Kuzdrall
Address: 1207 Front Street Suite 110 Raleigh, NC 27609

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

10. Comment Period Ends: 10/20/2018

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
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Stefanie Kuzdrall

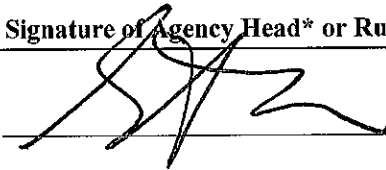
Address: 1207 Front Street Suite 110 Raleigh, NC 27609

Phone: 9197150018
E-Mail: skuzdrall@nccosmeticarts.com

Agency contact, if any:
Phone:
E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: 7/9/2018

14. 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: Rule-Making Coordinator

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

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 dollars (\$300.00) 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 skin tags, corns,
8 and calluses.

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

- 11 (1) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform
12 any service; or
- 13 (2) variable speed electrical nail file ~~on the natural nail~~ unless it has been designed for use on the
14 natural nail.

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

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

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

36 (e) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this Subchapter shall
37 result in civil penalty in the amount of one hundred dollars (\$100.00) per footspa.

38 (f) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, and sterile
39 bandages available to provide first aid shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per
40 item.

41 (g) The failure to maintain a sink with hot and cold running water in the clinic area, separate from restrooms, shall
42 result in civil penalty in the amount of one hundred dollars (\$100.00).

43 (h) The failure to provide ventilation at all times in the areas where patrons are serviced in cosmetic art shops shall
44 result in civil penalty in the amount of twenty-five dollars (\$25.00).

45 (i) The failure to maintain equipment and supplies necessary to perform any cosmetic art service offered in the shop
46 shall result in civil penalty in the amount of one hundred dollars (\$100.00).

47 (j) The failure to maintain a sanitation grade of 80 percent or higher shall result in a civil penalty in the amount of
48 two hundred dollars (\$200.00).

49 (k) Repeated violations of the rules in this Subchapter exceeding three written notifications of any one rule
50 documented to any one individual, shop, or school shall result in a mandatory disciplinary hearing in accordance
51 with 21 NCAC 14C.

52

53 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29;*

54 *Eff. April 1, 2012;*

55 *Amended Eff. August 1, 2014;*

56 *Readopted Eff. January 1, 2016;*

57 *Amended Eff. February 1, 2019; March 1, 2018.*

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12 any service; or
- 13 (2) variable speed electrical nail file ~~on the natural nail~~ unless it has been designed for use on the
14 natural nail.

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

- 17 (1) use of any product, implement, or piece of equipment in any manner other than the product's,
18 implement's, or equipment's intended use as described or detailed by the manufacturer;
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- 20 (3) use of any product that will penetrate the dermis;
- 21 (4) provision of any service unless trained prior to performing the service;
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56 *Readopted Eff. January 1, 2016;*

57 *Amended Eff. February 1, 2019; March 1, 2018.*

58

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

3 SECTION .0400 - SANITATION PROCEDURES AND PRACTICES
4

5 21 NCAC 14H .0401 LICENSEES AND STUDENTS

6 (a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to licensees and students in practice in
7 cosmetic art schools and shops. Each licensee and student shall wash his or her hands with soap and water or an
8 equally effective cleansing agent immediately before and after serving each client.

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

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

- 11 (1) Methyl Methacrylate Liquid Monomer, a.k.a. MMA;
- 12 (2) razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns,
13 and calluses;
- 14 (3) FDA rated Class III devices;
- 15 (4) carbolic acid (phenol) over two percent strength;
- 16 (5) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform
17 any service; or
- 18 (6) a variable speed electrical nail file ~~on a natural nail~~ unless it has been designed for use on a natural
19 nail.

20 (d) A licensee or student shall not:

- 21 (1) use any product, implement, or piece of equipment in any manner other than the product's,
22 implement's, or equipment's intended use as described or detailed by the manufacturer;
- 23 (2) treat any medical condition unless referred by a physician;
- 24 (3) provide any service unless trained prior to performing the service;
- 25 (4) perform services on a client if the licensee has reason to believe the client has any of the
26 following:
 - 27 (A) fungus, lice, or nits;
 - 28 (B) an inflamed, infected, broken, raised, or swollen skin or nail tissue in the area to be
29 worked on; or
 - 30 (C) an open wound or sore in the area to be worked on;
- 31 (5) alter or duplicate a license issued by the Board;
- 32 (6) advertise or solicit clients in any form of communication in a manner that is false or misleading;
- 33 (7) use any FDA rated Class II device without the documented supervision of a licensed physician;
- 34 (8) use any product that will penetrate the dermis;
- 35 (9) make any statement to a member of the public, either verbally or in writing, stating or implying
36 any action is required or forbidden by Board rules when such action is not required or forbidden

37 by Board rules. A violation of this prohibition is considered practicing or attempting to practice by
38 fraudulent misrepresentation is set forth in 21 NCAC 14P .0108 of this Chapter; or

39 (10) use or possess any product banned by the FDA. A list of banned products is available at
40 www.fda.gov.

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

43

44 *History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24;*

45 *Eff. April 1, 2012;*

46 *Amended Eff. August 1, 2014; March 1, 2013;*

47 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
48 *13, 2015;*

49 *Amended Eff. February 1, 2019; March 1, 2018.*

50

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45 *Eff. April 1, 2012;*

46 *Amended Eff. August 1, 2014; March 1, 2013;*

47 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January*
48 *13, 2015;*

49 *Amended Eff. February 1, 2019; March 1, 2018.*

50