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DEPARTMENT OF LABOR, LICENSING AND REGULATION

STATE BOARD OF COSMETOLOGY

CHAPTER 35

Statutory Authority: 1976 Code Section 40-13-70

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

Preamble:

The South Carolina Board of Cosmetology proposes revising its regulations regarding the practice of esthetics generally, and will consider revising R.35-20.

Section-by-Section Discussion:

35-20(A)-(N). No change.

35-20(O). Add “after chemical treatments on a patron” describing requirements to launder protective coverings.

35-20(P). Add missing header, “Implements, Products, and Procedures.”

35-20(P)(1)-(5). No change.

35-20(P)(6). Add language describing products, preparations, devices, machines, implements or procedures that are allowed and ones that are prohibited in providing skin care, particularly as they relate to penetrating the surface of the skin. Striking existing language on the same topic.

35-20(P)(7). Removing the prohibition on roll on wax applied directly to the skin and limiting it to single use.

35-20(P)(8). Excepting from the prohibition of UV sterilizer or light boxes ones used for storage of disinfected implements.

35-20(P)(9)-(11). No change.

A Notice of Drafting was published in the *State Register* on January 26, 2024.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 A.M. on October 8, 2024. Written comments may be directed to Tracy Adams, Board Executive, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 P.M., on August 26, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The proposed regulations are both reasonable and necessary to modernize the practice of esthetics in light of advances made in the industry since these regulations were first enacted. These regulations would parallel existing law used by the Board of Medical Examiners to distinguish the practice of esthetics from the practice of medicine. They would clarify the types of medical devices that are limited to use by medical professionals and would ensure that as new devices emerge, a standard exists in regulation by which their use may be evaluated and sanctioned if not limited to use by medical professionals. The regulations also relax requirements for laundering protective coverings when unnecessary, clarify that roll-on wax is allowed but for single use only, and provide that UV sterilizers or light boxes are permitted for storage of disinfected implements.

DESCRIPTION OF REGULATION:

Purpose: The Board is amending its regulations regarding esthetics to modernize the practice of esthetics in light of advances made in the industry since these regulations were first enacted.

Legal Authority: 1976 Code Section 40-13-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed regulations will update regulations regarding esthetics in light of advances made in the industry since these regulations were first enacted. These regulations would parallel existing law used by the Board of Medical Examiners to distinguish the practice of esthetics from the practice of medicine. They would clarify the types of medical devices that are limited to use by medical professionals and would ensure that as new devices emerge, a standard exists in regulation by which their use may be evaluated and sanctioned if not limited to use by medical professionals. The regulations also relax requirements for laundering protective coverings when unnecessary, clarify that roll-on wax is allowed

but for single use only, and provide that UV sterilizers or light boxes are permitted for storage of disinfected implements.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

The updated regulations will reflect advances made in the esthetics industry since these regulations were first enacted. These regulations would parallel existing law used by the Board of Medical Examiners to distinguish the practice of esthetics from the practice of medicine. They would clarify the types of medical devices that are limited to use by medical professionals and would ensure that as new devices emerge, a standard exists in regulation by which their use may be evaluated and sanctioned if not limited to use by medical professionals. The regulations also relax requirements for laundering protective coverings when unnecessary, clarify that roll-on wax is allowed but for single use only, and provide that UV sterilizers or light boxes are permitted for storage of disinfected implements.

~~Indicates Matter Stricken~~

Indicates New Matter

Text:

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

(A) Enforcement.

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

(2) To assure compliance with the laws and regulations governing the operations of salons and schools, a Board designated representative shall have access to the premises of any salon or school, at any time that the instruction or practice of cosmetology and related professions are being conducted. Cosmetology related professions include but are not limited to nail technology, esthetics, and instructor training programs.

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

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

the sanitary rules and regulations and the sanitary rating given to said salon or school, is sufficient cause for revocation of licenses.

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

(B) Rules.

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

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

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

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

(C) Residential Salons.

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

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

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

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

(D) Physical Facilities of Salons and Schools.

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

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

(3) Toilet Facilities. Each salon and school must provide toilet and hand washing facilities consisting of at least one commode and one lavatory in good working order, with hot and cold running water, soap and disposable towels. Restrooms may not be used for storage.

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

(E) Animals in Salons and Schools.

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

(F) Infectious Disease.

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

(2) No salon or school may knowingly require or permit a student or person licensed by the Board of Cosmetology to work upon a person known to suffer from any infectious or communicable

disease, which may be transmitted during the performance of the acts of cosmetology or related professions.

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

(G) Personal Cleanliness.

Washing Hands. Every person performing cosmetology or related services in a salon or school must thoroughly clean his or her hands with soap and water or any equally effective hand sanitizer before serving each patron.

(H) Implements, Supplies and Materials.

Licensees and students must dispose of all porous supplies or materials which come in direct contact with a patron and cannot be disinfected (for example, cotton pads, nail abrasives/buffers and neck strips) in a covered waste receptacle immediately after their use or when the service is completed.

(I) Disinfecting Nonelectrical Instruments and Equipment.

(1) Before use upon a patron, all non-electrical, non-porous implements, instruments and accessories used in the practice of cosmetology, nail technology, and esthetics must be disinfected in the following manner:

(a) clean with soap (or detergent) and water or a chemical cleaner, rinse, and dry completely; then

(b) totally immerse implements in, or spray/wipe, with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal activity used according to manufacturer's instructions including concentration and contact time requirements. Alcohol is not an acceptable disinfecting agent. Bleach products must have an EPA registration for hospital-level disinfection.

(2) All disinfected implements must be stored in a clean, dry, covered container such as a clean drawer or cabinet.

(3) The disinfectant solutions specified in Regulation 35-20(I)(1):

(a) shall remain covered at all times;

(b) shall be changed daily or sooner if visible debris is present or becomes cloudy, per the manufacturer's label; and

(c) shall be of sufficient size to accommodate all implements including handles.

(4) All nondisinfected implements (those that have been used on a patron or soiled in any manner) must be placed in a closed receptacle labeled "soiled" or "items to be disinfected" until such time as they can be properly disinfected.

(J) Disinfecting Electrical Implements.

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

(a) first removing all foreign matter; and

(b) disinfecting with EPA-registered disinfectant with demonstrated bactericidal, fungicidal, pseudomonacidal and virucidal activity used according to manufacturer's instructions, including contact time requirements. The following are accepted methods of disinfection: sprays, wipes or immersion.

(2) All disinfected electrical implements shall be stored in a clean manner between uses. Acceptable storage would be on a clean towel, covered by a clean towel, hooked on the side of the station,

in a drawer that is disinfected daily or in a plastic/rubber “bucket” installed in the station and disinfected daily.

(3) Towel warmers must be disinfected daily. Salons using hot steam towels in service must meet these requirements:

(a) Towels must be washed with detergent and bleach, and then dried on “hot”.

(b) Practitioners preparing towels for the warmers must first wash their hands or wear gloves.

(c) Wet towels used in services must be prepared fresh each day. At the end of the day, unused steamed towels must be removed and laundered as described in Regulation 35-20(J)(3).

(4) Pedicure bowls, tubs or basins.

(a) After each client:

(i) Drain tub completely.

(ii) Clean with soap/detergent and brush to remove all film from bowl.

(iii) Fill tub with clean water and drain.

(iv) Fill tub with clean water and add EPA registered disinfectant that is bactericidal, fungicidal, pseudomonacidal and virucidal at the proper concentration as indicated on the manufacturer’s label.

(v) In non-circulating tubs, allow clean water and EPA registered disinfectant that is bactericidal, fungicidal, pseudomonacidal and virucidal to stand for contact time listed on the manufacturer’s label. In circulating tubs, allow EPA registered disinfectant that is bactericidal, fungicidal, pseudomonacidal and virucidal to circulate for contact time listed on the manufacturer’s label.

(vi) Drain tub, fill with clean water and drain prior to filling for client use.

(b) At the end of the day

(i) Drain tub completely.

(ii) Remove all removable parts, and scrub tub and all removable parts with soap/detergent and brush.

(iii) Rinse all removable parts and immerse in EPA registered disinfectant that is bactericidal, fungicidal, pseudomonacidal and virucidal mixed at the proper concentration for the contact time listed on the manufacturer's label.

(iv) Fill tub with clean water and add EPA registered disinfectant that is bactericidal, fungicidal, pseudomonacidal and virucidal mixed at the proper concentration as indicated on the manufacturer's label.

(v) In non-circulating tubs, allow the disinfectant to stand for contact time listed on the manufacturer's label. In circulating tubs, allow the disinfectant to circulate for contact time listed on the manufacturer's label.

(vi) Drain tub and replace removable parts. Fill tub with clean water and drain prior to filling for client use.

(vii) Implements that are considered semi-critical, such as microdermabrasion wands, should either be disposable or be treated with high-level disinfection by immersing in an enzyme detergent for a minimum of fifteen (15) minutes, rinsing, scrubbing both internally and externally using a wire bristle brush, and then immersing in an EPA registered disinfectant for a minimum of 10 minutes.

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

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

(2) Removal from Container. When only a portion of a cosmetic preparation is to be used on a patron, licensees and students must remove it from the container using a disposable or single use spatula so as not to contaminate the remaining portion. Cosmetic pencils must be sharpened after each use. Cosmetic pencil sharpeners must be disinfected after each use.

(3) Paraffin which was removed for single use may not be returned to the paraffin warmer.

(4) Wax for hair removal services must be kept clean of debris.

(a) Wax must be removed to a single use container or removed with a single use spatula that may not be re-dipped (including using the other end) into the wax pot.

(b) Wax pot must be completely emptied and disinfected if contaminated by double dipping or debris.

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

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

(2) Shampoo trays and bowls must be cleansed with soap and water after each shampoo and disinfected daily, including the front of the bowl that may come in contact with the client and kept in good repair at all times.

(3) Licensees and students must cover treatment tables with a clean sheet of disposable examination paper or clean linens for each patron. Tables must be disinfected between services, prior to covering with paper or linen; sprays or wipes are acceptable as defined in Regulation I (1)(A) and (B).

(M) Towels.

(1) Used, disposable towels must be discarded. After a cloth towel has been used once, it must be deposited in a closed, vented receptacle, labeled "soiled linens" and shall not be used again until properly laundered.

(2) Proper Methods of Laundering. Used towels must be laundered either by regular commercial laundering or by a noncommercial laundering process which includes washing on the "hot" setting and drying until all moisture is gone and towels are hot to the touch from the dryer.

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

(N) Bottles and Containers.

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

(O) Neck Strips.

Licensees and students must use disposable neck strips or clean towels to keep the protective covering from coming in direct contact with a patron's neck. Protective coverings (capes) must be properly laundered after chemical treatments on a patron. ~~(see Regulation 35-20(M)(2)) after each client.~~

(P) Implements, Products and Procedures.

Licensees may not use any of the following substances, products or tools while performing cosmetology or related services:

(1) Methyl Methacrylate Liquid Monomers (MMA).

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

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

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

(5) Garra rufa fish used in “fish procedures.”

(6) The use of any product, preparation, device or procedure that cuts, destroys, or alters living tissue is strictly prohibited. Products, preparations, devices, machines, or implements used in providing skin care to beautify the surface of the skin must be over-the-counter, non-prescriptive, and externally applied to the epidermis; however, devices, machines, or implements intended to pierce or puncture the superficial surface of the skin must not penetrate to a depth greater than 1.4 mm. Cosmetologists and estheticians may utilize FDA cleared or approved non-prescriptive, over-the-counter electric medical devices and machines that do not cut, destroy, or alter living tissue, only if the device is approved for general use and is used solely for esthetic purposes. Documentation regarding electric devices and machines, including information regarding any FDA clearance or approval and FDA classification, must be maintained on the licensed premises and be available for review by Board inspectors or investigators. Exfoliation treatments, whether manual, mechanical, or chemical, should only remove the non-living surface epidermal skin cells, and must not remove cells beyond the basal layer of the epidermis, also known as the stratum germinativum. In addition, peels or chemical exfoliants must not have a pH level, either individually or in combination, of less than 2.5. penetrates beyond the stratum germinativum layer, also known as the basal layer of the epidermis, of the skin is strictly prohibited. (e.g. acids with a PH below 3, medium depth or physician level peels, microneedling, dermaplaning and microblading.)

(7) Roll on wax must be single-use only ~~is prohibited if applied directly to the skin. If used, they must be treated as a single-use item~~ and disposed of after each use.

(8) Ultraviolet (UV) Sterilizers or light boxes are prohibited, unless used for storage of disinfected implements. They are not acceptable infection control devices.

(9) Autoclaves and autoclave packaging of tools are prohibited unless regular (at least once per month but not more than 30 days between tests) spore tests are performed by a contracted laboratory. If a positive spore test is received, the autoclave may not be used until a negative spore result is received.

(10) Electric files or drills not specifically manufactured for use on human nails are prohibited.

(11) Possession on licensed premises, or by a licensee, of any item(s) listed in this section is a violation under this chapter.