

**ADOPTED REGULATION OF THE
STATE BOARD OF COSMETOLOGY**

LCB File No. R035-08

Effective August 26, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 644.110 and 644.120.

A REGULATION relating to cosmetology; requiring that cosmetological establishments and schools of cosmetology use infection control solutions that are approved by the State Board of Cosmetology; setting forth provisions governing the use, storage and disposal of single-use items; and providing other matters properly relating thereto.

Section 1. NAC 644.340 is hereby amended to read as follows:

644.340 *1.* In each cosmetological establishment or school of cosmetology:

~~1.~~ *(a)* Sanitizing and ~~disinfecting~~ *infection control* solutions must be available for immediate use at all times and must be registered with the Environmental Protection Agency as a bactericide, fungicide or virucide.

~~2.~~ *(b)* All instruments, implements and other tools must be cleaned and disinfected in the following manner before use:

~~(a)~~ *(1)* All hair and other adherent foreign material must be removed from the instrument, implement or other tool; and

~~(b)~~ *(2)* The instrument, implement or other tool must be:

~~(1)~~ *(I)* Thoroughly washed with soap and hot water;

~~(2)~~ *(II)* Rinsed in clear hot water; and

~~{3}~~ **(III)** Placed in a covered wet sanitizer which is large enough for complete immersion of the instrument, implement or other tool, and which contains ~~{a-disinfecting}~~ **an infection control** solution **that is** registered with the Environmental Protection Agency ~~{that is acceptable to}~~ **and approved by** the Board . ~~{and-utilized-in-accordance-with-the-manufacturer's instructions.}~~

↳ During each service, all instruments, implements and other tools must be kept free of contamination by immersion in ~~{a-disinfecting}~~ **an infection control** solution ~~{acceptable to}~~ **approved by** the Board.

~~{3}~~ **(c)** All disinfected instruments, implements and other tools that are not in use and not in the process of wet disinfection in a wet sanitizer ~~{}~~ must be stored in a clean, dry sanitizer. A dry sanitizer consists of a clean, closed container, drawer or storage unit with a fumigant that contains only disinfected instruments, implements and other tools.

~~{4}~~ **(d)** Any instrument, implement or other tool dropped on the floor or otherwise made unsanitary must be deposited in a separate labeled container for soiled articles only and must not be used until it has been thoroughly disinfected as specified in ~~{subsection 2.}~~ **paragraph (b)**. A container for the disinfectant used that includes the manufacturer's label must be available at all times in the cosmetological establishment or school of cosmetology.

~~{5}~~ **(e)** All electrolysis instruments must be cleaned in the following manner after each use:

~~{a}~~ **(I)** All foreign matter must be removed from the instrument; and

~~{b}~~ **(2)** The instrument must be:

~~{4}~~ **(I)** Washed in soap and hot water; and

~~{2}~~ **(II)** Rinsed in hot water.

~~6.~~ (f) After cleaning, all electrolysis instruments must be sterilized by one of the following methods:

~~(a)~~ (1) Use of a steam sterilizer; or

~~(b)~~ (2) Use of a dry sterilizer,

↳ which is registered and listed with the United States Food and Drug Administration, and is used according to the manufacturer's instructions.

~~7.~~ (g) Sterilization equipment must be checked daily to ensure that it is reaching the temperature required by the manufacturer's instructions.

~~8.~~ (h) All sterilized instruments and sanitary disposable articles must be stored in clean, closed containers, drawers or storage units which must be free of other articles.

(i) Single-use items must not be used on more than one client and must be disposed of after use on a client.

(j) All single-use items and other items that cannot be disinfected must be stored in closed containers at all times while not in use.

2. As used in this section, "single-use items" includes, without limitation, buffers, cotton balls, cotton strips and swabs, disposable gloves, emery boards, nail files, neck and muslin strips, paraffin liners, pedicure slippers, sleeves and sanders for electric files, and toe separators.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R035-08**

The State Board of Cosmetology adopted regulation amendment assigned LCB File No. R035-08 which pertains to chapter 644 of the Nevada Administrative Code on May 5, 2008.

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Board of Cosmetology has made significant efforts in providing the public with the opportunity for comment both written and oral. The agency first held two town hall meetings providing the public, licensees, and schools of cosmetology an opportunity to submit suggested NAC amendments. The town hall meetings were advertised in newspapers of general circulation in Las Vegas, Reno, and a number of small community newspapers throughout the state of Nevada indicating the agency was soliciting oral testimony or written comments. Further, these meetings were posted in at least one library within every county with the state of Nevada. Finally, these meetings were posted at both offices of the agency (Las Vegas and Reno) as well as leaflets were delivered by agency inspectors during every inspection conducted prior to the meetings.

These town hall meetings were not intended to replace the required workshop, but instead allow for greater participation and increase the ability of the public, licensees, and schools of cosmetology to participate in the process.

The first town hall meeting was held in Las Vegas, NV on November 5, 2007. A total of ten (10), two (2) Board subcommittee members, and five (5) staff attended the meeting. Five (5) persons requested to speak. There were no written comments submitted.

The second town hall meeting was held in Reno, NV on November 26, 2007. A total of five (5), two (2) Board subcommittee members, and five (5) staff attended the meeting. Three (3) persons requested to speak. One (1) set of written comments was submitted by one of the speakers attending the meeting.

The two town hall meetings were audio recorded and a summary of comments prepared from the audio tapes. A notice as to how to get a copy of the summary of comments at no cost were posted on the agency's website and both of the agency's offices.

A formal workshop was held on January 14, 2008 in Las Vegas, NV. The summaries of both town hall meetings were made available at both the Las Vegas and Reno offices prior to the workshop date. A total of nine (9) public persons, (6) Board members, and four (4) staff attended the workshop. Seven (7) persons requested to speak. The minutes of the workshop were recorded by a court reporter and a transcript prepared. A notice of

how and where to acquire the minutes of the workshop was posted on the agency's website and both agency offices.

A public hearing was held on May 5, 2008 in Las Vegas. The meeting was noticed on April 4, 2008. The meeting was transcribed by a court reporter and minutes prepared. The proposed regulations that had been submitted to the LCB for review, editing, and placing on the legislative were returned to the agency for public hearing and adoption were made available to those interested. A total of ten (10) persons attended the public hearing with only one (1) person requesting to speak. No written comments were received.

At the close of the public hearing, the Board reconvened in a regular meeting of the Board. This meeting was notice April 4, 2008. The Board adopted the regulation as written. The Board's intention is to reduce the exposure to communicable diseases that might accidentally be transmitted from one client to another due to the inability to disinfect certain porous tools. The Board has determined that the safest way to deal with this situation is make these porous tools one-time use instruments.

2. The public response relating to the proposed regulation.

There was no opposition expressed at the town hall meetings, workshop, and public hearing related to this regulation.

3. Economic impact upon the businesses affected by the regulation.

Adverse effect: The cost of providing nail and pedicure services to the clients of manicurists will be increased. The increase in cost per customer is estimated to be approximately \$4.00 per customer.

Beneficial effect: The exposure for the transfer of infection is significantly reduced by the use of one-time only disposable items in doing services on the customers. The amendment to NAC 644.340 adds certain tools and implements that can only be used by one person.

Immediate effect: is an increase in cost of supplies for manicurists. However, the long-term effect is that the manicurist will ultimately pass-on the cost to the customer. The long-term economic effect will be the reduction in the liability exposure of manicurists due to issues of accidental transfer of a fungus or infection to their customers and increased safety for their customers.

4. The estimated cost to the agency for enforcement of the proposed regulation.

There will be no additional cost to the agency to enforce this proposed regulation.

5. **Is there any regulation of other state or government agencies which the proposed regulation overlaps or duplicates?**

There is no duplication or overlap of this regulation with any other of another agency.

6. **Does the regulation include provision that is more stringent than federal regulation which regulates the same activities?**

No.

7. **Does the regulation establish a new fee or increases an existing fee?**

No.

Board Members present at the time of adoption: Board President David Austin, Vice Chair, Bonnie Schultz, Secretary/Treasurer Linda Zesiger, Alex Leeder, and Kathey Ditzler.

MOTION by Kathey Ditzler; that we adopt LCB File No. R035-08 as written. Motion seconded by Bonnie Schultz. The motion passed five (5) in favor, none (0) against, and two (2) absent.