

**PROPOSED REGULATION OF THE
STATE BOARD OF COSMETOLOGY**

LCB File No. R127-16

August 3, 2016

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

AUTHORITY: §1, NRS 644.110; §2, NRS 644.110 and 644.2175; §3, NRS 644.110 and 644.120; §4, NRS 644.110, 644.430 and 644.490; §5, NRS 644.110 and 644.430.

A REGULATION relating to cosmetology; authorizing the State Board of Cosmetology to refuse to issue or renew a license for a cosmetological establishment under certain circumstances; revising certain provisions which require a licensed cosmetologist, hair designer, aesthetician or nail technologist who supervises an apprentice to limit the maximum amount of training that the apprentice may receive per week; requiring all eyelash extensions or enhancements applied in each cosmetological establishment or school of cosmetology to be stored in a certain manner; authorizing the Board to impose an additional fine against a person who fails to pay a fine within a certain period; expanding the circumstances under which a licensee is subject to disciplinary action by the Board; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Cosmetology to adopt reasonable regulations for carrying out the provisions of chapter 644 of NRS governing the practice of cosmetology. (NRS 644.110) Existing law also makes it unlawful for any person to conduct or operate a cosmetological establishment, an establishment for hair braiding, a school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed by the Board in accordance with the provisions of that chapter. (NRS 644.190) **Section 1** of this regulation authorizes the Board to refuse to issue or renew a license for a cosmetological establishment for any applicant who fails to present to the Board satisfactory evidence of personal integrity and moral responsibility. If the applicant is a corporation, **section 1** requires each officer of the corporation to present such evidence.

Existing regulations require a licensed cosmetologist, hair designer, aesthetician or nail technologist who supervises and trains an apprentice to limit the training of the apprentice to not more than 40 hours per week. (NAC 644.167) **Section 2** of this regulation increases that limit to 48 hours per week.

Existing regulations specify the manner in which a cosmetological establishment or school of cosmetology must maintain certain cosmetics and other preparations that are used on a

client in the cosmetological establishment or school of cosmetology. (NAC 644.345) **Section 3** of this regulation requires the cosmetological establishment or school of cosmetology to store all eyelash extensions or enhancements in a clean and sanitary container before application on a client.

Existing law sets forth the grounds for disciplinary action that the Board make take against a person for engaging in certain prohibited activity relating to cosmetology. Such grounds include, without limitation, engaging in any unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify taking disciplinary action. If the Board determines that a violation has occurred, the Board may, in addition to taking other actions, impose a fine not to exceed \$2,000. (NRS 644.430) Existing regulations set forth a schedule of fines that may be imposed for certain violations relating to cosmetology. (NAC 644.700) **Section 4** of this regulation authorizes the Board to impose an additional fine of \$25 against a person if the person fails to pay an original fine imposed against him or her within a certain period. **Section 4** limits the total amount of additional fines imposed against a person to not more than \$2,000. **Section 5** of this regulation significantly expands the unfair or unjust practices, methods or dealings for which a licensee is subject to disciplinary action by the Board.

Section 1. Chapter 644 of NAC is hereby amended by adding thereto a new section to read as follows:

The Board may refuse to issue or renew a license for a cosmetological establishment for any applicant who fails to present to the Board satisfactory evidence of personal integrity and moral responsibility. If the applicant is a corporation, the provisions of this section apply to each officer of the corporation.

Sec. 2. NAC 644.167 is hereby amended to read as follows:

644.167 A licensed cosmetologist, hair designer, aesthetician or nail technologist who has been authorized by the Board to supervise and train an apprentice and who is supervising and training an apprentice shall, in addition to the duties specified in NRS 644.2175:

1. Specify, in the daily record of the training of the apprentice, the number of hours spent on each subject and the type of training that was administered;
2. Provide practical training and technical instruction in the subjects and for the hours listed below:

(a) For a cosmetologist's apprentice:

- (1) Blow-drying, 160 hours;
- (2) Dispensary, 50 hours;
- (3) Extensions and wrapping of nails, 40 hours;
- (4) Facials, arching, skin care and makeup, 120 hours;
- (5) Finger waving, 120 hours;
- (6) Hair coloring, 400 hours;
- (7) Haircutting, 450 hours;
- (8) Manicuring, 150 hours;
- (9) Miscellaneous practical and technical instruction, 180 hours;
- (10) Modeling, 60 hours;
- (11) The provisions of chapter 644 of NRS and the regulations adopted pursuant thereto,
40 hours;
- (12) Pedicuring, 50 hours;
- (13) Permanent waving and chemical straightening, 500 hours;
- (14) Receptionist's duties, 50 hours;
- (15) Salon management, 50 hours;
- (16) Scalp treatment, 50 hours;
- (17) Shampooing and rinses, 50 hours;
- (18) Skipwaving, 120 hours;
- (19) Theory, 410 hours;
- (20) Thermal straightening, curling and marcelling, 300 hours;
- (21) Wet hairdressing, 200 hours; and

- (22) Wigs and hairpieces, 50 hours;
- (b) For a hair designer's apprentice:
 - (1) Blow-drying, 115 hours;
 - (2) Dispensary, 35 hours;
 - (3) Finger waving, 85 hours;
 - (4) Hair coloring, 280 hours;
 - (5) Haircutting, 420 hours;
 - (6) Miscellaneous practical and technical instruction, 130 hours;
 - (7) Modeling, 40 hours;
 - (8) The provisions of chapter 644 of NRS and the regulations adopted pursuant thereto, 30 hours;
 - (9) Permanent waving and chemical straightening, 375 hours;
 - (10) Receptionist's duties, 35 hours;
 - (11) Salon management, 35 hours;
 - (12) Scalp treatment, 35 hours;
 - (13) Shampooing and rinses, 35 hours;
 - (14) Skipwaving, 85 hours;
 - (15) Theory, 290 hours;
 - (16) Thermal straightening, curling and marcelling, 200 hours;
 - (17) Wet hairdressing, 140 hours; and
 - (18) Wigs and hairpieces, 35 hours;
- (c) For an aesthetician's apprentice:
 - (1) Facials, 400 hours;

- (2) Facial machines, 500 hours;
- (3) Hair removal, 400 hours;
- (4) Infection control and prevention, 40 hours;
- (5) Makeup and eyelash application, 400 hours;
- (6) The provisions of chapter 644 of NRS and the regulations adopted pursuant thereto, 30 hours; and

- (7) Salon management, 30 hours; and
- (d) For a nail technologist's apprentice:
 - (1) Infection control and prevention, 40 hours;
 - (2) Nail services, 1,110 hours;
 - (3) The provisions of chapter 644 of NRS and the regulations adopted pursuant thereto, 30 hours; and

- (4) Salon management, 20 hours;
- 3. Administer monthly tests on the theory and the practice of the subjects specified in subsection 2;
- 4. Submit monthly reports to the Board, signed by the licensed cosmetologist, hair designer, aesthetician or nail technologist and by the apprentice, that summarize the apprentice's record of attendance, the training he or she has received during the previous month and his or her scores on any tests administered during the previous month;

- 5. Ensure that the apprentice wears, at all times that he or she is receiving training or performing work on the public, a clean outer garment that meets the requirements of NAC 644.355 and a badge pursuant to the requirements of NAC 644.174;

6. Ensure that the certificate of registration of the apprentice is in plain view of the public at the position where he or she is being trained and performing work on the public;

7. Limit the training of the apprentice to not more than ~~40~~ 48 hours per week and not more often than 5 days out of every 7 consecutive days;

8. Not commence training until he or she has ensured that the apprentice has received a certificate of registration from the Board; and

9. Upon completion of the training of the apprentice, submit to the Board a final report that:

(a) Documents that the apprentice completed the number of hours of training required pursuant to NRS 644.200 and the number of hours spent on each of the subjects specified in subsection 2;

(b) Summarizes the training provided to the apprentice; and

(c) States whether the apprentice is ready to take the theory examination for a license as a cosmetologist, hair designer, aesthetician or nail technologist, as appropriate.

Sec. 3. NAC 644.345 is hereby amended to read as follows:

644.345 In each cosmetological establishment or school of cosmetology:

1. Creams, lotions, cosmetics and other preparations used on clients must be kept in closed containers at all times when not in use.

2. Powder for the face must be kept in a closed container. The use of powder puffs is prohibited.

3. Lotions or liquids used on a client must be poured into a single-use or disinfected container and applied to the client using cotton or other type of applicator.

4. Creams or other semisolid substances must be dipped from the container with a single-use or disinfected instrument or spatula. Removing such substances with the fingers is prohibited.

5. Creams, lotions and other preparations must be removed by means of cotton, gauze, facial tissue or other single-use material.

6. Supplies used for service to clients must not be stored in any restroom.

7. Cosmetics used in the form of a pencil must be sharpened before each use. The sharpener must be cleaned and disinfected after each use.

8. All bottles and containers must be distinctly and correctly marked with a label which discloses its contents. All articles containing poisonous substances must be distinctly marked as such.

9. Readily accessible safety data sheets for each product used in the cosmetological establishment containing hazardous substances must be available to all licensees within the establishment at all times.

10. All eyelash extensions or enhancements must be stored in a clean and sanitary container before application on a client.

Sec. 4. NAC 644.700 is hereby amended to read as follows:

644.700 1. The Board adopts the following schedule of fines for any violation of the provisions listed:

	First	Second	Third
Violation	Offense	Offense	Offense

Violation	First Offense	Second Offense	Third Offense
COSMETOLOGICAL ESTABLISHMENT			
Operating an establishment without a license	\$1,000	\$1,500	\$2,000
Operating an establishment with an expired license	200	500	1,000
Allowing a licensee to work with an expired license (per person)	200	500	1,000
Failure to display license in place of business	200	500	1,000
Allowing an unlicensed person to work in an establishment	1,000	1,500	2,000
Operating an establishment without supervision by a licensed person	200	500	1,000
Operating an establishment with an animal on the premises	200	500	1,000
Refusal to allow staff of the Board to inspect any licensed space	1,000	2,000	5,000
COSMETOLOGIST OR OTHER LICENSED OR REGISTERED NATURAL PERSON			
Practicing with an expired license or registration	200	500	1,000
Failure to display license or registration at a work station	200	500	1,000
Failure to practice in a cosmetological establishment, unless the person holds a limited license to do so	500	1,000	2,000
Failure to comply with NAC 644.368	200	500	1,000
Using advertisements which contain knowingly false or deceptive	100	200	500

Violation	First Offense	Second Offense	Third Offense
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statements or otherwise engaging in acts described in subsection

~~2 or 3~~ 1 of NAC 644.711

APPRENTICE

Failure to display a certificate of registration in plain view	100	500	1,000
Failure to wear a badge while working	100	500	1,000
Working on the public without a supervising cosmetologist, hair designer, aesthetician, nail technologist or electrologist, as appropriate, present	500	1,000	2,000

SUPERVISOR OF AN APPRENTICE

Allowing an apprentice to work if his or her certificate of registration is not displayed in plain view	100	500	1,000
Allowing an apprentice to work if the apprentice is not wearing his or her badge	100	500	1,000
Allowing an apprentice to work on the public without being present to supervise the apprentice	500	1,000	2,000
Failure to comply with NAC 644.169	500	1,000	

SUPERVISOR OF AN ELECTROLOGIST'S APPRENTICE

Violation	First Offense	Second Offense	Third Offense
Failure to comply with NAC 644.267	500	1,000	
MAKEUP ARTIST			
Failure to meet a requirement to engage in the practice of makeup artistry in this State	200	500	1,000
SCHOOL OF COSMETOLOGY			
Failure to comply with NRS 644.395, subsection 1 of NRS 644.400, paragraph (b) of subsection 2 of NRS 644.400 or NAC 644.085	200	500	1,000
ANY PERSON			
Practicing without a license or certificate	1,000	1,500	2,000
Copying or altering a license or certificate for purposes of fraud, deception, misrepresentation or other illegal purpose	200	500	1,000
Using a copied or altered license or certificate for purposes of fraud, deception, misrepresentation or other illegal purpose	1,000	2,000	5,000

2. A licensee who violates a provision of NAC 644.307 to 644.355, inclusive, will be fined \$100 for each violation unless, in the judgment of the Executive Director, the violation warrants a disciplinary hearing before the Board.

3. A person who violates a provision of this chapter or chapter 644 of NRS for which this section does not provide a specific fine, including, without limitation, a second or subsequent violation, may be:

- (a) Ordered to appear at a disciplinary hearing before the Board; and
- (b) Punished by the Board as set forth in NRS 644.430.

4. A person who is required to pay a fine specified in this section shall pay the fine within 90 days after the date he or she is required to pay the fine. If the person fails to pay the fine within that period, the Board may impose against the person an additional fine of \$25 for each 30 days the fine remains unpaid. Any additional fine imposed pursuant to this subsection will not be added to the original fine which the person is required to pay. The total amount of fines imposed against a person pursuant to this subsection must not exceed \$2,000.

Sec. 5. NAC 644.711 is hereby amended to read as follows:

644.711 **1.** A licensee is subject to disciplinary action if the licensee:

~~(a)~~ **(a)** Engages in unfair or unjust practices, methods or dealings, including, without limitation:

~~(a)~~ **(1)** Copying or altering a license for the purposes of fraud, deception, misrepresentation or other illegal purpose in violation of NRS 644.476.

~~(b)~~ **(2)** Using a license that has been copied or altered for the purposes of fraud, deception, misrepresentation or other illegal purpose.

~~(c)~~ **(3)** Misrepresenting his or her qualifications to the public.

~~[(d)]~~ (4) Performing or offering to perform the functions of a licensee under a false or assumed name or social security number.

~~[(e)]~~ (5) Selling or offering to sell his or her license.

~~[(f)]~~ (6) *Allowing another person to use his or her license to practice any branch of cosmetology.*

(7) Failing to cooperate with an investigation conducted by the Board.

~~[(g)]~~ (8) Failing to respond to communications from the Board.

~~[(h)]~~ (9) Providing false, *fraudulent or misleading* information to the Board ~~†~~
~~—2.†~~ *or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government.*

(10) *Being determined by the Board to be professionally incompetent to engage in the practice of cosmetology.*

(11) *Being disciplined in another state, a territory or possession of the United States or the District of Columbia for any conduct that would be a violation of any provision of this chapter or chapter 644 of NRS.*

(12) *If the licensee is on probation, violating the terms of the probation.*

(13) *Failing to pay or making arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to NRS 644.430 or NAC 644.700 or any reasonable attorney's fees and costs incurred pursuant to NRS 622.400 in accordance with an order of the Board within 90 days after:*

(I) *Receiving notice of the imposition of the fine or attorney's fees and costs; or*

(II) *The final administrative or judicial decision affirming the imposition of the fine or attorney's fees and costs,*

↳ *whichever occurs later.*

(14) Engaging in any activity or providing any service relating to cosmetology which is not within the scope of his or her license.

(15) Practicing cosmetology during any period in which, with or without good cause, his or her physical, mental or emotional condition impairs his or her ability to act in a manner consistent with established or customary standards of cosmetology.

(16) Owning or operating a cosmetological establishment for the purpose of pandering or prostitution.

(b) Uses advertisements which contain knowingly false or deceptive statements, including, without limitation, using the terms “expert,” “advanced” or “medical” in connection with any description of a licensee’s practice in any branch of cosmetology or otherwise holding the licensee out to the public as an expert, advanced or medical practitioner of any branch of cosmetology.

2. The provisions of this section do not prohibit:

(a) A licensee from providing health care services during the course of practicing cosmetology on a client in the case of an emergency if the services cannot or will not be provided by a health care provider.

(b) Contact by a licensee with a client that is necessary for a legitimate cosmetology service or health care purpose that meets the standard of appropriate care of a licensee as determined by the Board.