

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 03-06-17
Rule ID(s): 6455-6456
File Date: 3/9/17
Effective Date: 6/7/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners

Division: Regulatory Boards

Contact Person: Cherrelle Hooper, Assistant General Counsel

Address: 500 James Robertson Parkway, Nashville, TN

Zip: 37243

Phone: 615-741-3072

Email: cherrelle.hooper@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title
0440-01-.03	Curriculum
0440-01-.05	Requirements for Schools
0440-01-.06	Enrollment of Students
0440-01-.11	Teacher Training Programs

Chapter Number	Chapter Title
0200-01	Rules of the Barber Board
Rule Number	Rule Title
0200-01-.02	Curriculum
0200-01-.13	License Qualifications Programs
0200-01-.14	Teacher Training Programs

Chapter 0440-01
Licensing

Amendments

Rule 0440-01-.03(5) Curriculum is amended by deleting the paragraph and replacing with the following language, so that as amended the paragraph shall read:

- (5) Any person holding a valid Tennessee Master Barber certificate of registration may appear before the board and request to sit for the Cosmetology Exam. The board may approve the applicant to test if they:
 - (a) Complete three hundred (300) cosmetology school hours at a licensed cosmetology school learning the fundamentals of cosmetology technique and pedicuring. This student will be given credit for the remaining twelve hundred (1200) hours required to obtain a Tennessee cosmetology license upon finishing the required 300 hours in a cosmetology school; or
 - (b) Held a master barber certificate of registration in Tennessee or another jurisdiction with reciprocity with Tennessee for five (5) continuous years.

Authority: T.C.A. §§ 62-4-105(e), 62-4-108, 62-4-110, and 62-4-120(k).

Rule 0440-01-.05 Requirements for Schools is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

- (1) Every school of cosmetology shall:
 - (a) Publish readily available and clearly expressed admission policies and requirements;
 - (b) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a cosmetologist, manicurist, instructor, shampoo technician, natural hair stylist, or aesthetician in the State of Tennessee; however, if a school is licensed to provide instruction solely in natural hair styling, manicuring or aesthetics, the school shall only be responsible for providing documentation relative to licensure in the field in which the school provides instruction;
 - (c) Give a receipt to any student from whom money is collected by authorized school personnel;
 - (d) Submit to the office of the Board, on the prescribed form, a monthly progress report on each student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the Board will be issued for violation of this rule; and
 - (e) Teach a minimum ten percent (10%) of theory hours each week in each curriculum offered in a school. This requirement does not apply to students enrolled in an apprenticeship program authorized by this chapter.
- (2) Applications to operate New Schools: Any person seeking licensure of a new school shall first pay the fee for licensure and submit to the board the following:
 - (a) A copy of the school's curriculum to be deemed acceptable by the board;
 - (b) A sample copy of the school's catalog, brochure, enrollment agreement, and cancellation and refund policies;
 - (c) A backup method for logging hours that have been earned by students; and
 - (d) A plan to keep all part-time and full-time student files separate.

(3) Transfers, Cancellations and Refunds

- (a) The school shall maintain documentation that the refunds owed to students are issued within 45 days of the last day of the student's attendance.
 - (b) The school shall have a written policy that clearly defines how the school determines whether or not credit hours will be accepted from another institution. This policy shall apply to all students. Nothing in this rule shall require a school to accept credit hours from another institution except as provided in the school's policy.
 - (c) The school shall provide each student with a written policy of a teach-out program, or outline the student's options in the event the school closes for an extended period of time, such as by way of license revocation, natural disaster, or other unforeseen consequences. Schools are encouraged to partner with neighboring institutions to achieve the best outcome for students.
- (4) The school shall keep a copy of all tests, evaluations, or progress reports in the student's file. The student must initial any evaluation or progress reports.
- (5) Upon yearly renewal of license to operate the school shall submit a Board approved form disclosing changes to student enrollment agreements, or other school changes affecting students.

Authority: T.C.A. §§ 62-4-105(e), 62-4-120, and 62-4-122.

Rule 0440-01-.06 Enrollment of Students is amended by deleting the rule and substituting the following language so that, as amended, the rule shall read:

- (1) Every licensed school of cosmetology shall maintain documentation of age and education in each student's file, which evidences eligibility for enrollment under the terms of T.C.A. § 62-4-122(a).
- (2) Every enrollment of a student in a school of cosmetology shall be evidenced by a written enrollment agreement which clearly details the rights and obligations of both parties.
- (3) The school shall:
 - (a) furnish to the student an executed copy of the enrollment agreement;
 - (b) maintain a copy of the agreement in the student's file; and
 - (c) keep copies of all receipts and payments the student has made or received in the student's files.
- (4) Every student enrollment agreement shall:
 - (a) be signed and dated by the student and an authorized representative of the school;
 - (b) specify the number of clock hours in the course of instruction and an approximate number of weeks or months required for completion;
 - (c) identify all costs and charges which the student must bear;
 - (d) indicate any grounds for termination of a student by the school;
 - (e) state in clear and understandable language the school's refund policy;
 - (f) list any special conditions or requirements for graduation;
 - (g) contain an acknowledgment that the student has read and understands the agreement before making any payment thereunder;

- (h) include the school's discrimination and anti-harassment policy;
 - (i) include page numbers on each page and be initialed by the student on each page;
 - (j) contain a clearly defined policy on how the school will maintain sanitary code requirements and the student's role in maintaining those requirements, which must be based on the curriculum and industry practices; and
 - (k) contain an initialed acknowledgement by the student that the student has received a full and true copy of the student enrollment agreement for their own personal records.
- (5) For students enrolling in teaching programs, the file shall contain documentation that the school notified the enrollee in writing that an applicant for an instructor's license must have been licensed for three (3) continuous years prior to applying for an instructor's license, along with any other qualifications that the legislature or the Board determines.
 - (6) All application information, including documentation and enrollment agreements required under this rule, shall be included in the student's file and made available for inspection by members or inspectors of the Board during business hours.
 - (7) A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.
 - (8) An apprentice program must be completed within 150% of the time allowed for a student to complete a course of study under the school's standard, non-apprenticeship contract agreement.

Authority: T.C.A. §§ 62-4-105(e), 62-4-120, and 62-4-122.

Rule 0440-01-.11(2) Teacher Training Programs is amended by adding new subparagraph (f) so that, as amended, the paragraph shall read:

- (2) The applicant shall demonstrate to the satisfaction of the Board that the teacher training program submitted for approval will:
 - (a) contain at least sixteen (16) hours of actual instruction;
 - (b) emphasize teaching methodology for its entire duration;
 - (c) restrict the size of classes sufficiently to ensure adequate attention to all participants;
 - (d) proceed for not more than two (2) hours without a break;
 - (e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and
 - (f) conform to professional standards as determined by the Board. This can be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. § 62-4 et. seq., or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the board.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-114.

Chapter 0200-01
Rules of the Barber Board

Amendments

Rule 0200-01-.02(4) Curriculum is amended by deleting the paragraph and substituting the following language so that, as amended, the paragraph shall read:

- (4) Every barber school shall:
- (a) Publish readily available and clearly expressed admission policies and requirements;
 - (b) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a master barber, barber technician, and barber instructor in the State of Tennessee;
 - (c) Provide each enrolled student with:
 - 1. the school's discrimination and anti-harassment policy;
 - 2. a contract with page numbers for each page and space on each page for the student to initial;
 - 3. a clearly defined policy on how the school will maintain sanitary code requirements and the student's role in maintaining those requirements, which must be based on the curriculum and industry practices; and
 - 4. an initialed acknowledgement by the student that the student has received a full and true copy of the student enrollment agreement for their own personal records;
 - (d) Give a receipt to any student from whom money is collected by authorized school personnel;
 - (e) Provide the Board with a sample copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies as a part of their school license application;
 - (f) Have a backup method for logging hours that have been earned by students;
 - (g) Keep all part-time and full-time student files separate;
 - (h) Transfers, Cancellations and Refunds
 - 1. The school shall maintain documentation that the refunds owed to students are issued within 45 days of the student's last date of attendance.
 - 2. The school shall have a written policy that clearly defines how the school determines whether or not credit hours will be accepted from another institution. This policy shall apply to all students. Provided, however, that nothing in this rule shall require a school to accept credit hours from another institution except as provided in the school's policy.
 - 3. The school shall provide each student with a written policy of a teach out program, or outline the student's options in the event the school closes for an extended period of time, such as by way of license revocation, natural disaster, or other unforeseen consequences. Schools are encouraged to partner with neighboring institutions to achieve the best outcome for students;
 - (i) Keep a copy of all tests, evaluations, or progress reports in the student's file. The student must initial any evaluation or progress reports;
 - (j) Submit to the office of the Board, on the prescribed form, a monthly progress report on each

student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the board will be issued for violation of this rule;

- (k) Upon yearly renewal of the school license the school shall submit a Board approved form disclosing changes to student enrollment contracts, or other school changes affecting students; and
- (l) Notwithstanding any provision to the contrary, any school operated under T.C.A. § 62-3-123 may develop courses of instruction and practice incorporating an apprenticeship curriculum, which allows an applicant to obtain fifty percent (50%) of the required hours for a specific license through classroom instruction and fifty percent (50%) of the required hours under the direct supervision and responsible charge of a licensed professional who meets the requirements set forth in this rule. Supervision hours received may not be used for credit for more than fifty percent (50%) of the required hours in any instruction subcategory (General, Chemical or Physical).

1. Definitions

- (i) "Apprenticeship student" means a student enrolled in a school participating in an apprenticeship program with the intention of completing the school's curriculum under that school's apprenticeship program.
- (ii) "Supervising licensed professional" means a licensee in the field of study of an enrolled apprenticeship student who is in charge of supervising and accounting for the creditable activities of the student's apprenticeship program and providing the participating school with the student's apprenticeship activity record.
 - (I) Any supervising licensed professional in responsible charge as provided in this rule shall have at least ten (10) years of experience as a licensed professional in the field of study in which the supervision is provided and shall hold a certificate of registration as both a master barber and barber instructor issued by the Board. The supervising licensed professional's license must be current at all times while providing supervision.
 - (II) Each supervising licensed professional shall be the responsible charge of no more than one apprenticeship student.
- (iii) "Responsible charge" means a licensed professional in supervision of a student enrolled in an apprenticeship program curriculum, approved by the Board, and responsible for all aspects of that student's apprenticeship instruction.

2. Apprenticeship students shall complete instructional hours and pass the initial theory examination prior to initiating apprenticeship activities in a salon, shop, or establishment. A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.

3. Any school offering an apprenticeship curriculum shall maintain a record of all hours completed under the apprenticeship program, including classroom hours, for which credit is awarded in a student's academic file. This record shall include the number of hours completed under direct supervision and responsible charge, the dates these hours were earned, the license number of the professional in responsible charge who directly supervised the student, and the signatures of both the student and the supervising licensed professional in responsible charge.

- (i) The required records shall be maintained in the student's file and made available for inspection during the student's academic career, shall be maintained for a period of not less than seven (7) years after a student is no longer attending the providing school, and shall be made available to the Board immediately upon request during this time.

- (ii) A daily log accounting for all apprenticeship hours awarded under this chapter by any school offering an apprenticeship curriculum shall be maintained by the school and updated monthly. This log shall be made available for inspection at any time.
 - (iii) This daily log shall be submitted to the approving school no later than the close of business of the first (1st) day of the month for the previous month.
 - (iv) Should an apprentice change salon, shop, establishment, or supervising licensed professional, a notarized transcript of the total hours accumulated shall be signed by the salon, shop, or establishment owner or manager, along with the supervising licensed professional, and submitted to the approving school within ten (10) days of the change.
4. A participating school shall be responsible for confirming a supervising licensed professional's qualifications to be placed in responsible charge of an apprenticeship student as provided by this rule.
- (i) The participating school providing hours for supervised apprenticeship credit shall maintain documented proof of a supervising licensed professional's experience and a copy of the supervising licensed professional's current, valid Tennessee license. This documentation shall be maintained for a minimum of seven (7) years following the date that the supervising licensed professional last provided supervision for that school.
 - (ii) Apprenticeship experience earned in any jurisdiction other than Tennessee may be considered for purposes of complying with this rule, provided that the supervising licensed professional was appropriately licensed in that jurisdiction at all times when responsible charge was provided for the purpose of earning credit. Proof of the supervising licensed professional's credentials must be provided by the transferring student candidate.
 - (iii) The owner of the business providing the student an apprenticeship shall provide the school with a written acknowledgement accepting the student.
 - (iv) Any salon, shop or establishment participating in an apprenticeship program shall provide a work station for the apprenticeship student.
 - (v) The supervising licensed professional must notify the participating school that the apprentice is no longer under his or her supervision and submit a transcript of all hours completed within ten (10) days of termination of the apprenticeship.
 - (vi) No participating school shall allow any person not appropriately licensed to provide any supervision for purposes of this rule, nor shall any participating school allow credit for hours under the supervision of unlicensed persons.
5. Students enrolled in an apprenticeship program must complete their apprenticeship within one-and-one-half times the length of enrollment under the school's standard full-time contract agreement.
6. All students participating in an apprenticeship program in a licensed school must wear attire prescribed by the school and participating shop collectively. The student must wear a name tag identifying the student as an apprenticeship student and identifying the school under which the student is participating in the apprenticeship program.

Authority: T.C.A §§ 62-3-105, 62-3-123, and 62-3-128.

Rule 0200-01-.13(1) License Qualifications is amended deleting the paragraph and substituting the following language so that, as amended, the paragraph shall read:

- (1) Any person holding a valid Tennessee cosmetology license may appear before the board and request to sit for the Master Barber Exam. The board may approve the applicant to test if they:
 - (a) Complete three hundred (300) barbering school hours at a registered barber college learning the fundamentals of straight razor shaving and barbering technique. This student will be given credit for the remaining twelve hundred (1200) hours required to obtain a Tennessee master barber certification upon finishing the required three hundred (300) hours in a barber school, or
 - (b) Have held their cosmetology license in Tennessee or another Jurisdiction with reciprocity with Tennessee for five continuous years.

Authority: T.C.A. §§ 62-3-110 and 62-3-128.

Rule 0200-01-.14 (2) Teacher Training Programs is amended by adding subparagraph (f) so that, as amended, the paragraph shall read:

- (2) The applicant shall demonstrate to the satisfaction of the board that the teacher training program submitted for approval will:
 - (a) contain at least sixteen (16) hours of actual instruction;
 - (b) emphasize teaching methodology for its entire duration;
 - (c) restrict the size of classes sufficiently to ensure adequate attention to all participants;
 - (d) proceed for not more than two (2) hours without a break;
 - (e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and
 - (f) conform to professional standards as determined by the Board. This may be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. § 62-3 et. seq. or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the Board.

Authority: T.C.A §§ 62-3-124 and 62-3-128

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Kelly Barger	X				
Anita Charlton	X				
Nina Coppinger	X				
Bobby Finger	X				
Frank Gambuzza	X				
Brenda Graham	X				
Judy McAllister	X				
Patricia Richmond	X				
Mona Sappenfield	X				
Amy Tanksley	X				
Ron Gillihan				X	
Yvette Granger				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Cosmetology and Barber Examiners on December 12, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: (10-20-16)

Rulemaking Hearing(s) Conducted on: (add more dates). (12-12-16)

Date: 2/14/17

Signature: *Cherelle Hooper*

Name of Officer: Cherelle Hooper

Title of Officer: Assistant General Counsel



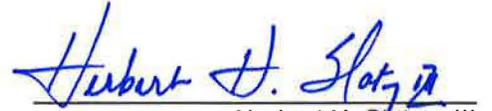
Subscribed and sworn to before me on: 2/14/17

Notary Public Signature: *Vanessa Hunt-Sman*

My commission expires on: 11/21/2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

0440-01-.03 Curriculum
0440-01-.05 Requirements for Schools
0440-01-.06 Enrollment of Students
0440-01-.11 Teacher Training Programs
0200-01-.02 Curriculum
0200-01-.13 License Qualifications Programs
0200-01-.14 Teacher Training Programs


Herbert H. Slatery III
Attorney General and Reporter
2/24/2017
Date

Department of State Use Only

Filed with the Department of State on: 3/9/17

Effective on: 6/7/17


Tre Hargett
Secretary of State

RECEIVED
2017 MAR -9 PM 1:30
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable

1. Mr. Marquise Martin made a comment in the form of a question. Specifically, he wanted to know where he could obtain a copy of the rules being reviewed by the Board.

Board Response: The Board responded to the comment by stating that one could go to the main website at www.tn.gov and locate the Tennessee Board of Cosmetology and Barber Examiners page. On this page, one could sign up using the "get notified" link, which would allow one to access the rules.

2. Mr. Marquise Martin made a comment in the form of a question. Specifically, he wanted to know when the rules would go into effect.

Board Response: The Board responded to the comment by stating that there is no exact date for the rules to go into effect. Once the Board adopts the rules, they are sent to the Office of the Attorney General for a constitutionality review. Once the Attorney General signs off on the rules, they are filed with the Secretary of State. The rules must remain at the Secretary of State's office for 90 days. Depending upon the workflow of all the parties involved, the rules typically become effective within 120-150 days of adoption.

3. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know whether the Board included a requirement as to how many years students' tests must be kept in their files post-graduation.

Board Response: The Board responded to the comment by citing a Federal requirement that the files be maintained for 10 years post-graduation.

4. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know whether schools could meet the requirement to maintain students' tests in academic files by maintaining electronic copies as opposed to hard copies.

Board Response: The Board responded to the comment by stating that schools can comply with the new requirement by keeping electronic versions of the test results. The Board further indicated that hard copies do not have to be maintained. The reason for this rule is that some schools do not maintain these records, which becomes an issue when students question their test scores and/or file complaints.

5. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know of any parameters on the Board's discretion, such as definitions, in evaluating teacher training programs; Ms. Davis thought this requirement related to the curriculum.

Board Response: The Board responded to the comment by stating that the rules merely allow the Board more discretion to determine what meets its professional standards as far as professional and unprofessional conduct. The Board cited the proposed rule, which states that the Board can make this determination by considering things such as fraud, unprofessional, immoral or dishonorable conduct.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules will impact the 105 licensed barber and cosmetology schools in Tennessee.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

These rules do not create any new schedules or deadlines for reporting compliance. No new profession will be required to administer these new rules.

(3) A statement of the probable effect on impacted small businesses and consumers;

The effect the proposed rules will have on small business owners and consumers will be positive. Businesses will be allowed to create a new program to offer to students, which will allow them to accept more students. Additionally, the proposed rules will allow applicants who wish to open schools to have a clearer understanding of the standards that the Board expects of school owners. Consumers will also benefit from these proposed rules. Potential students will have more flexibility and control in managing their own education. Schools will also be better managed resulting in an overall better experience for students and better educated professionals in the field.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules.

(5) A comparison of the proposed rule with any federal or state counterparts; and

Multiple surrounding states offer an apprenticeship program such as but not limited to Georgia, Virginia, Arkansas, Alabama, North Carolina, Missouri, California, and New York.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The overwhelming majority of schools that are affected by these rules are small businesses. Therefore, allowing separate compliance requirements would not be feasible. These rules do not create any new schedules, deadlines, or reporting compliance. Additionally, the apprenticeship program is voluntary for any private institution. Thus, no school is required to partake if they do not wish to do so.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on local governments by the promulgation of the proposed rules.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i) (1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

0440-01-.03 Allows any person holding a valid master barber certification to appear before the board and request to sit for the cosmetology exam. The Board may approve if the individual completes 300 cosmetology school hours at a licensed cosmetology school or holds a master barber registration in Tennessee or another jurisdiction with reciprocity with Tennessee for five continuous years.

0440-01-.05 Adds a requirement that anyone seeking to operate a new school shall first pay the fee and submit specific information to the Board such as a copy of their curriculum, a sample of their catalog, an enrollment agreement, a refund policy, a backup method for logging hours and a plan to keep part time and fulltime files separate. Regarding transfers, cancellations, and refunds, the rule adds requirements for schools to maintain certain documentation of refunds owed to students and have a written policy that explains how credit hours will be handled from other institutions as well as a policy detailing teach-out programs or student options in the event of a school's closure for an extended period of time. Requires schools to keep copies of all tests, evaluations, and progress reports in the students' files and requires students to initial all evaluations and progress reports. Upon yearly renewal of licenses, schools must disclose any changes to their student enrollment agreements or other changes affecting students.

0440-01-.06 Adds a requirement for schools to keep copies of all receipts or payments the student has made or received in the student's files. This rule also adds a requirement that every student enrollment agreement shall include additional policies, must have page numbers, and be initialed by the student on each page. It also requires documentation for students enrolling in teaching programs that the school notify the enrollee in writing that one must have been licensed for three continuous years prior to applying for an instructor's license.

0440-01-.11 Adds a requirement that a teacher training program submitted for approval will conform to professional standards as determined by the Board.

0200-01-.02 Adds a requirement that every student enrollment agreement shall include additional policies, must have page numbers, and be initialed by the student on each page. It also adds a requirement that anyone seeking to operate a new school shall first pay the fee and submit specific information to the Board such as a copy of its curriculum, a sample of their catalog, an enrollment agreement, a refund policy, a backup method for logging hours, and a plan to keep part time and fulltime files separate. Regarding transfers, cancellations, and refunds, this rule adds requirements for schools to maintain certain documentation of refunds owed to students and have a written policy that explains how credit hours will be handled from other institutions as well as a policy detailing teach-out programs or student options in event of a school's closure for an extended period of time. This rule requires schools to keep copies of all tests, evaluations, and progress reports in the student's file and students to initial all evaluations and progress reports. Upon yearly renewal of a license, a school must disclose

any changes to its student enrollment agreements or other changes affecting students.

It also adds an apprenticeship curriculum allowing an applicant to obtain 50% of the required hours for a specific license through classroom instruction and 50% of the required hours under the direct supervision or responsible charge of a licensed professional. The rule provides definitions relevant to this rule and specifies how the apprenticeship curriculum must operate and details the specific records that must be maintained by any school offering an apprenticeship curriculum. The rule details the responsibility of a participating school to confirm a supervising licensed professional's qualifications and the documentation that the school must maintain related to that person. Provides transfer rules related to apprenticeship experience and details the amount of time to complete the program as well as the attire that must be worn by participating students.

0200-01-.13 Allows any person holding a valid cosmetology license to appear before the Board and request to sit for the master barber exam. The Board may approve if the individual completes 300 school hours at a registered barber college or holds a cosmetology license in Tennessee or another jurisdiction with reciprocity with TN for five continuous years.

0200-01-.14 Adds a requirement that a teacher training program submitted for approval will conform to professional standards as determined by the Board.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Amendments for Rule 0200-01-.02(4)(l) regarding the barber apprenticeship program is the only rule that is mandated in order to effectuate T.C.A. § 62-3-123(f) created by 2015 Pub. Ch. 402, which allows a barber student to obtain 50% of his/her required hours of education via an apprenticeship program.

There are no known other federal or state laws or rules requiring the promulgation of these rules.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Cosmetology schools and barber schools are most directly affected by these rules. Neither cosmetology schools nor barber schools have taken a position to urge adoption or rejection of these rules in the form of public hearing comments or otherwise.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the attorney general and reporter or any judicial ruling that directly relate to the rule or the necessity to promulgate the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are not expected to have a probable increase or decrease in state or local government revenues and expenditures from the promulgation of this rule. Any fiscal impact would be minimal.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Cherrelle Hooper
Assistant General Counsel
500 James Robertson Parkway
5th Floor
Nashville, TN 37243
615-532-0631
Cherrelle.Hooper@tn.gov

Roxana Gumucio
Executive Director – Tennessee Board of Cosmetology and Barber Examiners
500 James Robertson Parkway
4th Floor
Nashville, TN 37243
615-532-7081
Roxana.Gumucio@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____

Rule ID(s): _____

File Date: _____

Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form (Redline)

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Cosmetology and Barber Examiners

Division: Regulatory Boards

Contact Person: Cherrelle Hooper, Assistant General Counsel

Address: 500 James Robertson Parkway, Nashville, TN

Zip: 37243

Phone: 615-741-3072

Email: cherrelle.hooper@tn.gov

Revision Type (check all that apply):

Amendment

New

Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title
0440-01-.03	Curriculum
0440-01-.05	Requirements for Schools
0440-01-.06	Enrollment of Students
0440-01-.11	Teacher Training Programs

Chapter Number	Chapter Title
0200-01	Rules of the Barber Board
Rule Number	Rule Title
0200-01-.02	Curriculum
0200-01-.13	License Qualifications Programs
0200-01-.14	Teacher Training Programs

Chapter 0440-01
Licensing

Amendments

Rule 0440-01-.03(5) Curriculum is amended by deleting the paragraph and replacing with the following language, so that as amended the paragraph shall read:

~~(5) Any person holding a valid Tennessee barber license will be given credit for seven hundred and fifty (750) clock hours/ 22.5 credit hours toward a Tennessee cosmetology license.~~

~~In order to be eligible for this credit, a barber must be enrolled in a cosmetology school full time, a minimum twenty-five (25) hours per week, not to exceed forty-eight (48) hours per week. After the student has completed the first seven hundred and fifty (750) clock hours/ 22.5 credit hours in a cosmetology school, the Board may apply the second seven hundred and fifty (750) hours/ 22.5 credit hours for the purpose of graduating and being permitted to take the cosmetology examination.~~

- (5) Any person holding a valid Tennessee Master Barber certificate of registration may appear before the board and request to sit for the Cosmetology Exam. The board may approve the applicant to test if they:
- (a) Complete three hundred (300) cosmetology school hours at a licensed cosmetology school learning the fundamentals of cosmetology technique and pedicuring. This student will be given credit for the remaining twelve hundred (1200) hours required to obtain a Tennessee cosmetology license upon finishing the required 300 hours in a cosmetology school; or
 - (b) Held a master barber certificate of registration in Tennessee or another jurisdiction with reciprocity with Tennessee for five (5) continuous years.

Authority: T.C.A. §§ 62-4-105(e), 62-4-108, 62-4-110, and 62-4-120(k).

Rule 0440-01-.05 Requirements for Schools is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

(1) Every school of cosmetology ~~including any school solely licensed to teach natural hair styling, manicuring, or aesthetics,~~ shall:

- (a) Publish readily available and clearly expressed admission policies and requirements;
- (b) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a cosmetologist, manicurist, instructor, shampoo technician, natural hair stylist, or aesthetician in the State of Tennessee; however, if a school is licensed to provide instruction solely in natural hair styling, manicuring or aesthetics, the school shall only be responsible for providing documentation relative to licensure in the field in which the school provides instruction;
- (c) Give a receipt to any student from whom money is collected by authorized school personnel; ~~and~~
- (d) Submit to the office of the Board, on the prescribed form, a monthly progress report on each student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the Board will be issued for violation of this rule; ~~and~~
- (e) Teach a minimum ten percent (10%) of theory hours each week in each curriculum offered in a school. This requirement does not apply to students enrolled in an apprenticeship program authorized by this chapter.

- (2) Applications to operate New Schools: Any person seeking licensure of a new school shall first pay the fee for licensure and submit to the board the following:
- (a) A copy of the school's curriculum to be deemed acceptable by the board;
 - (b) A sample copy of the school's catalog, brochure, enrollment agreement, and cancellation and refund policies;
 - (c) A backup method for logging hours that have been earned by students; and
 - (d) A plan to keep all part-time and full-time student files separate.
- (3) Transfers, Cancellations and Refunds
- (a) The school shall maintain documentation that the refunds owed to students are issued within 45 days of the last day of the student's attendance.
 - (b) The school shall have a written policy that clearly defines how the school determines whether or not credit hours will be accepted from another institution. This policy shall apply to all students. Nothing in this rule shall require a school to accept credit hours from another institution except as provided in the school's policy.
 - (c) The school shall provide each student with a written policy of a teach-out program, or outline the student's options in the event the school closes for an extended period of time, such as by way of license revocation, natural disaster, or other unforeseen consequences. Schools are encouraged to partner with neighboring institutions to achieve the best outcome for students.
- (4) The school shall keep a copy of all tests, evaluations, or progress reports in the student's file. The student must initial any evaluation or progress reports.
- (5) Upon yearly renewal of license to operate the school shall submit a Board approved form disclosing changes to student enrollment agreements, or other school changes affecting students.

Authority: T.C.A. §§ 62-4-105(e), 62-4-120, and 62-4-122.

Rule 0440-01-.06 Enrollment of Students is amended by deleting the rule and substituting the following language so that, as amended, the rule shall read:

- (1) Every licensed school of cosmetology shall maintain documentation of age and education in each student's file, which evidences eligibility for enrollment under the terms of ~~Tenn. Code Ann.~~ T.C.A. § 62-4-122(a).
- (2) Every enrollment of a student in a school of cosmetology shall be evidenced by a written enrollment agreement which clearly details the rights and obligations of both parties.
- (3) The school shall:
 - (a) furnish to the student an executed copy of the enrollment agreement; ~~and~~
 - (b) maintain a copy of the agreement in the student's file; ~~and~~
 - (c) keep copies of all receipts and payments the student has made or received in the student's files.
- (4) Every student enrollment agreement shall:
 - (a) be signed and dated by the student and an authorized representative of the school;
 - (b) specify the number of clock hours in the course of instruction and an approximate number of

- weeks or months required for completion;
 - (c) identify all costs and charges which the student must bear;
 - (d) indicate any grounds for termination of a student by the school;
 - (e) state in clear and understandable language the school's refund policy;
 - (f) list any special conditions or requirements for graduation; and
 - (g) contain an acknowledgment that the student has read and understands the agreement before making any payment thereunder;
 - (h) include the school's discrimination and anti-harassment policy;
 - (i) include page numbers on each page and be initialed by the student on each page;
 - (j) contain a clearly defined policy on how the school will maintain sanitary code requirements and the student's role in maintaining those requirements, which must be based on the curriculum and industry practices; and
 - (k) contain an initialed acknowledgement by the student that the student has received a full and true copy of the student enrollment agreement for their own personal records.
- (5) For students enrolling in teaching programs, the file shall contain documentation that the school notified the enrollee in writing that an applicant for an instructor's license must have been licensed for three (3) continuous years prior to applying for an instructor's license, along with any other qualifications that the legislature or the Board determines.
- (6)(5) All application information, including documentation and enrollment agreements required under this rule, shall be included in the student's file and made available for inspection by members or inspectors of the Board during business hours.
- (7)(6) A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.
- (8)(7) An apprentice program must be completed within 150% of the time allowed for a student to complete a course of study under the school's standard, non-apprenticeship contract agreement.

Authority: T.C.A. §§ 62-4-105(e), 62-4-120, and 62-4-122.

Rule 0440-01-.11(2) Teacher Training Programs is amended by adding new subparagraph (f) so that, as amended, the paragraph shall read:

- (2) The applicant shall demonstrate to the satisfaction of the Board that the teacher training program submitted for approval will:
- (a) contain at least sixteen (16) hours of actual instruction;
 - (b) emphasize teaching methodology for its entire duration;
 - (c) restrict the size of classes sufficiently to ensure adequate attention to all participants;
 - (d) proceed for not more than two (2) hours without a break;
 - (e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and

- (f) conform to professional standards as determined by the Board. This can be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. § 62-4 et. seq., or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the board.

Authority: T.C.A. §§ 62-4-105(e) and 62-4-114.

Chapter 0200-01
Rules of the Barber Board

Amendments

Rule 0200-01-.02(4) Curriculum is amended by deleting the paragraph and substituting the following language so that, as amended, the paragraph shall read:

- (4) Every barber school shall:
- (a) Publish readily available and clearly expressed admission policies and requirements;
 - (b) Provide to prospective students (before enrollment) published materials which explain requirements for licensure as a master barber, barber technician, and barber instructor in the State of Tennessee;
 - (c) Provide each enrolled student with:
 - 1. the school's discrimination and anti-harassment policy;
 - 2. a contract with page numbers for each page and space on each page for the student to initial;
 - 3. a clearly defined policy on how the school will maintain sanitary code requirements and the student's role in maintaining those requirements, which must be based on the curriculum and industry practices; and
 - 4. an initialed acknowledgement by the student that the student has received a full and true copy of the student enrollment agreement for their own personal records;
 - ~~(d)~~(e) Give a receipt to any student from whom money is collected by authorized school personnel; ~~and~~
 - (e) Provide the Board with a sample copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies as a part of their school license application;
 - (f) Have a backup method for logging hours that have been earned by students;
 - (g) Keep all part-time and full-time student files separate;
 - (h) Transfers, Cancellations and Refunds
 - 1. The school shall maintain documentation that the refunds owed to students are issued within 45 days of the student's last date of attendance
 - 2. The school shall have a written policy that clearly defines how the school determines whether or not credit hours will be accepted from another institution. This policy shall apply to all students. Provided, however, that nothing in this rule shall require a school to accept credit hours from another institution except as provided in the school's policy.

3. The school shall provide each student with a written policy of a teach out program, or outline the student's options in the event the school closes for an extended period of time, such as by way of license revocation, natural disaster, or other unforeseen consequences. Schools are encouraged to partner with neighboring institutions to achieve the best outcome for students.
- (i) Keep a copy of all tests, evaluations, or progress reports in the student's file. The student must initial any evaluation or progress reports;
- (j)(+) Submit to the office of the Board, on the prescribed form, a monthly progress report on each student enrolled. The monthly reports must be received no later than the tenth (10th) of each month for the previous month's hours of instruction. If reports are not submitted by this date, a penalty set by the board will be issued for violation of this rule.;
- (k) Upon yearly renewal of the school license the school shall submit a Board approved form disclosing changes to student enrollment contracts, or other school changes affecting students.;
- (l) Notwithstanding any provision to the contrary, any school operated under T.C.A. § 62-3-123 may develop courses of instruction and practice incorporating an apprenticeship curriculum, which allows an applicant to obtain fifty percent (50%) of the required hours for a specific license through classroom instruction and fifty percent (50%) of the required hours under the direct supervision and responsible charge of a licensed professional who meets the requirements set forth in this rule. Supervision hours received may not be used for credit for more than fifty percent (50%) of the required hours in any instruction subcategory (General, Chemical or Physical).

1. Definitions

- (i) "Apprenticeship student" means a student enrolled in a school participating in an apprenticeship program with the intention of completing the school's curriculum under that school's apprenticeship program.
- (ii) "Supervising licensed professional" means a licensee in the field of study of an enrolled apprenticeship student who is in charge of supervising and accounting for the creditable activities of the student's apprenticeship program and providing the participating school with the student's apprenticeship activity record.
- (I) Any supervising licensed professional in responsible charge as provided in this rule shall have at least ten (10) years of experience as a licensed professional in the field of study in which the supervision is provided and shall hold a certificate of registration as both a master barber and barber instructor issued by the Board. The supervising licensed professional's license must be current at all times while providing supervision.
- (II) Each supervising licensed professional shall be the responsible charge of no more than one apprenticeship student.
- (iii) "Responsible charge" means a licensed professional in supervision of a student enrolled in an apprenticeship program curriculum, approved by the Board, and responsible for all aspects of that student's apprenticeship instruction.
2. Apprenticeship students shall complete instructional hours and pass the initial theory examination prior to initiating apprenticeship activities in a salon, shop, or establishment. A student shall be actively enrolled in a licensed school in order to participate in an apprenticeship program.
3. Any school offering an apprenticeship curriculum shall maintain a record of all hours completed under the apprenticeship program, including classroom hours, for which credit is awarded in a student's academic file. This record shall include the number of hours

completed under direct supervision and responsible charge, the dates these hours were earned, the license number of the professional in responsible charge who directly supervised the student, and the signatures of both the student and the supervising licensed professional in responsible charge.

(i) The required records shall be maintained in the student's file and made available for inspection during the student's academic career, shall be maintained for a period of not less than seven (7) years after a student is no longer attending the providing school, and shall be made available to the Board immediately upon request during this time.

(ii) A daily log accounting for all apprenticeship hours awarded under this chapter by any school offering an apprenticeship curriculum shall be maintained by the school and updated monthly. This log shall be made available for inspection at any time.

(iii) This daily log shall be submitted to the approving school no later than the close of business of the first (1st) day of the month for the previous month.

(iv) Should an apprentice change salon, shop, establishment, or supervising licensed professional, a notarized transcript of the total hours accumulated shall be signed by the salon, shop, or establishment owner or manager, along with the supervising licensed professional, and submitted to the approving school within ten (10) days of the change.

4. A participating school shall be responsible for confirming a supervising licensed professional's qualifications to be placed in responsible charge of an apprenticeship student as provided by this rule.

(i) The participating school providing hours for supervised apprenticeship credit shall maintain documented proof of a supervising licensed professional's experience and a copy of the supervising licensed professional's current, valid Tennessee license. This documentation shall be maintained for a minimum of seven (7) years following the date that the supervising licensed professional last provided supervision for that school.

(ii) Apprenticeship experience earned in any jurisdiction other than Tennessee may be considered for purposes of complying with this rule, provided that the supervising licensed professional was appropriately licensed in that jurisdiction at all times when responsible charge was provided for the purpose of earning credit. Proof of the supervising licensed professional's credentials must be provided by the transferring student candidate.

(iii) The owner of the business providing the student an apprenticeship shall provide the school with a written acknowledgement accepting the student.

(iv) Any salon, shop or establishment participating in an apprenticeship program shall provide a work station for the apprenticeship student.

(v) The supervising licensed professional must notify the participating school that the apprentice is no longer under his or her supervision and submit a transcript of all hours completed within ten (10) days of termination of the apprenticeship.

(vi) No participating school shall allow any person not appropriately licensed to provide any supervision for purposes of this rule, nor shall any participating school allow credit for hours under the supervision of unlicensed persons.

5. Students enrolled in an apprenticeship program must complete their apprenticeship within one-and-one-half times the length of enrollment under the school's standard full-time contract agreement.

6. All students participating in an apprenticeship program in a licensed school must wear attire prescribed by the school and participating shop collectively. The student must wear a name tag identifying the student as an apprenticeship student and identifying the school under which the student is participating in the apprenticeship program.

Authority: T.C.A §§ 62-3-105, 62-3-123, and 62-3-128.

Rule 0200-01-.13(1) License Qualifications is amended deleting the paragraph and substituting the following language so that, as amended, the paragraph shall read:

~~(1) Any person holding a valid Tennessee cosmetology license will be given credit for seven hundred fifty (750) hours toward obtaining a Tennessee barber license.~~

~~(a) In order to be eligible for the above, a cosmetologist must be enrolled in a barber school full time, minimum of six (6) hours, maximum of eight (8) per day. After the student has completed their first seven hundred fifty (750) hours in a barber school, the Board will apply the second seven hundred fifty (750) hours for the purpose of graduating and being permitted to take the Master Barber examination.~~

(1) Any person holding a valid Tennessee cosmetology license may appear before the board and request to sit for the Master Barber Exam. The board may approve the applicant to test if they:

(a) Complete three hundred (300) barbering school hours at a registered barber college learning the fundamentals of straight razor shaving and barbering technique. This student will be given credit for the remaining twelve hundred (1200) hours required to obtain a Tennessee master barber certification upon finishing the required three hundred (300) hours in a barber school, or

(b) Have held their cosmetology license in Tennessee or another Jurisdiction with reciprocity with Tennessee for five continuous years.

Authority: T.C.A. §§ 62-3-110 and 62-3-128

Rule 0200-01-.14 (2) Teacher Training Programs is amended by adding subparagraph (f) so that, as amended, the paragraph shall read:

(2) The applicant shall demonstrate to the satisfaction of the board that the teacher training program submitted for approval will:

(a) contain at least sixteen (16) hours of actual instruction;

(b) emphasize teaching methodology for its entire duration;

(c) restrict the size of classes sufficiently to ensure adequate attention to all participants;

(d) proceed for not more than two (2) hours without a break; ~~and~~

(e) prohibit demonstrations or presentations for commercial purposes in classrooms. Training programs may not sell, take orders, or in any way promote a product; and,

(f) conform to professional standards as determined by the Board. This may be determined by, but not limited to, the following: fraud, unprofessional, immoral or dishonorable conduct, a violation of T.C.A. § 62-3 et. seq., or of any rules duly promulgated under this chapter, or failure to comply with a lawful order of the Board.

Authority: T.C.A §§ 62-3-124 and 62-3-128

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Kelly Barger	X				
Anita Charlton	X				
Nina Coppinger	X				
Bobby Finger	X				
Frank Gambuzza	X				
Brenda Graham	X				
Judy McAllister	X				
Patricia Richmond	X				
Mona Sappenfield	X				
Amy Tanksley	X				
Ron Gillihan				X	
Yvette Granger				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Cosmetology and Barber Examiners on December 12, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: (10-20-16)

Rulemaking Hearing(s) Conducted on: (add more dates). (12-12-16)

Date: _____

Signature: _____

Name of Officer: Cherrelle Hooper

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

0440-01-.03 Curriculum
0440-01-.05 Requirements for Schools
0440-01-.06 Enrollment of Students
0440-01-.11 Teacher Training Programs
0200-01-.02 Curriculum
0200-01-.13 License Qualifications Programs
0200-01-.14 Teacher Training Programs

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable

1. Mr. Marquise Martin made a comment in the form of a question. Specifically, he wanted to know where he could obtain a copy of the rules being reviewed by the Board.

Board Response: The Board responded to the comment by stating that one could go to the main website at www.tn.gov and locate the Tennessee Board of Cosmetology and Barber Examiners page. On this page, one could sign up using the "get notified" link, which would allow one to access the rules.

2. Mr. Marquise Martin made a comment in the form of a question. Specifically, he wanted to know when the rules would go into effect.

Board Response: The Board responded to the comment by stating that there is no exact date for the rules to go into effect. Once the Board adopts the rules, they are sent to the Office of the Attorney General for a constitutionality review. Once the Attorney General signs off on the rules, they are filed with the Secretary of State. The rules must remain at the Secretary of State's office for 90 days. Depending upon the workflow of all the parties involved, the rules typically become effective within 120-150 days of adoption.

3. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know whether the Board included a requirement as to how many years students' tests must be kept in their files post-graduation.

Board Response: The Board responded to the comment by citing a Federal requirement that the files be maintained for 10 years post-graduation.

4. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know whether schools could meet the requirement to maintain students' tests in academic files by maintaining electronic copies as opposed to hard copies.

Board Response: The Board responded to the comment by stating that schools can comply with the new requirement by keeping electronic versions of the test results. The Board further indicated that hard copies do not have to be maintained. The reason for this rule is that some schools do not maintain these records, which becomes an issue when students question their test scores and/or file complaints.

5. Ms. Lauren Davis made a comment in the form of a question. Specifically, she wanted to know of any parameters on the Board's discretion, such as definitions, in evaluating teacher training programs; Ms. Davis thought this requirement related to the curriculum.

Board Response: The Board responded to the comment by stating that the rules merely allow the Board more discretion to determine what meets its professional standards as far as professional and unprofessional conduct. The Board cited the proposed rule, which states that the Board can make this determination by considering things such as fraud, unprofessional, immoral or dishonorable conduct.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules will impact the 105 licensed barber and cosmetology schools in Tennessee.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

These rules do not create any new schedules or deadlines for reporting compliance. No new profession will be required to administer these new rules.

(3) A statement of the probable effect on impacted small businesses and consumers;

The effect the proposed rules will have on small business owners and consumers will be positive. Businesses will be allowed to create a new program to offer to students, which will allow them to accept more students. Additionally, the proposed rules will allow applicants who wish to open schools to have a clearer understanding of the standards that the Board expects of school owners. Consumers will also benefit from these proposed rules. Potential students will have more flexibility and control in managing their own education. Schools will also be better managed resulting in an overall better experience for students and better educated professionals in the field.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules.

(5) A comparison of the proposed rule with any federal or state counterparts; and

Multiple surrounding states offer an apprenticeship program such as but not limited to Georgia, Virginia, Arkansas, Alabama, North Carolina, Missouri, California, and New York.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The overwhelming majority of schools that are affected by these rules are small businesses. Therefore, allowing separate compliance requirements would not be feasible. These rules do not create any new schedules, deadlines, or reporting compliance. Additionally, the apprenticeship program is voluntary for any private institution. Thus, no school is required to partake if they do not wish to do so.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on local governments by the promulgation of the proposed rules.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i) (1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

0440-01-.03 Allows any person holding a valid master barber certification to appear before the board and request to sit for the cosmetology exam. The Board may approve if the individual completes 300 cosmetology school hours at a licensed cosmetology school or holds a master barber registration in Tennessee or another jurisdiction with reciprocity with Tennessee for five continuous years.

0440-01-.05 Adds a requirement that anyone seeking to operate a new school shall first pay the fee and submit specific information to the Board such as a copy of their curriculum, a sample of their catalog, an enrollment agreement, a refund policy, a backup method for logging hours and a plan to keep part time and fulltime files separate. Regarding transfers, cancellations, and refunds, the rule adds requirements for schools to maintain certain documentation of refunds owed to students and have a written policy that explains how credit hours will be handled from other institutions as well as a policy detailing teach-out programs or student options in the event of a school's closure for an extended period of time. Requires schools to keep copies of all tests, evaluations, and progress reports in the students' files and requires students to initial all evaluations and progress reports. Upon yearly renewal of licenses, schools must disclose any changes to their student enrollment agreements or other changes affecting students.

0440-01-.06 Adds a requirement for schools to keep copies of all receipts or payments the student has made or received in the student's files. This rule also adds a requirement that every student enrollment agreement shall include additional policies, must have page numbers, and be initialed by the student on each page. It also requires documentation for students enrolling in teaching programs that the school notify the enrollee in writing that one must have been licensed for three continuous years prior to applying for an instructor's license.

0440-01-.11 Adds a requirement that a teacher training program submitted for approval will conform to professional standards as determined by the Board.

0200-01-.02 Adds a requirement that every student enrollment agreement shall include additional policies, must have page numbers, and be initialed by the student on each page. It also adds a requirement that anyone seeking to operate a new school shall first pay the fee and submit specific information to the Board such as a copy of its curriculum, a sample of their catalog, an enrollment agreement, a refund policy, a backup method for logging hours, and a plan to keep part time and fulltime files separate. Regarding transfers, cancellations, and refunds, this rule adds requirements for schools to maintain certain documentation of refunds owed to students and have a written policy that explains how credit hours will be handled from other institutions as well as a policy detailing teach-out programs or student options in event of a school's closure for an extended period of time. This rule requires schools to keep copies of all tests, evaluations, and progress reports in the student's file and students to initial all evaluations and progress reports. Upon yearly renewal of a license, a school must disclose

any changes to its student enrollment agreements or other changes affecting students.

It also adds an apprenticeship curriculum allowing an applicant to obtain 50% of the required hours for a specific license through classroom instruction and 50% of the required hours under the direct supervision or responsible charge of a licensed professional. The rule provides definitions relevant to this rule and specifies how the apprenticeship curriculum must operate and details the specific records that must be maintained by any school offering an apprenticeship curriculum. The rule details the responsibility of a participating school to confirm a supervising licensed professional's qualifications and the documentation that the school must maintain related to that person. Provides transfer rules related to apprenticeship experience and details the amount of time to complete the program as well as the attire that must be worn by participating students.

0200-01-.13 Allows any person holding a valid cosmetology license to appear before the Board and request to sit for the master barber exam. The Board may approve if the individual completes 300 school hours at a registered barber college or holds a cosmetology license in Tennessee or another jurisdiction with reciprocity with TN for five continuous years.

0200-01-.14 Adds a requirement that a teacher training program submitted for approval will conform to professional standards as determined by the Board.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Amendments for Rule 0200-01-.02(4)(l) regarding the barber apprenticeship program is the only rule that is mandated in order to effectuate T.C.A. § 62-3-123(f) created by 2015 Pub. Ch. 402, which allows a barber student to obtain 50% of his/her required hours of education via an apprenticeship program.

There are no known other federal or state laws or rules requiring the promulgation of these rules.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Cosmetology schools and barber schools are most directly affected by these rules. Neither cosmetology schools or barber schools have taken a position to urge adoption or rejection of these rules in the form of public hearing comments or otherwise.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the attorney general and reporter or any judicial ruling that directly relate to the rule or the necessity to promulgate the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are not expected to have a probable increase or decrease in state or local government revenues and expenditures from the promulgation of this rule. Any fiscal impact would be minimal.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Cherrelle Hooper
Assistant General Counsel
500 James Robertson Parkway
5th Floor
Nashville, TN 37243
615-532-0631
Cherrelle.Hooper@tn.gov

Roxana Gumucio
Executive Director – Tennessee Board of Cosmetology and Barber Examiners
500 James Robertson Parkway
4th Floor
Nashville, TN 37243
615-532-7081
Roxana.Gumucio@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.