

1 of 1 DOCUMENT

NEW JERSEY REGISTER  
Copyright © 2008 by the New Jersey Office of Administrative Law

VOLUME 40, ISSUE 23

ISSUE DATE: DECEMBER 1, 2008

**RULE PROPOSALS**

**LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY STATE BOARD OF COSMETOLOGY AND HAIRSTYLING**

*40 N.J.R. 6739(a)*

**Proposed Readoption with Amendments: *N.J.A.C. 13:28***

**Proposed New Rules: *N.J.A.C. 13:28-2.7A, 3.5, 3.6 and 4.6***

**Proposed Repeals and New Rules: *N.J.A.C. 13:28-2.15 and 6.14***

[Click here to view Interested Persons Statement](#)

**Board of Cosmetology and Hairstyling Rules**

Authorized By: New Jersey State Board of Cosmetology and Hairstyling, Jay Malanga, Executive Director.

Authority: *N.J.S.A. 45:5B-6(r)* and *45:1-15.1*.

Calendar Reference: See Summary below for explanation of exception to the calendar requirement.

Proposal Number: PRN 2008-394.

Submit comments by January 30, 2009 to:

Jay Malanga, Executive Director  
New Jersey State Board of Cosmetology & Hairstyling  
124 Halsey Street  
P.O. Box 45003  
Newark, New Jersey 07101

The agency proposal follows:

**Summary**

The New Jersey State Board of Cosmetology and Hairstyling (the Board) is proposing to readopt *N.J.A.C. 13:28* with amendments, repeals and new rules. The rules in Chapter 28 are scheduled to expire on October 27, 2008, pursuant to Executive Order No. 66 (1978) and *N.J.S.A. 52:14B-5.1*. Because this notice of readoption has been filed prior to

October 27, 2008, the expiration date of the rules in Chapter 28 is extended by 180 days, to April 25, 2009, pursuant to N.J.S.A. 52:14B-5.1c.

In compliance with the Executive Order, the Board undertook a thorough review of the existing provisions of *N.J.A.C. 13:28* in order to delete unnecessary or unreasonable rules, and to clarify existing provisions, where appropriate. The Board believes that the rules proposed for readoption, as amended, are necessary, reasonable, understandable and responsive to the purpose for which they were promulgated. The Board is also proposing several new rules that it believes are necessary to ensure the health, safety and welfare of New Jersey consumers.

The following is a summary of the existing rules of Chapter 28 which the Board proposes to readopt, as well as a summary of the amendments, repeals and new rules that the Board is proposing.

The rules in Subchapter 1 set forth requirements for obtaining a license to practice cosmetology and hairstyling. *N.J.A.C. 13:28-1.1* delineates the information and materials that must be submitted to the Board as part of a license application. The Board has determined that proof of training should be documented by a transcript and, therefore, is proposing to amend subsection (d) of the rule to provide that all applications must be accompanied by a certified transcript from a cosmetology and hairstyling school. The Board has determined that amendments to subsection (e) of the rule are necessary to provide guidance to applicants for licensure as cosmetology and hairstyling teachers with respect to what will constitute sufficient work experience. The Board is proposing to amend subsection (e) to provide that applicants must have obtained, and submit proof of, a minimum of 40 hours a week working in a licensed shop over six consecutive months. The application must list the location of the shop and the applicant's job description. Subsection (f) of the rule currently requires applicants to submit an application fee. The Board is proposing to amend subsection (f) to clarify that application fees are non-refundable. Proposed amendments to subsection (f) also provide that if an applicant fails to complete the licensure application process within six [page=6740] months from the date of initial application, the Board will close the application. Applicants wishing to reapply after an application has been closed will be required pay another application fee. The Board is also proposing to amend *N.J.A.C. 13:28-1.1(g)*, which requires the Board to send a notice of renewal to all licensees at least 60 days prior to the date of license expiration, to clarify when a licensee may be fined for continuing to practice if the Board fails to send out the renewal applications in a timely manner.

*N.J.A.C. 13:28-1.2* requires applicants for licensure to take and pass the licensure examination administered by the Board. The Board is proposing to amend the reference in *N.J.A.C. 13:28-1.2(a)* to the "written" portion of the examination to refer to this part of the examination as the "theory" portion because the Board will now be providing applicants with the option of taking this part of the examination electronically pursuant to *N.J.A.C. 13:28-1.2(a)1*. Proposed new *N.J.A.C. 13:28-1.2(a)1* provides that applicants may take a computer-based test in lieu of the written theory portion of the examination. The fee for the computer-based test will be determined by a third-party vendor that will administer the examination.

The Board is proposing to further amend *N.J.A.C. 13:28-1.2(a)* to clarify that applicants for the examination are required to pay the examination fee set forth in the Board's fee schedule. Proposed amendments to *N.J.A.C. 13:28-1.2(b)* provide that applicants must achieve a minimum score of 75 percent on the theory portion of the examination in order to be eligible to take the practical examination. The proposed amendments also clarify that no applicant will be permitted to take the practical examination unless he or she has successfully completed the theory portion of the examination. Existing subsection (c) is proposed to be deleted in light of the examination requirements set forth in proposed new subsection (d), discussed below. Existing subsection (d) is proposed to be recodified as subsection (c), with amendments to clarify that an applicant who fails the theory portion of the examination or who fails to appear for the examination may retake the examination only upon submission of another examination fee. Proposed new *N.J.A.C. 13:28-1.2(d)* provides that payment of the initial examination fee will entitle an applicant to take and/or be scheduled to take the practical portion of the examination no more than two times. An applicant who fails the practical portion of the examination and/or who fails to appear for the practical portion of the examination twice may be rescheduled for examination upon written notice to the Board and submission of another examination fee.

The Board is proposing a new subsection (e), which provides that if an applicant has not passed both the theory and practical portions of the examination within three years from the date he or she first took the examination, the applicant must take a refresher training course prior to being reexamined. The Board is also proposing a new subsection (f), which requires an applicant to take the licensing examination within five years of completing his or her training. If an applicant does not take the examination, or fails to appear for the examination, for more than three years following the completion of his or her training, the applicant will be required to take a refresher training course prior to being examined. An applicant, however, will not be permitted to take the examination if he or she applies to take the examination more than five years following the date he or she completed training. Applicants in this category will be required to retake and complete their training program in full prior to being admitted to the examination. The Board believes that proposed new *N.J.A.C. 13:28-1.2(e)* and (f) will help to ensure the competency and practical skills of applicants applying for licensure, thereby helping to ensure that only qualified applicants become licensed to provide cosmetology and hairstyling services in the State.

*N.J.A.C. 13:28-1.3*, which sets forth requirements for the issuance of temporary practice permits, and *N.J.A.C. 13:28-1.4*, which sets forth requirements for cosmetology and hairstyling licensure for persons who hold barber and/or beauty culture licenses issued by the Board, are proposed to be readopted without change. The Board is proposing to amend *N.J.A.C. 13:28-1.5*, concerning the replacement of lost licenses, to require that one of the two forms of identification to be presented to obtain a new license must be a United States government-issued or State government-issued photo identification. The Board believes that the proposed amendment is necessary to deter fraudulent conduct by helping to ensure the identity of persons applying for replacement licenses.

*N.J.A.C. 13:28-1.6*, which sets forth notification requirements for a change of address, is proposed to be readopted without change. *N.J.A.C. 13:28-1.7* sets forth qualifications for cosmetology and hairstyling teachers. The Board is proposing to amend the rule to provide that in order to be qualified to teach, an applicant must have been employed for 40 hours a week for six consecutive months in a licensed shop, consistent with the proposed amendments to *N.J.A.C. 13:28-1.1(e)* discussed above.

The rules in Subchapter 2 establish requirements for the licensure and operation of shops providing cosmetology and hairstyling services. The Board is proposing to amend the heading of *N.J.A.C. 13:28-2.1*, to clarify that the rule applies to applications for initial shop licenses and for changes to existing shops. The Board is also proposing to amend subsection (c) of the rule which currently requires applicants to submit a shop floor plan. The proposed amendments will require applicants for an initial shop license to submit a floor plan that is drawn to scale and accurately details the location and the total floor space for work stations, waiting areas, dispensary, shampoo stations, lavatories and, if applicable, laundry facilities. The new floor plan requirements will help the Board conduct a thorough inspection of the premises prior to licensure. A copy of the original floor plan must be maintained on the shop premises.

The Board is proposing a new subsection (d) that will require an application for an initial shop license to contain a complete description of services that will be provided at the shop. The Board believes that the requested information is necessary to help ensure that shops will be offering only those services for which a shop license is being sought. Applications must also include the shop's hours of operation, in order to facilitate Board inspection of the premises. The shop license holder must notify the Board in writing of any changes to the list of services and hours of operation. Proposed new subsection (e) requires applicants for an initial shop license to submit a statement of approval from the planning, zoning or construction official in the municipality where the shop is located. If municipal approval is not required, the applicant must submit a statement from the municipality to that effect. Existing subsection (d) is proposed to be recodified as new subsection (f), without change. The Board is also proposing a new subsection (g) that will require a shop license holder who seeks to expand or make physical alterations to the shop, or who seeks to expand or make physical alterations to a shop as part of a transfer of ownership pursuant to *N.J.A.C. 13:28-2.3*, to apply to the Board for approval of the expansion or physical alterations. The applicant must submit an application fee, a detailed statement concerning the proposed changes, the original and new floor plan for the shop and a statement of approval from the planning, zoning or construction official in the municipality where the shop is located, if applicable. The Board believes that the proposed amendments to *N.J.A.C. 13:28-2.1* are reasonable and necessary to help ensure that the Board

obtains the information it needs to make informed decisions concerning the licensure of shops throughout the State.

*N.J.A.C. 13:28-2.2*, concerning the removal of a shop to a different address, is proposed to be amended to require applicants to comply with all requirements for an initial shop license set forth in *N.J.A.C. 13:28-2.1*. The Board is proposing to readopt *N.J.A.C. 13:28-2.3*, concerning the transfer of ownership of a shop license, and *N.J.A.C. 13:28-2.4*, which sets forth renewal requirements for shop licenses, without change.

The Board is proposing several amendments to *N.J.A.C. 13:28-2.5, 2.6* and *2.6A*, which establish minimum square footage and equipment requirements for cosmetology and hairstyling shops, manicuring shops and skin care specialty shops, respectively. The Board is proposing to require all shops to have a designated area for cleansing and disinfecting implements. In addition, all shops must have one ultrasonic unit for cleaning metal implements and a clean, closed receptacle at each work station that allows implements to be completely immersed in an enzyme solution prior to cleaning and disinfecting. The Board is proposing to delete the current requirements that all shops have dry and wet sterilizers at each work station. The Board believes that the use of the equipment and procedures being proposed at this time obviates the need for such sterilizers. The Board also believes that use of the new equipment and procedures is necessary to ensure that implements and tools used in licensed shops will be thoroughly and appropriately cleaned and [page=6741] disinfected, leading to the provision of services in a safer and more sanitary manner.

The Board is also proposing to amend *N.J.A.C. 13:28-2.5, 2.6* and *2.6A* to require all work stations to be equipped with a clean, closed receptacle for storage of sanitized implements and a closed waste container. The Board is also proposing several technical amendments to *N.J.A.C. 13:28-2.5, 2.6* and *2.6A*. Specifically, the Board is proposing to amend subsections (c) of *N.J.A.C. 13:28-2.6* and *2.6A*, which require manicuring and skin care specialty shops, respectively, to post notices advising consumers of the types of services that may lawfully be provided by the shops. The Board is proposing that the notices for both manicuring and skin care specialty shops be amended to advise consumers that the temporary removal of hair may be performed in such shops, consistent with the provisions of the Cosmetology and Hairstyling Act at *N.J.S.A. 45:5B-3*.

The Board is proposing to readopt *N.J.A.C. 13:28-2.7*, which establishes guidelines for the operation of shops on residential premises, *N.J.A.C. 13:28-2.8*, which prohibits the holder of a shop license from leasing or providing space in the shop to a non-employee, and *N.J.A.C. 13:28-2.9*, which concerns the sale of merchandise, without change.

The Board is proposing a new rule at *N.J.A.C. 13:28-2.7A* and is proposing amendments to existing rules *N.J.A.C. 13:28-2.10* and *2.11*, in order to further define what business activities lawfully may be conducted in licensed cosmetology and hairstyling, manicuring and skin care specialty shops. Specifically, the Board is proposing amendments to its rules concerning the provision of ancillary beautification services in licensed cosmetology and hairstyling shops and licensed skin care specialty shops. Currently, *N.J.A.C. 13:28-2.10* permits cosmetology and hairstyling shops to offer to their customers ancillary services that are related to the beautification of the body or the enhancement of personal appearance, but which are not included within the statutory definition of cosmetology and hairstyling services set forth at *N.J.S.A. 45:5B-3(j)*. Such services must be performed in a safe and sanitary manner and by appropriately trained personnel. The Cosmetology and Hairstyling Act, at *N.J.S.A. 45:5B-37*, permits the provision of such services in shops licensed by the Board, but authorizes the Board to adopt regulations prohibiting such services or placing limitations on the manner in which such services may be offered. The Board may also establish training requirements for persons offering such services. *N.J.A.C. 13:28-2.10* currently prohibits the provision of certain ancillary services, such as permanent cosmetic applications, tattooing and body piercing, and imposes training and safety requirements for the provision of others, such as the use of electrolysis for the removal of superfluous hair and skin tanning services. Pursuant to the authority of *N.J.S.A. 45:5B-37*, the Board is proposing to amend *N.J.A.C. 13:28-2.10* to provide specific authorization for cosmetology and hairstyling shops to perform massage services as an ancillary beautification service, and to impose certain training requirements upon persons who will perform such services.

Proposed new subsection (d) of *N.J.A.C. 13:28-2.10* provides that if massage services, which do not fall within the

statutory definition of cosmetology and hairstyling, are offered, the services must be performed by a massage therapist who has been certified by the Massage, Bodywork and Somatic Therapy Examining Committee in the Division of Consumer Affairs, or who has completed a course of training that meets the requirements established by the Committee. The Board believes that the proposed amendment is necessary in order to clarify any confusion that may exist among members of the regulated community about whether massage services may be lawfully performed in licensed cosmetology and hairstyling shops, and in order to establish training standards for shop personnel who will be offering such services to members of the general public.

The Board is proposing an amendment to subsection (b) of *N.J.A.C. 13:28-2.10*, which authorizes the provision of electrolysis services in cosmetology and hairstyling shops, in order to clarify the training requirements associated with the provision of such services. Currently, subsection (b) provides that in order for electrolysis to be offered at a licensed shop, the service must be performed by an electrologist who has completed either a course of training in electrolysis approved by the New Jersey Department of Education or an electrolysis course that is substantially equivalent to a New Jersey Department of Education approved course. The Board is proposing to amend subsection (b) to provide that a licensed shop must utilize the services of an electrologist who has been licensed by the Electrologists Advisory Committee in the Division of Consumer Affairs to perform this ancillary service. This proposed amendment will make the rule consistent with the requirements of the Electrology Practice Act, *N.J.S.A. 45:9-37.76*. The Board notes that existing subsections (d) and (e) of *N.J.A.C. 13:28-2.10*, which concern the application of permanent cosmetics and the provision of body piercing services, are proposed to be deleted and included in proposed new rule *N.J.A.C. 13:28-2.15*, which is discussed below.

The Board notes that it has traditionally prohibited manicuring and skin care specialty shops from offering as wide an array of ancillary beautification services to their clients as may be offered by cosmetology and hairstyling shops in light of the fact that manicuring and skin care specialty shop licenses are more limited than the plenary cosmetology and hairstyling shop license. Currently, *N.J.A.C. 13:28-2.11* provides that manicuring shops and skin care specialty shops shall not offer ancillary services related to the beautification of the body or the enhancement of personal appearance, except for those services which fall within the statutory definitions of manicuring and skin care specialty services, as set forth at *N.J.S.A. 45:5B-3(l)* and (y), respectively. The Board, however, recently revisited this issue and has determined that the prohibition currently imposed upon skin care specialty shops precluding such shops from offering a full range of ancillary beautification services to their clients is not warranted, in light of the training that skin care specialty licensees receive.

The 600-hour course of training required of skin care specialists for initial licensure pursuant to *N.J.S.A. 45:5B-22.1* and *N.J.A.C. 13:28-6.34*, in contrast to the 300-hour course of instruction required of manicuring licensees, includes training in anatomy and physiology, chemistry related to the skin, as well as the use of electrically-powered machines for various facial and body procedures. The Board believes that this 600-hour course of training will adequately prepare skin care specialists and, therefore, the shops that employ them, to offer a full range of ancillary services. The Board, therefore, is proposing to amend *N.J.A.C. 13:28-2.10(a)*, which currently authorizes only cosmetology and hairstyling shops to offer ancillary services, to now also authorize skin care specialty shops to offer such services. In light of this amendment, the Board is proposing to delete subsection (b) of *N.J.A.C. 13:28-2.11*, which currently limits ancillary services that may be performed at skin care specialty shops to those services encompassed within the statutory definition of skin care specialty. Subsection (a) of *N.J.A.C. 13:28-2.11* continues to preclude manicuring shop license holders from offering any ancillary services except for those services enumerated in the statutory definition of manicuring, but the Board is proposing other amendments to the subsection for clarification purposes.

In order to eliminate any confusion, which may currently exist among members of the regulated community regarding the activities that may be performed in licensed shops, and in order to provide licensees and shop license holders with clear and concise direction on this issue, the Board is proposing a new rule at *N.J.A.C. 13:28-2.7A*, which delineates the business activities, which may be lawfully performed in licensed cosmetology and hairstyling, skin care specialty and manicuring shops. *N.J.A.C. 13:28-2.7A(a)* provides that the holder of a cosmetology and hairstyling shop

license shall not engage in any business activities within the licensed premises except for the offering of cosmetology and hairstyling services, the sale of merchandise and the offering of ancillary beautification services. Subsection (b) of proposed new rule N.J.A.C. 13:28-2.7A provides that the holder of a skin care specialty shop license shall not engage in any business activities within the licensed premises except for the offering of skin care specialty services, the sale of merchandise and the provision of ancillary beautification services. N.J.A.C. 13:28-2.7A(c) provides that the holder of a manicuring shop license shall not engage in any business activities within the licensed premises except for the offering of manicuring services and the sale of merchandise.

The Board is proposing to amend *N.J.A.C. 13:28-2.12*, which requires the posting of licenses and certain informational notices in shops, to clarify that a posted license must be signed by the practitioner to whom it was issued. *N.J.A.C. 13:28-2.13* establishes requirements for the [page=6742] supervision of shop operations by experienced practicing licensees. The Board is proposing to amend subsections (a), (b) and (c) of the rule to require the name of a shop's designated experienced practicing licensee to be posted in a location clearly visible to all patrons in all cosmetology and hairstyling, manicuring and skin care specialty shops, respectively. The Board believes that posting the name of the designated shop supervisor is necessary to allow members of the general public, as well as Board representatives, to quickly ascertain who is responsible for the management of the shop.

The Board is proposing a new subsection (e) in *N.J.A.C. 13:28-2.13*, which provides that a practitioner may be designated as the experienced practicing licensee for one shop only, in order to ensure proper shop supervision. In addition, the Board is proposing a new subsection (f), which requires a shop to designate another licensee with at least three years of experience to act as shop's experienced practicing licensee when the original designated experienced practicing licensee is absent from the shop. In light of this new requirement, the Board is proposing to delete existing subsections (e) and (f), which set forth requirements for obtaining letters of permission to operate a shop when the shop's experienced practicing licensee will be absent. The proposed amendments to N.J.A.C. 13:29-2.13 also require the name of the experienced practicing licensee to be posted in a location that is clearly visible to all shop patrons.

*N.J.A.C. 13:28-2.14*, which prohibits shop license holders from employing unlicensed personnel to provide cosmetology and hairstyling services, is proposed to be readopted without change. The Board is proposing to repeal its existing rule on prohibited practices, *N.J.A.C. 13:28-2.15*, and is proposing a new rule in its place. The prohibited practices currently set forth in existing rule *N.J.A.C. 13:28-2.15* will continue to be prohibited under the proposed new rule. Those practices include the use of credo blades, skin scrapers, lancets or other comparable instruments and the massaging, cleansing or stimulating the skin below the stratum corneum. The proposed new rule also prohibits licensees from performing permanent cosmetic applications or body piercing services, which are currently prohibited under *N.J.A.C. 13:28-2.10*. In addition to these practices, the proposed new rule prohibits licensees and shop owners from performing or offering to perform eyebrow and/or eyelash tinting, the removal of hair from the genital area, the removal of skin tags and teeth whitening or other services related to the beautification of the teeth. Licensees and shop owners are also precluded from offering ear candling services, which are defined as the placing of candles or any other device in the ear in order to cleanse and/or treat the ear or inner ear canal.

Proposed new rule *N.J.A.C. 13:28-2.15* also prohibits licensees and shop owners from performing or offering to perform any service that claims to cure or remedy any disease or illness or any service that falls within the purview of the New Jersey State Board of Medical Examiners, such as laser hair removal and injections of medications such as Botox (R) and Restylane (R). Licensees are also prohibited from using any medical device, other than a Class I medical device, such as bandages and examination gloves, approved by the Federal Food and Drug Administration, in their provision of services. Licensees must comply with manufacturers' instructions for use, cleaning and maintenance of permissible devices.

The rules in Subchapter 3 set forth safety and sanitation requirements for licensed shops and the licensed practitioners operating within such shops. *N.J.A.C. 13:28-3.1* establishes requirements for shop premises, with respect to cleaning, sanitization and fixtures. The Board is proposing several amendments to the requirements in *N.J.A.C. 13:28-3.1* in order to ensure that the services offered on shop premises are provided in a safe and sanitary manner.

Subsection (a), which requires all shops to be properly lighted and ventilated, is proposed to be readopted without change. Proposed new subsection (b) provides that any shop licensed or remodeled after the effective date of the regulation, however, must be ventilated consistent with the requirements of New Jersey's Uniform Construction Code and must have a minimum of 70 foot candles of artificial light, in order to ensure proper shop operation. Existing subsection (b) is proposed to be recodified as subsection (c) with amendments requiring shops to have hot and cold potable water, consistent with New Jersey's Uniform Construction Code requirements. Existing subsection (c) is proposed to be recodified as subsection (d) with amendments to clarify that waste generated by shops must be disposed of in clean, covered containers.

The Board is proposing a new subsection (e) in *N.J.A.C. 13:28-3.1*, which will require all shops licensed or remodeled after the effective date of the new regulation, to place any laundry facilities in an area separated from the shop work area, in order to ensure the existence of sufficient work space for the services to be provided in the shop. The laundry facilities must also be separated from the shop lavatory. Existing subsection (d) is proposed to be recodified as subsection (f), with minor amendments, including the addition of drawers to the list of shop fixtures that must be maintained in sanitary manner. The Board is proposing to delete the existing language in subsection (f), concerning the cleaning of floors, and is proposing a new subsection (g) that will require all floors in a licensed shop to be thoroughly cleaned daily and to be maintained in good repair. Existing subsection (e), which requires all linens and towels to be laundered and sanitized, is proposed to be recodified as subsection (h) and is being amended to clarify that cleaning agents that reduce the risk of microbial contamination, such as bleach, must be utilized. Existing subsection (f) is proposed to be recodified as subsection (i) without change. The Board is proposing a new subsection (j) that prohibits smoking in all areas of licensed shops, consistent with the requirements of the New Jersey Smoke-Free Air Act, *N.J.S.A. 26:3d-55* and the Smoke Free Air Rules, *N.J.A.C. 8:6*.

The Board is proposing various amendments to *N.J.A.C. 13:28-3.2*, which sets forth requirements for sanitizing implements and tools used in licensed shops. The Board believes that the proposed amendments to the rule are necessary to ensure that appropriate cleansing and sanitization procedures are followed, so that services may be provided in a safe and sanitary manner. The Board is proposing to amend paragraph (a)3, which currently provides, in part, that a licensee must sanitize instruments by processing them with a chemical disinfectant registered by the Environmental Protection Agency (EPA) and labeled as being tuberculocidal, to require that the disinfectant be used for the contact time specified on the product label. The Board is also proposing to delete the language concerning the use of disinfectants registered with the EPA as being effective against the Human Immunodeficiency Virus and the Hepatitis B Virus because it is superfluous. The existing provision in paragraph (a)5, which requires implements be stored in a dry sanitizer, is proposed to be deleted and replaced with a regulation to require all disinfected implements to be dried and stored in a clean drawer.

The Board is proposing a new subsection (b) in *N.J.A.C. 13:28-3.2* which sets forth the cleansing and sanitization requirements applicable to manicuring shops. Proposed new subsection (b) requires all reusable implements and tools to be cleaned and sanitized consistent with the requirements set forth in the new subsection. Specifically, subsection (b) requires an enzyme pre-soak to be used prior to cleaning implements, and that implements be placed directly into an ultrasonic unit for a 10-minute cycle or as recommended by the manufacturer. Implements must be inspected for pitting and rust, and damaged implements must be discarded. Implements must be rinsed, dried and placed directly into a chemical disinfectant registered by the EPA and labeled as being tuberculocidal for the contact time specified on the product label. Implements then must be rinsed, dried and stored in a clean drawer.

The Board is also proposing a new subsection (c) in *N.J.A.C. 13:28-3.2* to delineate specific cleansing and sanitization requirements for pedicure tubs. New subsection (c) requires pedicuring tubs to be cleansed between clients. Cleansing must include brushing the interior surfaces of the tub with a mild detergent, draining, rinsing and wiping the tub dry with a disposable paper towel, and either spraying the interior surfaces with a chemical disinfectant registered by the EPA and labeled as tuberculocidal or using a bleach wipe for a specified contact time. Proposed new subsection (c) also requires certain cleansing and sanitization procedures to be followed at the end of each day. Those procedures include removing, cleaning and disinfecting the screen, filter and any removable parts within the basin, brushing the

interior surfaces of the tub with a mild detergent and cleansing it with a solution of bleach and water. All brushes must be disinfected at the end of the day by soaking them in a bleach and water solution. Shops must maintain a disinfection log to record end of the day disinfection of each pedicuring [page=6743] tub. The log, which must be posted in a location clearly visible to all shop patrons, must include the date, tub number and name of the person disinfecting the equipment.

Proposed new subsection (d) of *N.J.A.C. 13:28-3.2* requires all shops offering pedicuring services to install a .2 micron filter on the incoming water line used to fill pedicure tubs in the shop. Shops must comply with this requirement within six months of the effective date of the rule amendment. The date of installation must be marked on the filter and must be changed according to the manufacturers' recommendations. Existing subsection (b) is proposed to be recodified as subsection (e), with an amendment to include orangewood sticks to the list of implements that must be discarded after each use.

*N.J.A.C. 13:28-3.3* establishes personal care and hygiene requirements for shop personnel. The Board is proposing to amend subsection (a), which currently requires practitioners to wash their hands, to permit practitioners to use waterless hand washing agents. In addition, the proposed amendments require practitioners to wash their hands or use such agents before and after serving each patron, before and after eating, after handling chemicals and after using the bathroom. The Board is also proposing amendments to *N.J.A.C. 13:28-3.3(c)* and (d), concerning the provision of services when either the practitioner or the patron have a communicable disease, to specifically reference contagious or infectious diseases, in addition to communicable diseases, consistent with requirements of the Cosmetology and Hairstyling Act at *N.J.S.A. 45:5B-12*. Subsection (e) of the rule, which provides that all practitioners must utilize safe practice techniques and follow manufacturer's instructions when using chemical preparations, is proposed to be amended to require shop owners to make manufacturers' written recommendations for use of such products readily available in the shop. Current Material Data Safety Sheets (MDSS) for each chemical must also be stored in a binder and be available to all shop staff and to the Board. The proposed amendments also require that containers be labeled so that their contents may be easily identified and that liquid waste be disposed of in accordance with the product label instructions or the MDSS. Existing subsection (f), which prohibits practitioners and patrons from smoking while services are being performed, is proposed to be deleted as unnecessary in light of the proposed amendments to *N.J.A.C. 13:28-3.1(j)* discussed above.

*N.J.A.C. 13:28-3.4* delineates certain products that may not be used in licensed shops and schools of cosmetology and hairstyling. The Board is proposing to add a new subsection (b) to the rule that will require licensees, shops and schools to use only those cosmetics that comply with the Department of Health and Senior Services requirements set forth at *N.J.S.A. 24:1-1* and *N.J.A.C. 8:21-1.2* and *1.5* concerning proper cosmetic product labeling. Existing subsection (b) is proposed to be recodified as subsection (c), with no change.

The Board is proposing a new rule at *N.J.A.C. 13:28-3.5* to delineate certain practice standards that must be followed in the performance of manicuring and pedicuring services in order to ensure that such services are provided in a safe and sanitary manner. The proposed new rule prohibits a licensee from covering a nail with nail polish, base coat, top coat or any nail overlay if the nail shows any sign of infection, physical damage or trauma. Licensees must remove the entire artificial nail if the nail has become loose. All waste generated from applying acrylic nails must be deposited directly into a covered waste container at each work station. Licensees must provide written after care instructions to all clients receiving acrylic nails.

The Board is proposing a new rule at *N.J.A.C. 13:28-3.6* that will prohibit licensees and clients from bringing animals or pets into licensed shops. The Board believes that this prohibition is necessary to ensure that licensed shops are maintained in a safe and sanitary manner. The prohibition does not apply to trained guide dogs for the disabled, sightless or hearing impaired, consistent with the provisions of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-29*.

Subchapter 4 establishes standards for enforcement of the rules in Chapter 28. *N.J.A.C. 13:28-4.1*, which provides



for the inspection by the Board of any premises where it appears that cosmetology and hairstyling services are being rendered, is proposed to be amended to refer to manicuring and skin care specialty services as well. The Board is proposing to amend the relevant provisions of *N.J.A.C. 13:28-4.2, 4.3 and 4.4*, which require practitioners and shop owners to comply with all laws and regulations related to the practice of cosmetology and hairstyling, and which currently refer only to cosmetology and hairstyling services, to also refer to the provision of manicuring and skin care specialty services. The Board is proposing an additional amendment to *N.J.A.C. 13:28-4.3*, to correct the current reference to the shop supervisor. The rule should refer to the shop's designated experienced practicing licensee.

*N.J.A.C. 13:28-4.4* requires the shop owner to verify that each practitioner rendering services in the shop holds a valid license and to maintain documentation of this verification, and *N.J.A.C. 13:28-4.5* requires, in part, that the shop owner make retained documentation available to the Board. The Board is proposing amendments to both rules to require both the shop owner and the designated experienced practicing licensee to comply with these requirements, in light of the fact that the experienced practicing licensee is responsible for the management of the shop and would be present in the shop during any Board inspection. The Board is also proposing to amend *N.J.A.C. 13:28-4.4 and 4.5* to require the verification documentation to be maintained in a safe and secure location on the premises. The documentation must be maintained in a manner that ensures the confidentiality of the licensee's personal information. Proposed new rule *N.J.A.C. 13:28-4.6* provides that any conduct outlined in *N.J.S.A. 45:1-21 et seq.*, may provide grounds for the Board to suspend or revoke the license of any practitioner or shop.

The Board is proposing that the current fee for obtaining a duplicate license, set forth in *N.J.A.C. 13:28-5.1(a)19*, be increased from \$ 30.00 to \$ 50.00. The Board is also proposing the inclusion of two new fees, in *N.J.A.C. 13:28-5.1(a)20 and 21*, for change of name or corporate status and verification of licensure, respectively. The proposed fee for change of name or corporate status is \$ 50.00. The proposed fee for verification of licensure is \$ 25.00. The Board notes that a \$ 50.00 fee for obtaining a duplicate license and for requesting a change of name or corporate status and a \$ 25.00 fee for license verification are consistent with the fees charged for these services by other professional and occupational boards within the Division of Consumer Affairs. All other fees currently set forth in *N.J.A.C. 13:28-5.1* are proposed to be readopted without change.

Subchapter 6 establishes standards applicable to licensed schools of cosmetology and hairstyling. The Board is proposing that the following rules be readopted without change: *N.J.A.C. 13:28-6.1*, which requires licensed schools to comply with applicable laws and rules; *N.J.A.C. 13:28-6.2*, which sets forth the application procedure for school licensure; *N.J.A.C. 13:28-6.3*, which prohibits the registration of students at a school prior to the granting of school licensure; *N.J.A.C. 13:28-6.4*, which sets forth requirements for choosing a school name and for utilizing advertisements and signs in the conduct of school business; *N.J.A.C. 13:28-6.5*, which prohibits licensed schools from operating cosmetology and hairstyling shops in conjunction with, or as part of, the school administration; *N.J.A.C. 13:28-6.6*, which requires a licensed school operating on the same premises as a licensed shop to have a separate and distinct entrance from the shop; *N.J.A.C. 13:28-6.7*, which sets forth the square footage requirements for licensed schools; and *N.J.A.C. 13:28-6.8*, which requires licensed schools to obtain student registration cards from the Board for each student enrolled in a course of study at the school.

*N.J.A.C. 13:28-6.9* sets forth requirements for enrolling non-English speaking students at licensed schools. The Board is proposing to amend subsection (a) to require schools to submit documentation certifying that the school has evaluated a prospective non-English speaking student and has determined that the student is proficient in reading and writing the language in which the examination will be administered to the student. In addition, the Board is proposing to amend subsections (d) and (e) to require course instruction materials and tests to be provided to a non-English speaking student in the language that the licensing examination will be administered to the student. *N.J.A.C. 13:28-6.10* provides that school classes must begin on the first Monday of each month unless the school obtains Board approval to begin classes on a different day. Currently, such approval must be obtained at least 30 days prior to the commencement of classes. The Board is proposing to amend *N.J.A.C. 13:28-6.10* to require Board approval to be obtained at least 60 days prior to the commencement of classes, in order to provide the Board with sufficient time to review and process such requests.

[page=6744] *N.J.A.C. 13:28-6.11* sets forth requirements for the calculation of credit hours. The Board is proposing to amend subsection (b), which currently permits a school to grant a student credit for a maximum of eight hours of make-up classes, to clarify that the eight hours of credit is per calendar week. *N.J.A.C. 13:28-6.12*, which concerns class attendance on Saturdays, and the scheduling of make-up classes, and *N.J.A.C. 13:28-6.13*, which requires all schools to submit a schedule of proposed classes to the Board for approval, are proposed to be readopted without change. *N.J.A.C. 13:28-6.14*, which prohibits smoking by students or teachers in classrooms or clinics, is proposed to be amended to prohibit smoking in all areas of licensed schools, including clinics, consistent with the requirements of the New Jersey Smoke-Free Air Act.

*N.J.A.C. 13:28-6.15* requires schools to maintain a register of all enrolled students and to maintain detailed records of student attendance. The Board is proposing to amend subsection (d), which requires schools to use uniform student sign-in sheets, to clarify that the uniform time sheets must be maintained for each student for each course of instruction. The proposed amendments also require that the time sheets contain the name and license number of the teacher conducting the class. *N.J.A.C. 13:28-6.16*, which prohibits trades or professions other than the teaching of cosmetology and hairstyling from being practiced on the premises of a licensed school and prohibits schools from renting space for product or service demonstrations, and *N.J.A.C. 13:28-6.17*, which concerns the procedures to be followed when a licensed school moves to a new location or undergoes a transfer of ownership, are proposed to be readopted without change. The Board is proposing to amend *N.J.A.C. 13:28-6.18*, which requires a school to retain the services of a supervising teacher, to include a cross-reference to *N.J.A.C. 13:28-6.24*, which establishes requirements for supervising teachers. *N.J.A.C. 13:28-6.19*, which requires all premises used as licensed schools, including branch schools, to be separately licensed by the Board, is proposed to be readopted without change.

The Board is proposing that *N.J.A.C. 13:28-6.20*, which sets forth the minimum equipment requirements for all schools, be readopted with several technical and substantive amendments. The existing requirement in subsection (b) that all schools must have six shampoo bowls in good running condition is being amended to require that a minimum of one shampoo bowl per classroom be provided. The Board is proposing to delete the current single straightening apparatus requirement, to require schools to have a minimum of three metal pressing combs and three flat irons. Schools will also be required to have foot soaking equipment. The proposed amendments to subsection (b) will also require schools to have one container of enzymatic cleaning solution for each manicure table that allows implements to be totally immersed, as well as an ultrasonic unit for cleaning metal implements. The Board notes that these proposed amendments are consistent with the equipment amendments the Board is proposing for licensed shops discussed above. The proposed amendments will also require schools to have a designated location for cleaning and disinfecting implements, a clean, closed receptacle at each work station that allows soiled implements to be completely immersed in an enzyme solution prior to cleaning and disinfection and a clean, closed receptacle for storage of sanitized implements at each work station.

The proposed amendments to *N.J.A.C. 13:28-6.20* also require schools to provide each student with at least one professional clinical uniform or lab-type jacket. The Board is also proposing amendments to subsections (c), (d) and (e) of the rule, which delineate the supplies that must be provided to students in cosmetology and hairstyling, manicuring and skin care programs, respectively. These amendments are consistent with the changes being proposed to the equipment requirements in subsection (b). Subsection (h), which establishes requirements for soiled linen and waste material containers, is proposed to be amended to require a school to provide at least one container for soiled linens and one waste container in each classroom.

*N.J.A.C. 13:28-6.21* establishes standards for students, including how junior and senior students are to be designated. The Board is proposing to amend the uniform requirements in subsection (b) to require all students and teachers to be attired in clinical uniforms or lab-type jackets. Tee shirts and aprons are prohibited. In addition, the proposed amendments provide that students and teachers must wear socks or stockings and must also wear flat, rubber-soled shoes with closed toe and heel. The Board is also proposing amendments to subsection (c) of the rule, specifying that teachers and teachers-in-training must wear clinical uniforms or lab-type jackets in a color other than those specified for students. The Board is proposing to amend subsection (i) to require the notice that must be sent to the

Board when a student's training has been interrupted or terminated to be provided in writing. Subsection (n) concerns the reinstatement of students who have been absent from school for more than three months. The Board is proposing to amend subsection (n) to require a student who has stopped attending school for a period of time from three months to five years to return to school only following an evaluation conducted by the school to determine the number of hours for which the student may be credited. The results of such evaluation must be reported to the Board. A student who has been absent from school for more than five years will not receive credit for any hours of training previously completed and will be required to retake and complete the course in full, in order to ensure a student's competency to continue training and to sit for the licensing examination.

The Board is proposing that *N.J.A.C. 13:28-6.22*, which requires a licensed school to submit applications for examination for each student to the Board within 30 days of the student's completion of his or her course of the study, and *N.J.A.C. 13:28-6.23*, which establishes the minimum number of teachers that must be employed by a licensed school, be readopted without change. The Board is proposing that *N.J.A.C. 13:28-6.24*, which concerns the employment of licensed teachers, be amended to establish certain requirements for teacher supervisors. Specifically, the Board is proposing that subsection (b) be amended to provide that a teacher may be designated as the teacher supervisor for one school only, in order to ensure an appropriate level of supervision in each school. The name of the teacher supervisor must be posted in a location clearly visible to all students and school staff members. The Board is also proposing several new subsections to the rule. Proposed new subsection (c) requires the teacher supervisor to be on-site at all times while school is in session. The teacher supervisor will be responsible for conducting frequent observations of the teaching staff and the students throughout the school day. Proposed new subsection (d) provides that when the teacher supervisor is absent from the school, the school must have another licensed teacher who has been actively teaching for a period of two years physically present to oversee the teaching staff and the students. Proposed new subsection (e) requires the teacher supervisor to conduct competency evaluations of all members of the teaching staff at least once per school year. Existing subsection (c) of the rule, which requires schools to submit a list of its teachers and teacher training students to the Board, is proposed to be recodified as subsection (f), without change.

*N.J.A.C. 13:28-6.25* sets forth requirements applicable to refresher courses and currently provides that refresher courses shall only be administered to a person who holds or once held a practitioner's license, which has lapsed. The Board is proposing to amend *N.J.A.C. 13:28-6.25* to clarify that any person who holds a current practitioner's license may take the refresher course, as may any person whose license has been suspended for failure to renew. In addition, the proposed amendments to *N.J.A.C. 13:28-6.25* will permit applicants for licensure who did not take the examination for more than three years following the completion of their training, and applicants who have not passed both portions of the examination within three years of the date they first took the examination, to enroll in a refresher course, consistent with the proposed amendments to *N.J.A.C. 13:28-1.2* discussed above.

The Board is proposing that the following rules be readopted without change: *N.J.A.C. 13:28-6.26*, which sets forth requirements for providing postgraduate courses; *N.J.A.C. 13:28-6.27*, which establishes clinical work prerequisites and limitations; *N.J.A.C. 13:28-6.28*, which establishes the curriculum for the course of study for barbers who wish to obtain a cosmetology-hairstyling license; and *N.J.A.C. 13:28-6.30*, which establishes the curriculum for the shaving course for beauticians who wish to obtain a cosmetology-hairstyling license. The Board is proposing that *N.J.A.C. 13:28-6.29*, *6.31*, *6.33* and *6.34*, which establish the curricula for cosmetology and hairstyling, teacher training, manicuring and skin care specialty courses, respectively, be amended to update the terminology used to refer to the sanitization and sterilization components of the courses. The Board is proposing that all references to "sanitization and sterilization" in the rules be amended to refer to "decontamination [page=6745] and infection control." The Board is not proposing any substantive amendments to the curricula for such courses and the required hours of instruction in these areas remain unchanged.

The Board is proposing to amend *N.J.A.C. 13:28-6.35*, which requires all licensed schools to post a bond in favor of the State, to increase the amount of the required bond. Currently, the rule requires a school with an average weekly enrollment of one to 20 students to have a \$ 10,000 bond; a school with an average weekly enrollment of 21 to 75 students to have a \$ 15,000 bond; and a school with an average weekly enrollment of over 75 students to have a \$

20,000 bond. The Board is proposing that the required bond amounts be increased to \$ 20,000, \$ 30,000 and \$ 40,000, respectively, in light of the increase in tuition expenses at such schools since the current bond amounts were originally proposed.

The Board is proposing several amendments to *N.J.A.C. 13:28-6.36*, which sets forth operational requirements for licensed schools wishing to conduct instruction at annex classrooms. In addition to several technical amendments to the equipment requirements set forth in subsection (b), the Board is proposing that subsection (b), which currently requires that the space provided for any annex classroom not exceed 30 percent of the square footage of the main school, be amended to provide that the space for an annex classroom may not exceed the 2,250 square footage work space requirement of the primary school location, in recognition of the fact that more space may be needed for annex classrooms. The proposed amendments also clarify that the annex classroom must comply with all applicable requirements in Subchapter 6.

The Board has provided a 60-day comment period for this notice of proposal, therefore, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

### **Social Impact**

The Board believes that the rules proposed for readoption with amendments, repeals and new rules will have a positive impact upon members of the regulated community and will help to protect the health, safety and welfare of the citizens of New Jersey. These rules establish the requisite standards of licensure in the State and positively affect the regulated community by clarifying the varied aspects of the practice of cosmetology and hairstyling for the benefit of all licensed practitioners, shop license and school license holders and all applicants for licensure.

The proposed readoption of the rules in *N.J.A.C. 13:28* with amendments continues the accepted practice standards for licensed practitioners of cosmetology and hairstyling, licensed shops and licensed schools established by the Board and by so doing, provides individual licensees, shop and school license holders and applicants for licensure with a clear and comprehensive set of rules to guide them in their professional work. Applicants for licensure will benefit by having a set of rules, which govern the manner in which they may qualify for licensure. The Board also believes that licensees will benefit from the rules proposed for readoption as a result of the uniform standards that will be applied throughout the field of cosmetology and hairstyling.

The Board believes that the rules proposed for readoption with amendments, repeals and new rules will have a positive impact upon the general public by continuing to safeguard the public health, safety and welfare by ensuring the maintenance of appropriate practice standards, which will enable practitioners of cosmetology and hairstyling services, cosmetology and hairstyling shops and schools of cosmetology and hairstyling to provide the highest quality services possible.

The Board believes that the proposed amendments to *N.J.A.C. 13:28-2.5, 2.6, 2.6A, 3.1, 3.2* and *6.20* will have a positive impact upon licensed practitioners, licensed shops and licensed schools by ensuring that shops and schools are equipped with appropriate sanitization and infection control tools and that licensed practitioners utilize these tools and follow appropriate sanitization and infection control procedures in the performance of cosmetology and hairstyling services. The Board believes that the proposed amendments will positively impact consumers by helping to ensure the provision of cosmetology and hairstyling services in a safe and sanitary manner.

The Board believes that the proposed amendments to *N.J.A.C. 13:28-2.10* and *2.11*, and proposed new rule *N.J.A.C. 13:28-2.7A*, will have a positive impact upon the licensed community and upon consumers by clarifying what business activities may be lawfully undertaken by holders of cosmetology and hairstyling, skin care specialty and manicuring shop licenses. The Board also believes that proposed new rule *N.J.A.C. 13:28-2.15*, which sets forth prohibited practices, and the proposed amendments to *N.J.A.C. 13:28-3.4*, which require licensees, shops and schools to use only those cosmetics that meet the labeling requirements promulgated by the Department of Health and Senior

Services, may positively impact licensed shops and consumers by eliminating any confusion that may exist with respect to the type of services and products that may be offered or used by licensees. The Board believes that the prohibitions set forth in the proposed new rule will also positively impact consumers by helping to ensure that certain services that are outside of the scope of cosmetology and hairstyling services, and which, if performed by untrained personnel, may be harmful to consumers, are not offered in licensed shops in New Jersey.

The Board believes that proposed new rule N.J.A.C. 13:28-3.5 will have a positive impact upon the regulated community by outlining minimum practice standards that must be followed in the provision of manicuring and pedicuring services. The Board believes that the proposed new rule will have a positive impact upon consumers by helping to ensure that such services are provided in a safe and sanitary manner.

The Board believes that the proposed amendments to *N.J.A.C. 13:28-6.24*, setting forth requirements for teacher supervisors in schools of cosmetology and hairstyling, will have a positive impact upon licensed schools and their students by ensuring that all activities conducted at the school are performed under the direction and supervision of a qualified educator. The proposed amendments to the rule requiring all teachers to undergo yearly competency evaluations may also have a positive impact upon students enrolled in cosmetology and hairstyling schools by helping to ensure the continued competency of instructors.

### **Economic Impact**

The Board anticipates that the rules proposed for readoption will not impose any new or additional significant costs upon applicants for licensure, licensees or consumers. The proposed readoption of the existing rules will continue the economic impact that the rules have had on such persons for the past five years.

The rules proposed for readoption in Subchapter 1 will have an economic impact upon applicants for licensure to the extent that applicants seeking to be licensed to provide cosmetology and hairstyling services pursuant to *N.J.A.C. 13:28-1.1* or *1.4*, or to teach such services pursuant to *N.J.A.C. 13:28-1.7*, and those applicants seeking a temporary license or student permit pursuant to *N.J.A.C. 13:28-1.3*, will incur administrative expenses associated with submitting the required application and supporting materials, as well as the costs associated with taking the required examination in *N.J.A.C. 13:28-1.2*. The readoption of *N.J.A.C. 13:28-1.6* may also have an economic impact upon licensees to the extent that licensees who change their addresses will incur administrative expenses associated with submitting the required address change notification to the Board.

The proposed readoption of the requirements in *N.J.A.C. 13:28-1.1(g)*, (h), (i) and (j), concerning licensure renewal, suspension and reinstatement, may have an economic impact upon licensees. Licensees who submit their renewal applications within 30 days of their license expiration date must submit a late fee, in addition to the standard license renewal fee charged by the Board. Licensees who have had their licenses suspended for failure to renew within 30 days of the license expiration date may incur additional costs if they wish to have their license reinstated. A licensee seeking reinstatement within five years of the date his or her license expired must submit a renewal application, all past delinquent renewal fees, a reinstatement fee and an affidavit listing each job the licensee held during the period his or her license was suspended. In addition, an individual whose license has been suspended for more than five years will be required to retake and pass the licensure examination. The proposed readoption of *N.J.A.C. 13:28-1.1(k)*, concerning the election of inactive licensure status, may have an economic impact upon licensees who choose to renew their licenses as inactive to the extent that inactive licensees who wish to resume active practice must remit the renewal fee for the current biennial registration period.

[page=6746] The proposed amendments to the rules in Subchapter 1 may have an economic impact upon applicants for licensure. Specifically, the proposed amendments to *N.J.A.C. 13:28-1.1(f)* may have an economic impact upon applicants for licensure who fail to complete the application process within six months. Application fees are non-refundable and applicants will be required to reapply and submit another application fee. Proposed amendments to the examination requirements of *N.J.A.C. 13:28-1.2(e)* and (f) may also have an economic impact upon applicants for

licensure to the extent that applicants who fail to pass the licensing examination within the timeframes specified in the rule must take a refresher course or retake the training program they previously completed prior to being allowed to sit for the examination again.

The proposed readoption with amendments of the rules in Subchapter 2 may have an economic impact upon applicants for, and holders of, shop licenses. Specifically, applicants for shop licenses may incur administrative expenses associated with submitting applications and the supporting documentation required pursuant to *N.J.A.C. 13:28-2.1*, as proposed to be amended. The proposed readoption of *N.J.A.C. 13:28-2.2* and *2.3* may have an economic impact upon shop license holders to the extent that a shop license holder who seeks to move his or her shop to a new location, or who obtains an interest in a shop by way of a transfer of ownership, will have to obtain a new shop license before commencing operation of the shop. In addition, the proposed readoption of *N.J.A.C. 13:28-2.4* will have an economic impact upon shop license holders who must remit the required license renewal fee. The proposed readoption of *N.J.A.C. 13:28-2.5*, *2.6* and *2.6A*, as proposed to be amended, may have an economic impact upon licensed shops to the extent that cosmetology and hairstyling shops, manicuring shops and skin care specialty shops must comply with the square footage and the minimum equipment and supply requirements set forth in the rules.

The proposed readoption of *N.J.A.C. 13:28-2.8* may have an economic impact upon licensed shops to the extent that shops are prohibited from subleasing space to non-employees and are, therefore, prohibiting from using arrangements commonly known as "chair rentals" to generate income. The proposed readoption of *N.J.A.C. 13:28-2.9* and *2.10* may also have an economic impact upon licensed shop owners to the extent that the rules authorize shops to sell merchandise and provide certain ancillary services. The Board believes that the proposed amendments to *N.J.A.C. 13:28-2.10* and *2.11* and proposed new rule *N.J.A.C. 13:28-2.7A* may have any economic impact upon licensed skin care specialty shops to the extent that such shops will now be authorized to provide a wider range of ancillary beautification services to their clients, thereby resulting in an economic benefit to the shops and to the employees who will be performing the services. The Board also believes that the proposed amendments to *N.J.A.C. 13:28-2.10*, which specifically authorize the provision of massage services by cosmetology and hairstyling and skin care specialty shops, may have an economic impact upon such shops to the extent that shops must ensure that persons retained to perform these services meet the training requirements set forth in the rule.

The Board believes that proposed new rule *N.J.A.C. 13:28-2.15*, which prohibit licensees and shops from offering various services that fall outside of the scope of the practice of cosmetology and hairstyling services, may have an economic impact upon shops that are currently offering such services to their clients.

The proposed readoption of the rules in Subchapter 3 will impose economic costs upon shop license holders to the extent that shop owners may incur costs associated with establishing and maintaining the minimum operational standards set forth in *N.J.A.C. 13:28-3.1* and the sanitization standards set forth in *N.J.A.C. 13:28-3.2*. The proposed amendments to *N.J.A.C. 13:28-3.1* may have an economic impact upon applicants applying for initial licensure and shop owners who apply for shop remodeling after the effective date of the amendments. In such cases, the shops must be ventilated consistent with Uniform Construction Code requirements, must have a minimum of 70 foot candles of artificial light, and must contain laundry facilities that are separate from the shop work area. In addition, the proposed amendments to *N.J.A.C. 13:28-3.2* may have an economic impact upon shops offering manicuring and pedicuring services to the extent that the shops must comply with the new cleaning and sanitization standards set forth in the rule. Specifically, shops will be required to install a water filter on the incoming water line used to fill pedicure tubs. The proposed amendments to *N.J.A.C. 13:28-3.3*, which will require licensees to maintain Material Data Safety Sheets and other documentation with respect to the chemical products used in the shop, may result in administrative costs for some shops. Proposed new rule *N.J.A.C. 13:28-3.5* may have an economic impact upon shops offering manicuring and pedicuring services to the extent that they incur administrative expenses associated with providing written after care instructions to all clients receiving acrylic nail services.

The proposed readoption of the rules in Subchapter 4 may impose economic costs upon shop license holders to the extent that *N.J.A.C. 13:28-4.4* and *4.5* require the shop license holder to maintain documentation concerning the

licensure status and other personnel information for all employees, respectively. The shop license holder may incur administrative expenses associated with satisfying these document retention requirements.

*N.J.A.C. 13:28-5.1*, which sets forth the Board's fee schedule, will continue to have an economic impact upon licensed practitioners, shops and schools of cosmetology and hairstyling to the extent that all licensees will be required to remit the fees specified in the rule. The proposed increase in the fee for a duplicate license, from \$ 30.00 to \$ 50.00, may have an economic impact upon licensees who must obtain a duplicate license in the future. In addition, the proposed \$ 50.00 fee for change of name or corporate status, and the proposed \$ 25.00 fee for verification of licensure, may have an economic impact upon licensees who report a name or corporate status change or request a verification of licensure in the future.

The rules proposed for readoption in Subchapter 6 will continue to have an economic impact upon licensed schools of cosmetology and hairstyling. Specifically, schools will incur administrative expenses associated with submitting applications and/or supporting documentation, pursuant to the following: *N.J.A.C. 13:28-6.2*, which requires submission of a school license application; *N.J.A.C. 13:28-6.8*, which requires submission of an application for a student registration card for each student enrolled in the school; *N.J.A.C. 13:28-6.9*, which requires submission of enrollment agreements to be entered into by the school and all non-English speaking students; *N.J.A.C. 13:28-6.11*, which requires submission of designated make-up hours for missed hours of classroom instruction; *N.J.A.C. 13:28-6.13*, which requires submission of proposed classes, including anticipated hours of instruction; *N.J.A.C. 13:28-6.18*, which requires submission of the employment contract entered into between the school and a supervising teacher; *N.J.A.C. 13:28-6.21*, which requires submission, as part of applications for student registrations, of an affidavit or other proof that students have been informed about the licensure examination requirements; *N.J.A.C. 13:28-6.22*, which requires submission of applications for examination for all students who complete their initiated course of study; *N.J.A.C. 13:28-6.24*, which requires submission of the names of all teachers and student teachers retained by the school; *N.J.A.C. 13:28-6.25* and *6.26*, which require submission of applications for student registration cards for any student enrolled in a refresher course or postgraduate course, respectively; and *N.J.A.C. 13:28-6.36*, which requires submission of an application to conduct instruction in an annex classroom.

The proposed readoption of *N.J.A.C. 13:28-6.7*, as well as the proposed readoption with amendments of *N.J.A.C. 13:28-6.20*, may have an economic impact upon licensed schools to the extent that the schools must comply with the minimum space and equipment requirements established in the rules. The proposed readoption of *N.J.A.C. 13:28-6.15* may have an economic impact upon schools to the extent that the schools may incur administrative expenses associated with maintaining detailed student attendance records and time sheets. The proposed readoption of *N.J.A.C. 13:28-6.17* may have an economic impact upon licensed schools that seek to move to a new location and upon those persons or business entities that obtain interest in a school by way of a transfer of ownership. The move to a new location or the transfer of interest requires a new school license, which must be obtained prior to continuing operation of the school. The Board also believes that the proposed readoption of *N.J.A.C. 13:28-6.19* may have an economic impact upon schools to the extent that schools wishing to utilize branch facilities will have to separately license all such facilities. The readoption of *N.J.A.C. 13:28-[page=6747] 6.21*, as proposed to be amended, may have an economic impact upon schools to the extent that the schools must supply students with clinical uniforms or lab-type jackets. Such uniforms may be more expensive than tee shirts or aprons, which are prohibited under the proposed amendments.

The proposed readoption of *N.J.A.C. 13:28-6.23* may have an economic impact upon licensed schools to the extent that schools must employ the number of teachers specified in the rule in order to commence classes. In addition, the readoption of *N.J.A.C. 13:28-6.35*, as proposed to be amended, may have an economic impact upon schools to the extent that the schools incur costs in obtaining bonds in favor of the State in the increased amounts specified in the rule.

The Board believes that any economic impact that may be borne by licensees, licensed shops and licensed schools of cosmetology and hairstyling as a result of the rules proposed for readoption with amendments and the proposed new rules is outweighed by the need to protect the health, safety and welfare of consumers seeking cosmetology and hairstyling services in the State.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for readoption, the proposed amendments and the proposed repeals and new rules are governed by *N.J.S.A. 45:5B-1* et seq., and are not subject to any Federal requirements or standards.

### **Jobs Impact**

The Board believes that the rules proposed for readoption, the proposed amendments and the proposed repeals and new rules will not result in the generation or loss of jobs.

### **Agriculture Impact**

The rules proposed for readoption, the proposed amendments and the proposed repeals and new rules will not have any impact on the agriculture industry in the State.

### **Regulatory Flexibility Analysis**

Currently, the Board licenses approximately 80,000 practitioners, shops and schools of cosmetology and hairstyling. If these licensees are considered "small businesses" within the meaning of the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., then the following analysis applies. The rules proposed for readoption, the proposed amendments and the proposed repeals and new rules will impose various reporting, recordkeeping and compliance requirements upon Board licensees.

The proposed readoption of the rules in Subchapter 1 with amendments will impose various compliance requirements upon applicants for licensure and upon practicing licensees. *N.J.A.C. 13:28-1.1* requires all applicants for licensure to submit applications, complete with supporting documentation, evidencing proof of age, education and training, as well as the specified fees. *N.J.A.C. 13:28-1.1* will also impose compliance requirements upon practicing licensees to the extent that *N.J.A.C. 13:28-1.1(h)* requires licensees to remit their renewal applications to the Board, along with the specified renewal fee, prior to the date of their license expiration. Pursuant to *N.J.A.C. 13:28-1.1(j)*, a licensee applying for reinstatement must submit a renewal application, all past delinquent renewal fees, a reinstatement fee and an affidavit of employment listing each job held during the period of license suspension. Licensees seeking reinstatement after five years must also retake and pass the licensure examination. *N.J.A.C. 13:28-1.1(k)* requires licensees who seek to renew their licenses as inactive to cease engaging in the practice of cosmetology and hairstyling for the entire biennial registration period. An inactive licensee who seeks to resume active practice must pay the renewal fee for the current registration period.

*N.J.A.C. 13:28-1.2* requires all applicants for licensure to pass an examination administered by the Board. The proposed amendments to *N.J.A.C. 13:28-1.2* require all applicants to achieve a score of not less than 75 percent on the theory portion of the examination prior to taking the practical examination. All applicants for a temporary permit or a student permit must submit specified fees pursuant to *N.J.A.C. 13:28-1.3* requires. *N.J.A.C. 13:28-1.4* requires all persons who hold barber and beautician licenses issued by the State who wish to be licensed as cosmetologist-hairstylists to pay the specified fee. In addition, all persons who hold both a barber license and a license to teach beauty culture issued by the Board may be issued a license to teach cosmetology and hairstyling upon payment of a fee. *N.J.A.C. 13:28-1.5* requires all licensees seeking a duplicate replacement license to submit two forms of identification, a fee and a notarized affidavit explaining the circumstances surrounding the loss of the original license. *N.J.A.C. 13:28-1.6* requires all licensees to notify the Board in writing within 30 days of a change of address. *N.J.A.C. 13:28-1.7* requires all persons who apply for a license to teach cosmetology and hairstyling to secure a teaching license from the Board and to submit the required documentation delineated in the rule.



The rules in Subchapter 2 impose various recordkeeping and compliance requirements upon the holders of shop licenses. *N.J.A.C. 13:28-2.1*, as proposed to be amended, requires all persons or business entities desiring a shop license to submit an application to the Board, complete with supporting documentation and to pay the specified fee. *N.J.A.C. 13:28-2.2* and *2.3* require a shop license holder to notify the Board prior to moving the shop to a new address and to notify the Board of any transfer of ownership in the shop. Upon moving to a new location or transferring of ownership, the shop license holder must apply to the Board for a new license. *N.J.A.C. 13:28-2.4* requires all shop licenses be renewed. *N.J.A.C. 13:28-2.5, 2.6* and *2.6A* require all licensed cosmetology and hairstyling shops, manicuring shops and skin care specialty shops, respectively, to meet certain minimum square footage and equipment requirements in order to begin operation. The rules also require the posting of notices concerning the types of services that may be provided by each shop. *N.J.A.C. 13:28-2.7* requires shops located within private residences to ensure patrons direct entry into the shop. *N.J.A.C. 13:28-2.8* prohibits the leasing or subleasing of space in licensed shops to non-employees for the purpose of providing cosmetology and hairstyling services or ancillary services, as part of a separate business conducted by the non-employee.

The proposed amendments to *N.J.A.C. 13:28-2.10* and *2.11*, and proposed new rule *N.J.A.C. 13:28-2.7A*, will impose various compliance requirements upon cosmetology and hairstyling, skin care specialty and manicuring shop license holders. These requirements are discussed in the Summary above. *N.J.A.C. 13:28-2.12* requires all shops to display the shop license, the licenses of all practitioners rendering services in the shop and a listing of all services performed and the charges for each service. *N.J.A.C. 13:28-2.13* requires all licensed shops to retain the services of an experienced practicing licensee who must be present to oversee the management of the shop. The name of the experienced practicing licensee must be posted in the shop. *N.J.A.C. 13:28-2.14* prohibits a licensed shop from employing an unlicensed person to render cosmetology and hairstyling services in the shop. Proposed new rule *N.J.A.C. 13:28-2.15*, which delineates those practices that may not be conducted in licensed shops, imposes various compliance requirements upon licensees and licensed shops. These requirements are discussed in the Summary above.

The rules in Subchapters 3 and 4 impose compliance and recordkeeping requirements upon licensed practitioners and shop license holders. *N.J.A.C. 13:28-3.1*, as proposed to be amended, requires all shops to be equipped with adequate lighting, ventilation, and potable water. Licensed shops must also ensure that waste materials generated by the shop are disposed of in a safe manner. All fixtures, equipment and supplies in the shop must be maintained in a sanitary manner. *N.J.A.C. 13:28-3.2*, as proposed to be amended, requires licensees to sanitize all implements and tools used in the shop consistent with the procedures set forth in the rule. These requirements are discussed in the Summary above.

*N.J.A.C. 13:28-3.3* requires licensees to perform services in a safe and sanitary manner and to observe certain minimum safety techniques. The proposed amendments to *N.J.A.C. 13:28-3.3* also require shop owners to maintain information on the chemicals used in the shop and to make this information available to shop employees and to the Board. *N.J.A.C. 13:28-3.4* prohibits a licensee or licensed shop from using products that contain certain chemicals or that fail to meet the labeling requirements imposed by the Department of Health and Senior Services. Proposed new rule *N.J.A.C. 13:28-3.5* imposes various requirements upon licensees and shops that offer manicuring and pedicuring services. These requirements are discussed in the Summary above.

[page=6748] *N.J.A.C. 13:28-4.1* requires a shop license holder to make available to the Board any documentation retained by the licensee pursuant to the rules in Chapter 28. *N.J.A.C. 13:28-4.2* and *4.3* require all individual licensees and shop license holders to comply with all laws and rules applicable to the practice of cosmetology and hairstyling in the State. *N.J.A.C. 13:28-4.4*, as proposed to be amended, requires a shop license holder and the licensee serving as the designated experienced practicing licensee for the shop to verify that each practitioner rendering services in the shop holds a valid license issued by the Board. Documentation of this verification must be maintained for at least two years. The proposed amendments to *N.J.A.C. 13:28-4.4* and *4.5* require that documentation of licensure status and employee personnel information to be maintained in a safe and secure location on the shop premises.

The rules proposed for readoption with amendments in Subchapter 6 will impose reporting, recordkeeping and compliance requirements upon licensed schools of cosmetology and hairstyling. *N.J.A.C. 13:28-6.1* requires licensed

schools to comply with all laws and rules applicable to the practice of cosmetology and hairstyling in the State. *N.J.A.C. 13:28-6.2* requires licensed schools to submit an application for licensure, and supporting documentation, prior to providing instruction in cosmetology and hairstyling services. Applicants for a school license must also appear before the Board for an interview. *N.J.A.C. 13:28-6.3* prohibits a school from registering any students prior to obtaining a license. *N.J.A.C. 13:28-6.4* requires a school to display at the main entrance a sign indicating that the establishment is a school of cosmetology and hairstyling. *N.J.A.C. 13:28-6.5* prohibits schools from operating shops in conjunction with, or as part of, the school administration. *N.J.A.C. 13:28-6.6* requires that separate entrances be provided for shops located on the same premises as licensed schools. *N.J.A.C. 13:28-6.7* requires all schools to comply with minimum square footage requirements. *N.J.A.C. 13:28-6.8* requires schools to submit an application for a student registration card for each student enrolled at the school.

*N.J.A.C. 13:28-6.9* requires licensed schools to submit enrollment agreements entered into between the school and all non-English speaking students and applications for registration cards for each non-English speaking student. As proposed to be amended, *N.J.A.C. 13:28-6.9* also requires a school to submit documentation certifying that the school has evaluated all prospective non-English speaking students and has determined that the students are proficient in reading and writing the language in which the students will take the licensing examination. Schools offering classes in languages other than English must also employ a licensed teacher who is fluent in English and the language in which the licensing examination will be administered in and must provide instruction materials and testing in that language.

*N.J.A.C. 13:28-6.10*, as proposed to be amended, requires all schools to begin classes on the first Monday of each month unless approval from the Board is sought at least 60 days prior to the start of classes. *N.J.A.C. 13:28-6.11* prohibits a school from granting credit for more than 40 hours of regularly scheduled class time in any calendar week. *N.J.A.C. 13:28-6.12* prohibits a school from authorizing make-up classes that would cause the total class hours for any week to exceed 48 for any student. *N.J.A.C. 13:28-6.13* requires a school to submit to the Board for approval a schedule of all proposed classes prior to implementation of the schedule. *N.J.A.C. 13:28-6.14* requires schools to prohibit smoking in all licensed school areas. *N.J.A.C. 13:28-6.15* requires schools to maintain a register of all students and to check student attendance twice daily. A detailed attendance record must be maintained for a period of five years. In addition, the school must forward to the Board uniform time sheets of daily attendance at the end of each month. As proposed to be amended, the rule requires the time sheets to contain the name and license number of the teacher conducting the course.

*N.J.A.C. 13:28-6.16* prohibits a school from renting space for demonstrations to outside companies, individuals, corporations or other business entities unless the space is in addition to the minimum square footage required for operation of the school. *N.J.A.C. 13:28-6.17*, as proposed to be amended, requires a licensed school that seek to move to new location, or those individuals or business entities that obtain an interest in a school by way of a transfer of ownership, to obtain a new school license prior to continuing operation of the school. *N.J.A.C. 13:28-6.18* requires a licensed school to hire a supervising teacher and to submit evidence of such employment to the Board. *N.J.A.C. 13:28-6.19* requires all premises used as licensed schools, including all branch facilities, to be separately licensed. *N.J.A.C. 13:28-6.20* requires all licensed schools to comply with the minimum equipment and supply requirements set forth in the rule. *N.J.A.C. 13:28-6.21* requires schools to inform all enrolled students about the minimum requirements for admission to the licensing examination, and to provide the Board with information concerning student attendance. *N.J.A.C. 13:28-6.21* also requires junior and senior students, as well as students in training to become teachers, to comply with the attendance and performance requirements set forth in the rule.

*N.J.A.C. 13:28-6.22* requires a licensed school to submit an application for licensure examination for each student within 30 days following the student's completion of his or her course of study. *N.J.A.C. 13:28-6.23* requires licensed schools to employ a minimum number of teachers, based on the size of the student population. In addition, *N.J.A.C. 13:28-6.23* prohibits all teachers employed in licensed schools from engaging in the public or private practice of cosmetology and hairstyling during school hours. *N.J.A.C. 13:28-6.24* requires a licensed school to provide direct supervision for any student enrolled in a teacher training course who is utilized to teach a course at the school. As proposed to be amended, *N.J.A.C. 13:28-6.24* imposes various compliance requirements upon teacher supervisors.

These requirements are discussed in the Summary above.

*N.J.A.C. 13:28-6.27* requires a licensed school performing clinical work to display a sign informing patrons that services provided in the clinic will be provided by students enrolled in the school. The rule also requires a licensed school to comply with the standards set forth in the rule prior to allowing students to perform services upon the general public.

*N.J.A.C. 13:28-6.28* through *6.34* require licensed schools to comply with the curricula established in the rules for the various courses of study that the schools offer. Specifically, *N.J.A.C. 13:28-6.28* establishes the curriculum for the 500-hour course for barbers who wish to obtain a cosmetology-hairstyling license; *N.J.A.C. 13:28-6.29* establishes the curriculum for the 1,200-hour cosmetology and hairstyling course; *N.J.A.C. 13:28-6.30* establishes the curriculum for the 25-hour shaving course for beauticians who wish to obtain a cosmetology-hairstyling license; *N.J.A.C. 13:28-6.31* establishes the curriculum for the 500-hour teacher training course; *N.J.A.C. 13:28-6.32* establishes the curriculum for the teacher shaving course; *N.J.A.C. 13:28-6.33* establishes the curriculum for the 300-hour manicuring course; and *N.J.A.C. 13:28-6.34* establishes the curriculum for the 600-hour skin care specialty course. *N.J.A.C. 13:28-6.35* requires a licensed school to post a bond in favor of the State. The amount of the bond varies depending on the number of students enrolled in the school. *N.J.A.C. 13:28-6.36* requires a school wishing to operate an annex classroom that will be separate from the licensed school facility to submit an application to the Board for the use of such classroom. An annex classroom must meet the minimum square footage, equipment and operational requirements established in the rule.

No additional professional services will be needed to comply with the rules proposed for readoption, the proposed amendments and the proposed repeals and new rules. The costs of compliance with the proposed readoption, the proposed amendments and the proposed new rules are discussed in the Economic Impact above. The Board believes that the rules proposed for readoption, the proposed amendments and the proposed new rules should be uniformly applied to all licensed practitioners of cosmetology and hairstyling services, cosmetology and hairstyling shops and cosmetology and hairstyling schools in order to ensure the health, welfare and safety of the general public in the provision of cosmetology and hairstyling services. Therefore, no differing compliance requirements for any licensee, licensed shop or licensed school are provided based upon the size of the business.

### **Smart Growth Impact**

The Board believes that the rules proposed for readoption, the proposed amendments and the proposed repeals and new rules will not have any impact upon the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

### [page=6749] **Housing Affordability Impact**

The rules proposed for readoption, the proposed amendments and the proposed repeals and new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern the provision of cosmetology and hairstyling services.

### **Smart Growth Development Impact**

The rules proposed for readoption, the proposed amendments and the proposed repeals new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern the provision of cosmetology and hairstyling services.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 13:28*.

**Full text** of the proposed amendments, repeals and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 1. PRACTICING LICENSES, APPLICATION AND EXAMINATIONS

13:28-1.1 Applicants for examination for licensure; acceptable documentation of credentials; license renewals; reinstatement; inactive status

(a)-(c) (No change.)

(d) [All] **Except as provided in (d)1 below, all** applications [must] **shall** be accompanied by [satisfactory proof of the attainment of] **a certified transcript from a cosmetology and hairstyling school in New Jersey substantiating that the applicant has attained** the requisite training in cosmetology and hairstyling **as set forth in N.J.A.C. 13:28-6.**

1. (No change.)

(e) Application for licensure as a teacher must be accompanied by satisfactory proof of the requisite work experience in the form of affidavits from former employers. **The required work experience shall consist of a minimum of 40 hours a week working in a licensed shop for six consecutive months. The affidavit shall list the location of the shop and the applicant's job description.**

(f) All applications for licensure must be accompanied by the appropriate fee as set forth in *N.J.A.C. 13:28-5.1*. **Application fees shall be non-refundable. If an applicant for licensure fails to complete the licensure application process within six months from the date of initial application, the Board shall administratively close the application. Following such action, an applicant who wishes to obtain a license shall reapply to the Board and shall comply with all requirements set forth in this section, including repayment of the application fee set forth in N.J.A.C. 13:28-5.1.**

(g) The Board shall send a notice of renewal to all licensees at least 60 days prior to the date of license expiration. If the notice to renew is not sent at least 60 days prior to the license expiration date, no monetary penalties or fines shall apply to a licensee for [failure to renew] **any unlicensed practice during the period following licensure expiration, not to exceed the number of days short of 60 before the renewals were issued.**

(h)-(k) (No change.)

13:28-1.2 Examination and reexaminations

(a) Applicants shall be subject to testing in all areas of cosmetology and hairstyling appropriate for the license sought, and such examination shall be in two parts: practical and [written] **theory. An applicant shall submit to the Board the examination fee set forth in N.J.A.C. 13:28-5.1 with the application.**

**1. Applicants shall have the option of taking a computer-based test in lieu of the written theory portion of the examination. The computer-based test shall be administered by a Board-approved third-party vendor and the fee for such test shall be paid by the applicant directly to the vendor. In addition to the fee for the computer-based test, applicants for examination shall submit the examination fee set forth in N.J.A.C. 13:28-5.1 to the Board.**

(b) Applicants must receive a passing grade on each part of the examination to obtain a license. **An applicant shall achieve a score of not less than 75 percent on the theory portion of the examination in order to be eligible to take**

**the practical examination. No applicant shall be permitted to take the practical examination unless the applicant has successfully completed the theory portion of the examination.**

[(c) An applicant who fails one part of the examination shall be reexamined only on the part failed; provided, however, that an applicant applying for a cosmetology and hairstyling license pursuant to *N.J.S.A. 45:5B-29* and 30 who fails one part of the examination shall retake the complete examination.]

[(d)] (c) An applicant who fails the **theory portion of the examination** or fails to appear for [an] **the examination** may be rescheduled for examination upon written notice to the Board **and submission of the examination fee set forth in *N.J.A.C. 13:28-5.1***. [Payment of the initial fee set forth in *N.J.A.C. 13:28-5.1* shall entitle an applicant to be scheduled for no more than two examinations.]

**(d) Payment of the initial examination fee set forth in *N.J.A.C. 13:28-5.1* shall entitle an applicant to take and/or be scheduled to take the practical portion of the examination no more than two times. An applicant who fails the practical portion of the examination and/or who fails to appear for the practical portion of the examination twice, may be rescheduled for examination upon written notice to the Board and submission of the examination fee set forth at *N.J.A.C. 13:28-5.1*.**

**(e) If an applicant has not passed both the theory and practical portions of the examination within three years from the date the applicant first took the examination, the applicant shall take a refresher course pursuant to *N.J.A.C. 13:28-6.25* prior to being reexamined.**

**(f) An applicant shall take the examination within five years of completing his or her training.**

**1. If an applicant applies for examination, but has not taken the examination or has failed to appear for the examination for more than three years, but less than five years, from the date he or she completed training, the applicant shall take a refresher course pursuant to *N.J.A.C. 13:28-6.25* prior to being examined.**

**2. An applicant shall not be permitted to take the examination if the applicant applies for examination more than five years from the date he or she completed training. Any such applicant shall be required to retake and complete the training program in full prior to being admitted to the examination.**

#### 13:28-1.5 Lost licenses

(a) Licensees may secure a duplicate replacement license by appearing in person at the Board's office with the following:

1. Two forms of identification, **one of which shall be a United States government-issued or State government-issued photo identification;**

2.-3. (No change.)

#### 13:28-1.7 Qualifications of teachers

(a)-(b) (No change.)

(c) To qualify as a candidate for licensure as a teacher of cosmetology and hairstyling, an applicant shall present satisfactory evidence to the Board that he or she:

1.-7. (No change.)

8. Has [attained six months employment experience] **been employed for 40 hours per week for six consecutive months** in a licensed shop; and

9. (No change.)

13:28-2.1 Applications for initial shop license; changes to existing shops

(a)-(b) (No change.)

(c) All applications [must] **for an initial shop license shall** be accompanied by [an acceptable] a floor plan[.] **that shall be drawn to scale and shall accurately detail the location and the total floor space for work stations, waiting areas, dispensary, shampoo stations, [page=6750] lavatories and, if applicable, laundry facilities. A copy of the original floor plan shall be maintained on the shop premises.**

**(d) The application for an initial shop license shall contain a complete description of all services to be provided and the proposed hours of operation for the shop. The holder of the shop license shall notify the Board in writing of any changes to the list of services and hours of operation provided upon application.**

**(e) The application for an initial shop license shall contain a statement of approval from the planning, zoning or construction official in the municipality where the shop is located. If municipal approval is not required, the applicant shall submit a statement from the municipality to that effect.**

[(d)] **(f)** (No change in text.)

**(g) The holder of a shop license who seeks to expand or make physical alterations to the shop, or who seeks to expand or make physical alterations to a shop as part of a transfer of ownership pursuant to *N.J.A.C. 13:28-2.3*, shall make application to the Board for approval of the expansion or physical alterations. The applicant shall submit an application fee as provided in *N.J.A.C. 13:28-5.1*, a detailed statement concerning the proposed changes, the original floor plan for the shop, the new floor plan for the shop and a statement of approval from the planning, zoning or construction official in the municipality where the shop is located. If municipal approval for the expansion or physical alterations is not required, the applicant shall submit a statement from the municipality to that effect.**

13:28-2.2 Removal of a shop

(a) Prior to the removal of a shop to another address, the holder of a shop license shall [notify] **apply to** the Board [of his or her intention and make application] for a new shop license [pursuant to] **and shall comply with the application requirements set forth in *N.J.A.C. 13:28-2.1*.**

1.-2. (No change.)

13:28-2.5 Physical requirements for cosmetology and hairstyling shops applying for initial shop license [on or after December 4, 1985]

(a) All licensed premises shall contain at least 350 square feet of floor space. An additional 50 square feet of floor space shall be provided for every work station in excess of two.

1. (No change.)

2. All shops must contain the following:

i. (No change.)

[ii. A dry sterilizer for each work station;

iii. A wet sterilizer for each work station;]

**ii. A designated area for cleaning and disinfecting implements and tools;**

**iii. One ultrasonic unit for cleaning metal implements and tools;**

**iv. A clean, closed receptacle at each work station that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection;**

**v. A clean, closed receptacle for storage of sanitized implements and tools at each work station;**

Recodify existing iv. and v. as **vi. and vii.** (No change in text.)

**viii. A closed waste container for each work station;**

[vi.] **ix. Hair drying facilities and/or hair drying equipment;**

Recodify existing vii. and viii. as **x. and xi.** (No change in text.)

(b)-(c) (No change.)

13:28-2.6 Physical requirements for manicuring shops applying for initial shop license

(a) In addition to meeting the requirements of [the introductory paragraph in] *N.J.A.C. 13:28-2.5(a)*, **(a)1**, [and of *N.J.A.C. 13:28-2.5(a)1*,] (b) and (c), all manicuring shops shall contain the following:

1. (No change.)

[2. A dry sterilizer for each work station;

3. A wet sterilizer for each work station;]

**2. A designated area for cleaning and disinfecting implements and tools;**

**3. One ultrasonic unit for cleaning metal implements and tools;**

**4. A clean, closed receptacle at each work station that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection;**

**5. A clean, closed receptacle for storage of sanitized implements and tools at each work station;**

Recodify existing 4. and 5. as **6. and 7.** (No change in text.)

**8. A closed waste container for each work station;**

Recodify existing 6. and 7. as **9. and 10.** (No change in text.)

(b) (No change.)

(c) All licensed manicuring shops shall display the following notice in a location clearly visible to all patrons:

**NOTICE**

This shop and the operators herein are licensed to engage in the practice of manicuring **and pedicuring and the temporary removal of hair** by the State Board of Cosmetology and Hairstyling, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted may notify the State Board of Cosmetology and Hairstyling or the New Jersey Division of Consumer Affairs, PO Box 45003, Newark, New Jersey 07101.

13:28-2.6A Physical requirements for skin care specialty shops applying for initial shop license

(a) In addition to meeting the requirements of [the introductory paragraph in] *N.J.A.C. 13:28-2.5(a)*, **(a)1**, [and of *N.J.A.C. 13:28-2.5(a)1*,] (b) and (c), all skin care specialty shops shall contain the following:

1. (No change.)

[2. A dry sterilizer for each work station;

3. A wet sterilizer for each work area;]

**2. A designated area for cleaning and disinfecting implements and tools;**

**3. One ultrasonic unit for cleaning metal implements and tools;**

**4. A clean, closed receptacle at each work station that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection;**

**5. A clean, closed receptacle for storage of sanitized implements and tools at each work station;**

Recodify existing 4. and 5. as **6. and 7.** (No change in text.)

**8. A closed waste container for each work station;**

Recodify existing 6. and 7. as **9. and 10.** (No change in text.)

(b) (No change.)

(c) All licensed skin care specialty shops shall display the following notice in a location clearly visible to all patrons:

**NOTICE**

This shop and the operators herein are licensed to provide skin care specialty services **and the temporary removal of hair** by the State Board of Cosmetology and Hairstyling, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the matter in which this practice is conducted may



notify the State Board of Cosmetology and Hairstyling or the New Jersey Division of Consumer Affairs, PO Box 45003, Newark, New Jersey 07101.

### **13:28-2.7A Limitation of business activities within shops**

(a) **The holder of a cosmetology and hairstyling shop license shall not engage in any business activities within the licensed premises except for the offering of cosmetology and hairstyling services as defined in *N.J.S.A. 45:5B-3(j)*, the sale of merchandise pursuant to *N.J.S.A. 45:5B-37* and *N.J.A.C. 13:28-2.9* and the offering of ancillary beautification services pursuant to *N.J.S.A. 45:5B-37* and *N.J.A.C. 13:28-2.10*.**

(b) **The holder of a skin care specialty shop license shall not engage in any business activities within the licensed premises except for the offering of skin care specialty services as defined in *N.J.S.A. 45:5B-3(y)*, the sale of merchandise pursuant to *N.J.S.A. 45:5B-37* and *N.J.A.C. 13:28-2.9* and the offering of ancillary beautification services pursuant to *N.J.S.A. 45:5B-37* and *N.J.A.C. 13:28-2.10*.**

[page=6751] (c) **The holder of a manicuring shop license shall not engage in any business activities within the licensed premises except for the offering of manicuring services as defined in *N.J.S.A. 45:5B-3(l)* and the sale of merchandise pursuant to *N.J.S.A. 45:5B-37* and *N.J.A.C. 13:28-2.9*.**

### **13:28-2.10 Ancillary services in licensed cosmetology and hairstyling and skin care specialty shops**

(a) The holder of a **cosmetology and hairstyling** shop license[, other than a manicuring shop license or] **and the holder of a skin care specialty shop license**, may offer ancillary services related to the beautification of the body or the enhancement of personal appearance, but not included in the definition of cosmetology and hairstyling, **as set forth at *N.J.S.A. 45:5B-3(j)***, on the licensed premises, **consistent with the provisions of this section**, provided that these services are performed in a safe and sanitary manner by personnel who are adequately trained to render such services, and that the space allocated for such services is in addition to the space required by *N.J.A.C. 13:28-2.5* **and 2.6A**.

(b) If electrolysis for the removal of superfluous hair is offered, it must be performed by an electrologist who has [completed either a course or program of training in electrolysis approved by the New Jersey State Department of Education or another course or program of training in electrolysis substantially equivalent to a course or program approved by the New Jersey Department of Education] **been licensed by the Electrologists Advisory Committee pursuant to *N.J.A.C. 13:35-12***.

(c) If tanning booths or tanning beds are utilized, they must be operated [by an individual who is appropriately trained in the use of the tanning equipment. Manufacturer's instructions concerning the use and limitations on the use of the tanning equipment must be scrupulously followed.] **consistent with Department of Health and Senior Services rules set forth at *N.J.A.C. 8:28***.

[1. Appropriate warnings concerning possible hazards from over-exposure to ultraviolet radiation must be posted in plain sight near the equipment and clients using the equipment must be verbally informed of such possible hazards.

(d) Permanent cosmetic application such as, but not limited to, tattooing and permanent make-up, is prohibited on any licensed premises.

(e) Body piercing shall not be performed in any licensed shop or school of cosmetology and hairstyling. For purposes of this section, "body piercing" means puncturing or penetrating any part of a person's body with a needle or other instrument for the purpose of inserting jewelry or another object into the body except for piercing of the ear lobe only using a pre-sterilized single use stud and clasp ear piercing system following manufacturer's instructions.]

**(d) If massage services, which do not fall within the definition of cosmetology and hairstyling set forth in N.J.S.A. 45:5B-3(j), are offered, such services shall be performed by a massage therapist who has been certified by the Massage, Bodywork and Somatic Therapy Examining Committee pursuant to N.J.A.C. 13:37-16 or has completed a course or program that meets the requirements set forth at N.J.A.C. 13:37-16.4.**

13:28-2.11 No ancillary services at licensed manicuring shops [or licensed skin care specialty shops]

(a) The holder of a manicuring shop license shall not offer on the licensed premises any ancillary services related to the beautification of the body or the enhancement of personal appearance [or any services contained within the definition of cosmetology as set forth in *N.J.S.A. 45:5B-3(j)*] except for the following **practices enumerated in the definition of manicuring, set forth at *N.J.S.A. 45:5B-3(l)***:

1.-4. (No change.)

[(b) The holder of a skin care specialty shop license shall not offer on the licensed premises any ancillary services related to the beautification of the body or the enhancement of personal appearance or any services contained within the definition of cosmetology as set forth in *N.J.S.A. 45:5B-3(j)* except for the following:

1. Applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the scalp, face or neck;
2. Massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or
3. Removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezing, but not by the use of electrolysis.]

13:28-2.12 Posting of licenses and required notices

(a) All shops shall display the following in a location clearly visible to all patrons:

1. (No change.)

2. [Licenses] **Signed licenses** for all practitioners rendering services within the shop. Each license shall contain a current picture of the licensee. A licensee's wallet identification card issued by the Board shall not be used to satisfy the requirements of this section; and

3. (No change.)

(b) (No change.)

13:28-2.13 Supervision of shops and absence of experienced practicing licensee

(a) Each cosmetology and hairstyling shop shall [ensure that there is at least] **designate** one experienced practicing licensee **who shall be** present to generally oversee the management of the shop. The experienced practicing licensee shall hold a beautician, barber or cosmetologist-hairstylist license and have three years of experience as a beautician, barber or cosmetologist. **The name of the designated experienced practicing licensee shall be posted in a location clearly visible to all patrons.**

(b) Each manicuring shop shall [ensure that there is at least] **designate** one experienced practicing licensee **who shall be** present to generally oversee the management of the shop. The experienced practicing licensee shall hold a

beautician, barber, cosmetology-hairstylist or manicuring license and have three years of experience as a beautician, barber, cosmetologist or manicurist. **The name of the designated experienced practicing licensee shall be posted in a location clearly visible to all patrons.**

(c) Each skin care specialty shop shall [ensure that there is at least] **designate** one experienced practicing licensee **who shall be** present to generally oversee the management of the shop. The experienced practicing licensee shall hold a beautician, barber, cosmetology-hairstylist or skin care specialty license and have three years of experience as a beautician, barber, cosmetologist or skin care specialist. **The name of the designated experienced practicing licensee shall be posted in a location clearly visible to all patrons.**

(d) (No change.)

[(e) A letter of permission shall be issued by the Board to allow a shop owner to operate his licensed shop for one day per week without the services of an experienced practicing licensee.

1. The shop owner shall furnish the Board with the name and license number of a New Jersey licensee, who has been licensed in the State for at least one year, who will be in charge of the licensed shop in the absence of the experienced practicing licensee.

2. This subsection is intended specifically to allow continuous operation of the licensed shop on the experienced practicing licensee's regularly scheduled day off. The day of the week must remain consistent. If the licensed shop owner desires to change his licensee-in-charge or experienced practicing licensee's day off, he must request a new letter of permission. The Board requires 30 days notice prior to approving any change.

(f) A letter of permission will be issued by the board to allow a shop owner to operate his licensed shop for a period of two weeks without the services of an experienced practicing licensee.

1. The shop owner shall furnish the Board with the name and license number of a New Jersey licensee, who has been licensed in the State for at least one year who will be in charge of the licensed shop in the absence of the experienced practicing licensee.

2. This subsection is intended specifically to allow continuous operation of the licensed shop during the experienced practicing licensee's vacation period. The Board will require 30 days notice before any vacation period will be approved.

3. No more than two vacation periods per year will be approved for a given shop.]

**(e) A practitioner may be designated as the experienced practicing licensee for one shop only.**

[page=6752] **(f) When the shop's designated experienced practicing licensee is absent from the shop, the shop owner shall ensure that another practitioner who has three years of experience and who satisfies the requirements of this section is physically present to manage the shop. The name of the practitioner who will be managing the shop during the designated experienced practicing licensee's absence, shall be posted in a location clearly visible to all patrons.**

[13:28-2.15 Prohibited practices

(a) The use of a credo blade, skin scraper, lancet, or other comparable instrument by a practitioner shall be prohibited on any licensed premises.

(b) Any practitioner using a credo blade, skin scraper, lancet, or other comparable instrument shall be deemed to be rendering services in an unsafe and unsanitary manner.

(c) A holder of a shop license shall be deemed to have engaged in an unlawful practice pursuant to *N.J.S.A. 45:5B-13(e)* if he or she aids, abets, or permits a practitioner to use a credo blade, skin scraper, lancet, or other comparable instrument.

(d) Massaging, cleansing or stimulating the skin, with or without cosmetic preparations, by hand, mechanical or electrical appliances, below the stratum corneum, affecting the living cells of the epidermis shall be prohibited on any licensed premises.

(e) Any practitioner who massages, cleanses or stimulates the skin, with or without cosmetic preparations, by hand, mechanical or electrical appliances, below the stratum corneum, affecting the living cells of the epidermis shall be deemed to be engaging in unlawful practice by rendering services in an unsafe and unsanitary manner.

(f) A holder of a shop licensed shall be deemed to be engaging in unlawful practice pursuant to *N.J.S.A. 45:5B-13(e)* if he or she aids, abets or permits a practitioner to massage, cleanse or stimulate the skin with or without cosmetic preparations, by hand, mechanical or electrical appliances, below the stratum corneum, affecting the living cells of the epidermis.]

### **13:28-2.15 Prohibited practices**

**(a) A practitioner shall not engage in any conduct set forth in this section. A practitioner who engages in such conduct shall be deemed to be engaged in unlawful practice pursuant to *N.J.S.A. 45:5B-13(e)* and may be subject to penalty. A holder of a shop license at which such unlawful practices occur shall be deemed to have engaged in unlawful practice pursuant to *N.J.S.A. 45:5B-13(e)* and may be subject to penalty if he or she aids, abets, or permits a practitioner to engage in any conduct prohibited by this section.**

**(b) A practitioner shall not:**

**1. Use or offer to use a credo blade, skin scraper, lancet, or other comparable implement;**

**2. Perform or offer to perform massaging, cleansing or stimulating of the skin, with or without cosmetic preparations, by hand, mechanical or electrical appliances, below the stratum corneum, thereby affecting the living cells of the epidermis;**

**3. Perform or offer to perform eyebrow and/or eyelash tinting;**

**4. Perform or offer to perform removal of hair from the genital area;**

**5. Perform or offer to perform ear candle services.**

**i. For the purpose of this paragraph, "ear candle services" means placing a manufactured or homemade funnel type candle or any device in the ear for the purpose of cleansing and/or treatment of the ear or inner ear canal;**

**6. Perform or offer to perform any service that claims to cure or remedy any disease or illness;**

**7. Perform or offer to perform any service that has been determined by the New Jersey State Board of Medical Examiners to be a medical service. Such services shall include laser hair removal and injections of Botox (R), Restylane (R) or other similar medications for purposes of skin enhancement or collagen production;**

**8. Utilize any medical device to perform services within the definition of cosmetology and hairstyling, manicuring or skin care specialty, other than Class I medical devices approved by the Federal Food and Drug Administration. A practitioner shall comply with manufacturers' instructions for use, cleaning and maintenance of Class I medical devices;**

**9. Perform or offer to perform the removal of skin tags;**

**10. Perform or offer to perform teeth whitening or other services related to the beautification of the teeth;**

**11. Perform or offer to perform permanent cosmetic applications, such as tattooing and permanent make-up; or**

**12. Perform or offer to perform body piercing.**

**i. For purposes of this paragraph, "body piercing" means puncturing or penetrating any part of a person's body with a needle or other implement for the purpose of inserting jewelry or another object into the body except for piercing of the ear lobe using only a pre-sterilized single use stud and clasp ear piercing system following manufacturer's instructions.**

### SUBCHAPTER 3. SAFETY AND SANITATION

#### 13:28-3.1 Premises

(a) (No change.)

**(b) All shops licensed after (the effective date of this section), and all shops applying after (the effective date of this section), for remodeling with a new configuration, shall be ventilated consistent with the requirements set forth in *N.J.A.C. 5:23*, the New Jersey Uniform Construction Code, and shall have a minimum of 70 foot candles of artificial light.**

[(b)] (c) All licensed shops shall have [an adequate supply of] **hot and cold** potable water, **consistent with the requirements set forth in *N.J.A.C. 5:23*, the New Jersey Uniform Construction Code.**

[(c)] (d) All licensed shops shall dispose of waste[s] in **clean, covered containers** in a manner, which shall not pose a public health hazard.

**(e) All shops licensed after (the effective date of this section), and all shops applying after (the effective date of this section), for remodeling with a new configuration, that contain laundry facilities shall ensure that the laundry facilities are separate from the shop work area and not in the lavatory. All laundry facilities shall be properly ventilated and lint free.**

[(d)] (f) All licensed shops and the furniture, fixtures, equipment, [and] supply cabinets **and drawers** therein shall be maintained in a sanitary manner and in good repair. [Floors shall be thoroughly cleaned daily.]

**(g) All floors in the licensed shop shall be thoroughly cleaned daily and shall be maintained in good repair.**

[(e)] (h) All linens and toweling used within a licensed shop shall be laundered and sanitized **using agents that reduce the risk of microbial contamination, such as bleach**, before each and every direct contact with a patron. In lieu of laundered and sanitized linens, disposable toweling may be used.

[(f)] (i) (No change in text.)

**(j) Smoking shall be prohibited in all areas of licensed shops pursuant to the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3d-55, and the Smoke Free Air Rules, N.J.A.C. 8:6.**

13:28-3.2 Sanitizing implements and tools

(a) A licensee shall sanitize all implements and tools by:

1. Cleaning all [instruments] **implements and tools** thoroughly with a mild alkaline detergent to remove any soil, blood or any other foreign material;

2. Rinsing all [instruments] **implements and tools** with tap water after cleaning;

3. Processing all [instruments] **implements and tools** with a chemical disinfectant registered by the Environmental Protection Agency and labeled as being tuberculocidal [or effective against the Human Immunodeficiency Virus (HIV) and the Hepatitis B Virus (HBV) when used at a recommended dilution] **for a contact time as specified on the product label;**

4. (No change.)

[5. Storing clean instruments in a dry sanitizer.]

**5. Allowing disinfected implements and tools to be air dried and storing them in a clean drawer.**

**(b) All shops offering manicuring services shall sanitize all reusable implements and tools, consistent with the following:**

**1. An enzyme pre-soak shall be used prior to cleaning;**

**2. The implement shall be placed directly into an ultrasonic unit for a 10-minute cycle, or as recommended by the manufacturer.**

[page=6753] **i. The water and cleaning solution of the ultrasonic unit shall be changed whenever visibly soiled or, at a minimum, daily.**

**ii. The chamber of the ultrasonic unit shall be disinfected at the end of each day with 70 percent isopropyl alcohol.**

**iii. Each time the chamber of the ultrasonic unit is filled with water, it shall be degassed to remove any air bubbles caused by the turbulence of the tank filling. The degassing process shall run a cycle of five to 10 minutes, based upon manufacturers' recommendations;**

**3. The implement shall be inspected for pitting and rust, and damaged implements and tools shall be removed from use;**

**4. The implement shall be rinsed, dried and placed directly into a chemical disinfectant registered by the Environmental Protection Agency and labeled as being tuberculocidal for a contact time as specified on the product label; and**

**5. The implement shall be rinsed, dried and stored in a clean drawer.**

**(c) All shops offering pedicuring services shall ensure that pedicure tubs are cleaned consistent with the following:**

**1. Cleaning procedures between clients shall include:**

**i. Brushing the interior surfaces of the tub with a mild detergent to remove surface debris and residual salts and oils;**

**ii. Draining, rinsing and wiping the tub dry with a disposable paper towel; and**

**iii. Spraying the interior surfaces with a chemical disinfectant registered by the Environmental Protection Agency and labeled as being tuberculocidal for a contact time as specified on the product label, or applying a bleach wipe at a 6% concentration of sodium hypochlorite for a two and half minute contact time;**

**2. Cleaning procedures at the end of the day shall include:**

**i. Removing, cleaning and disinfecting the screen, filter and any removable parts within the basin;**

**ii. Brushing the interior surfaces of the tub with a mild detergent;**

**iii. Preparing a solution of sodium hypochlorite 6% (bleach) and water at a concentration of 100 parts per million (PPM) (1 teaspoon of bleach to one gallon of water) and allowing the machine to operate for a 30-minute contact time; and**

**iv. Disinfecting all brushes at the end of the day by soaking them in a solution of sodium hypochlorite 6% (bleach) and water at a concentration of 2,600 PPM (3/4 cup of bleach to one gallon of water) for a 30-minute contact time; and**

**3. A disinfection log shall be established to record end of the day disinfection of each pedicuring tub. The log shall include, at a minimum, the date, tub number and name of the person disinfecting the equipment. The log shall be posted in a location clearly visible to all patrons.**

**(d) All shops offering pedicuring services shall, by (six months following the effective date of this subsection), ensure that a .2 micron filter is installed on the incoming water line used to fill pedicure tubs. The date of installation shall be marked on the filter and shall be changed according to the manufacturers' recommendations.**

**[(b)] (e) A licensee shall discard after each use all emery boards, orangewood sticks, and all implements and tools that cannot be sanitized.**

13:28-3.3 Personnel

**(a) All practitioners shall wash their hands or use waterless hand washing agents before and after serving each patron, before and after eating, after handling chemicals and after using the bathroom.**

**(b) (No change.)**

**(c) No practitioner shall serve a patron if the practitioner has a communicable, contagious or infectious disease, which**

could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

(d) No practitioner shall serve a patron whom the practitioner knows or has reasonable grounds to believe has a communicable, **contagious or infectious** disease, which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

(e) All practitioners shall utilize safe practice techniques and follow manufacturers' instructions when utilizing any chemical preparations in the rendering of cosmetology and hairstyling services. **The holder of a shop license shall ensure that:**

- 1. Manufacturers written recommendations for use are readily available to all practitioners;**
- 2. A copy of the most current Material Data Safety Sheet (MDSS) for each hazardous chemical is stored in a binder and available to all shop staff and to the Board or its authorized representative;**
- 3. All containers shall be labeled so that shop staff can easily identify the contents; and**
- 4. Disposal of liquid waste is performed in accordance with the instructions on the product label or the MSDS.**

[(f) No practitioner or patron shall smoke while services are being performed.]

#### 13:28-3.4 Prohibited products

(a) (No change.)

**(b) A licensee, licensed premises or school of cosmetology and hairstyling shall utilize cosmetics that comply with the Department of Health and Senior Services requirements set forth at *N.J.S.A. 24:1-1* and *N.J.A.C. 8:21-1.2* and *1.5*.**

[(b)] (c) (No change in text.)

#### 13:28-3.5 Manicure and pedicuring services

**(a) A licensee or a licensed shop offering manicuring and pedicuring services shall comply with the following requirements:**

- 1. A licensee shall not cover a nail with nail polish, base coat, top coat or any nail overlay if the nail shows any sign of infection, physical damage or trauma;**
- 2. A licensee shall remove the entire artificial nail if the nail has become loose;**
- 3. All waste generated from applying acrylic nails shall be deposited directly into a covered waste container at each work station; and**
- 4. Written after care instructions shall be provided to all clients receiving acrylic nails.**

#### 13:28-3.6 Animals and pets prohibited

**The holder of a shop license shall not permit any animals or pets in the licensed premises. This prohibition shall not apply to trained guide dogs (or dogs in training) for the disabled, sightless or hearing impaired, consistent**



**with the requirements of the Law Against Discrimination, N.J.S.A. 10:5-29.**

#### SUBCHAPTER 4. ENFORCEMENT

##### 13:28-4.1 Inspection of premises

(a) Any premises where it appears that cosmetology and hairstyling services, **including manicuring and skin care specialty services**, have been or are being rendered shall be subject to inspection by the Board or its representative.

(b)-(d) (No change.)

##### 13:28-4.2 Compliance with laws and rules

Any individual rendering cosmetology and hairstyling services, **including manicuring and skin care specialty services**, shall comply with all laws and rules relating to the provision of [cosmetology and hairstyling] **such** services including[,] the Cosmetology and Hairstyling Act of 1984, *N.J.S.A. 45:5B-1* et seq.[,]; the rules of the New Jersey State Board of Cosmetology and Hairstyling, *N.J.A.C. 13:28*[,]; the Uniform Enforcement Act, *N.J.S.A. 45:1-7.1, 7.2, 7.3, and 14* et seq.; and the uniform [regulations] **rules** of the Division of Consumer Affairs, *N.J.A.C. 13:45C*.

##### 13:28-4.3 Responsibility for compliance with laws and rules

The holder of a shop license, as well as the shop's [supervisor] **designated experienced practicing licensee**, shall be responsible for compliance with all laws and rules relating to the operation of the premises at which cosmetology and hairstyling, **manicuring or skin care specialty** services are rendered and all laws and rules relating to the [practice of cosmetology and hairstyling] **practice of such services** including[,] the Cosmetology and Hairstyling Act of 1984, *N.J.S.A. 45:5B-1* et seq.[,]; the rules of the New Jersey State Board of [page=6754] Cosmetology and Hairstyling, *N.J.A.C. 13:28*; the Uniform Enforcement Act, *N.J.S.A. 45:1-7.1, 7.2, 7.3, and 14* et seq.[,]; and the uniform [regulations] **rules** of the Division of Consumer Affairs, *N.J.A.C. 13:45C*.

##### 13:28-4.4 Verification of licensure

(a) The holder of a shop license **and the designated experienced practicing licensee** shall verify that each practitioner rendering cosmetology and hairstyling, **manicuring or skin care specialty** services in the shop holds a valid license or permit issued pursuant to this subchapter at all times. The holder of a shop license **and the designated experienced practicing licensee** shall review each practitioner's license or permit, as well as two additional forms of identification, at least one of which must bear a photograph of the practitioner.

(b) The holder of a shop license **and the designated experienced practicing licensee** shall record each occasion upon which he or she verifies licensure or permit status pursuant to (a) above. The record shall include the following information:

1.-4. (No change.)

(c) The holder of a shop license **and the designated experienced practicing licensee** shall have the documentation maintained pursuant to (b) above immediately available for inspection on the licensed premises upon request of the Board or its authorized representative.

(d) The holder of a shop license shall maintain the documentation pursuant to (b) above for at least two years from the date of each record. **Such documentation shall be maintained in a safe and secure location on the premises, in a manner that ensures the confidentiality of a practitioner's personal information.**

(e) (No change.)

#### 13:28-4.5 Record of practitioners

(a) The holder of a shop license shall at all times maintain a record of all practitioners rendering services within the shop [which] **that** contains the following information for each practitioner:

1. (No change.)

2. [Street] **Current street address, including apartment number, if applicable;**

3.-5. (No change.)

(b) The holder of a shop license **and the designated experienced practicing licensee** shall have the documentation maintained pursuant to (a) above immediately available for inspection on the licensed premises upon request of the Board or its authorized representative.

(c) The holder of a shop license shall maintain the documentation pursuant to (a) above for at least two years from the date upon which each practitioner terminated services. **Such documentation shall be maintained in a safe and secure location on the premises, in a manner that ensures the confidentiality of a practitioner's personal information.**

#### 13:28-4.6 Grounds for suspension or revocation of license

**The Board may suspend and/or revoke the license of any practitioner or shop for engaging in any of the conduct set forth in *N.J.S.A. 45:1-21*.**

### SUBCHAPTER 5. FEES

#### 13:28-5.1 Fee schedule

(a) The following fees will be charged by the Board:

1.-18. (No change.)

19. Duplicate license [30.00] **50.00**

**20. Change of name or corporate status 50.00**

**21. Verification of license 25.00**

### SUBCHAPTER 6. SCHOOLS OF COSMETOLOGY AND HAIRSTYLING

#### 13:28-6.9 Non-English speaking student enrollment

(a) A licensed school shall evaluate each non-English speaking student to determine whether such student is likely to succeed in the intended course of study. Upon such determination being made, the school may enroll the non-English speaking student. **The school shall submit documentation to the Board certifying that the school has evaluated a prospective non-English speaking student and has determined that the student is proficient in reading and writing the language in which the examination will be administered to that student.**

(b)-(c) (No change.)

(d) Instruction materials, for example, textbooks, and demonstration materials, shall be printed in the language in which the [course will be offered] **examination will be administered to the student.**

(e) Final testing and periodic examinations required to be taken by the non-English speaking student shall be given in [that particular student's] **the language the examination will be administered to the student.**

(f) (No change.)

#### 13:28-6.10 Commencement of classes

School classes shall commence on the first Monday of each month, provided, however, that if a holiday falls on the first Monday, school classes shall commence on the first working day following the holiday. The Board may, at its discretion, approve a date for the commencement of school classes other than the first Monday of each month provided the licensed school obtains Board approval at least [30] **60** days prior to the commencement of classes.

#### 13:28-6.11 School credits by hour

(a) (No change.)

(b) A student may be given credit for up to eight hours of make-up classes **per calendar week** in excess of his or her regularly scheduled classes where such make-up time is necessary because of absence of the student from his or her regularly scheduled classes.

1. (No change.)

#### [13:28-6.14 Smoking in schools

Schools shall not permit smoking by students or teachers in classrooms or clinics.]

#### **13:28-6.14 Smoking in schools**

**Smoking shall be prohibited in all areas of licensed schools, including clinics, pursuant to the New Jersey Smoke-Free Air Act, *N.J.S.A. 26:3d-55*, and the Smoke Free Air Rules, *N.J.A.C. 8:6*.**

#### 13:28-6.15 School records

(a)-(c) (No change.)

(d) Uniform student sign-in sheets shall be kept on a daily basis and shall be retained on the school premises at all times.

1. Uniform time sheets of daily attendance records for each student **for each course of instruction** shall be forwarded to the office of the Board at the end of each month. **The time sheets shall contain the name and license number of the teacher conducting the course.**

(e) (No change.)

13:28-6.18 Supervising teacher

A proposed new school shall supply the Board with satisfactory evidence, in the form of a one-year employment contract, of employment of a supervising teacher, **consistent with the requirements of *N.J.A.C. 13:28-6.24(b)***, prior to final approval of its application by the Board.

13:28-6.20 Minimum equipment

(a) (No change.)

(b) The minimum equipment required for schools shall be as follows:

1. Six shampoo bowls in good running condition, **with a minimum of one shampoo bowl per classroom;**

[2. One straightening apparatus;]

**2. Three metal pressing combs and three flat irons;**

3. (No change.)

**4. Foot soaking equipment;**

Recodify existing 4. and 5. as **5. and 6.** (No change in text.)

[6.] **7. One container for [liquid sterile] enzymatic cleaning solution for each manicure table that allows implements and tools to be totally immersed;**

[7. One ultraviolet sterilizer and three dry sterilizers;

8. Four wet sterilizers;]

**8. A designated location for cleaning and disinfecting implements and tools;**

[page=6755] **9. An ultrasonic unit for cleaning metal implements and tools;**

**10. A clean, closed receptacle at each work station that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection;**

**11. A clean, closed receptacle for storage of sanitized implements and tools at each work station;**

[9.] **12.** (No change in text.)

[10.] **13.** One practice [manikin] **mannequin with stand and/or table clamp** per student;

Recodify existing 11.-14. as **14.-17.** (No change in text.)

[15.] **18.** A suction machine **and attachments**;

[16.] **19.** A galvanic machine **and attachments**;

[17.] **20.** (No change in text.)

[18.] **21.** An electric brushing machine **and attachments**;

[19.] **22.** (No change in text.)

[20.] **23.** A waxing [machine] **unit**;

[21.] **24.** A spray machine **and attachments**;

[22.] **25.** (No change in text.)

[23.] **26.** A high frequency instrument **and attachments**;

[24.] **27.** Robes for [clinic] **clinical service** patrons, **when desired or required**;

Recodify existing 25. and 26. as **28. and 29.** (No change in text.)

**30. One professional clinical uniform or lab-type jacket per student. Tee shirts and aprons shall not be acceptable as a clinical uniform;**

Recodify existing 27.-29. as **31.-33.** (No change in text.)

(c) Each school shall supply each cosmetology and hairstyling student with the following tools: two hair brushes, **one thermal brush**, combs, 100 clips, cape, **haircutting** razor, shears, thinning shears, cold wave rods, end papers, rollers, tint brush [or], **bowl and applicator bottle, duck clips, spray bottle, styptic powder or liquid, mannequin with stand and/or table clamp**, hard rubber comb, marcel iron, blow dryer, protective eyewear, protective gloves, a manicuring kit with tips and wraps, a make-up kit, a tweezer, a cold wax kit, **metal pressing comb, shaving razor with disposable blades**, workbook and textbook.

(d) Each school shall supply each manicuring student with a kit having a pusher, files, emery boards, nipper, nail brush, orange wood stick, spatula, tips, wraps (non-adhesive), adhesive, [sterilizer,] **a clean, closed receptacle that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection**, finger bowl, appropriate creams, nail polish remover, styptic powder or liquid, protective eyewear, pedicure slippers, workbook, textbook, a tweezer, a cold wax kit[,] and a practice hand.

(e) Each school shall supply each skin care specialty student with a kit having one textbook, one workbook, one protective cloth drape, one pair of protective gloves, protective eyewear, two headbands, one shoulder cape, one package of cotton swabs, one roll of cotton, one box of tissues, six cleansing sponges, one package facial cotton pads, three spatulas, [one sterilizer container with lid,] **a clean, closed receptacle that allows soiled implements and tools to be completely immersed in an enzyme solution prior to cleaning and disinfection**, a tweezer, a cold wax kit, one make-up kit, one set of makeup brushes, three terry cloth towels, one bottle of alcohol, one bottle of antiseptic, two 20-ounce bowls and one container of each of the following: cleansing cream, astringent, massage cream, moisturizer and all purpose masque.

(f)-(g) (No change.)

(h) Each school shall have separate, closed cabinets for supplies as follows:

1. At least [two] **one** closed container[s] for soiled linens **in each classroom**;
2. At least [three] **one** closed container[s] for all waste materials **in each classroom**;
3. (No change.)

(i)-(l) (No change.)

13:28-6.21 Student standards and requirements

(a) (No change.)

(b) Students and teachers shall be attired in washable, clean [coverall outer garments] **clinical uniforms or lab-type jackets** during attendance at school. **Tee shirts and aprons shall not be permitted. Students and teachers shall wear socks or stockings and shall wear clean, flat, rubber-soled shoes with closed toe and heel.**

(c) Junior and senior students, and those enrolled in a teacher training course, shall be designated by the following forms of identification:

1. Junior students: white **clinical uniform or lab-type jacket** and a badge designating course of study;
2. Senior students: a **clinical uniform or lab-type jacket** of one color other than white to be designated by the school and a badge designating course of study;
3. Teachers [training and all others]: **clinical uniform or lab-type jacket, in a color other than those used for junior and senior students and teachers-in-training, and an identification badge[.]; and**
4. **Teachers-in-training: clinical uniform or lab-type jacket, in a color other than those used for junior and senior students and teachers, and an identification badge.**

(d)-(h) (No change.)

(i) A school shall notify the Board **in writing** of all students whose training may be interrupted or terminated prior to graduation.

(j)-(m) (No change.)

(n) Any student who is absent from school over a period of three months shall automatically be dropped from the monthly time sheets. [1.] A student requesting reinstatement shall be re-registered in accordance with *N.J.A.C. 13:28-6.8[.]* **and shall comply with the following requirements:**

**1. A student who has ceased attending school for a period of three months up to five years may return to school following an evaluation conducted by the school to determine the number of hours for which the student may be credited. The results of such evaluation shall be reported to the Board;**

**2. A student who has ceased attending school for a period of more than five years shall not receive credit for any hours of training previously completed and shall be required to retake and complete the course in full; and**

[2.] **3.** (No change in text.)

[3. No credit of hours will be given to any student who is absent from school for a period of five years or more.]

(o)-(q) (No change.)

13:28-6.24 Employment of licensed teachers

(a) (No change.)

(b) Each school shall employ a teacher supervisor who has been a licensed teacher actively teaching for a period of two years who will be responsible for the conduct of the teaching staff and students. **A teacher may be designated as the teacher supervisor for one school only. The name of the teacher supervisor shall be posted in a location clearly visible to all students and school staff members.**

(c) **The teacher supervisor shall be on-site at all times while school is in session and shall be responsible for conducting frequent observations of the teaching staff and the students throughout the school day.**

(d) **When the teacher supervisor is absent from the school, the school shall ensure that another licensed teacher who has been actively teaching for a period of two years is physically present to oversee the teaching staff and the students. The name of the teacher who will be supervising the school during the teacher supervisor's absence shall be posted in a location clearly visible to all students and school staff members.**

(e) **The teacher supervisor shall be responsible for conducting competency evaluations of all members of the teaching staff at least once per school year.**

[(c)] (f) (No change in text.)

13:28-6.25 Refresher courses

(a) Refresher courses [shall] **may** be administered [only to a person who holds or once held a practitioner's license which he or she has allowed to lapse and who desires to prepare for an examination.] **to the following:**

**1. Any person who holds a practitioner's license;**

**2. Any person who held a practitioner's license that has been suspended for failure to renew who desires to prepare for an examination;**

[page=6756] **3. An applicant for licensure who applies for examination more than three years, but less than five years, from the date he or she completed training; and**

**4. An applicant for licensure who has not passed both the theory and practical portions of the examination within three years from the date the applicant first took the examination.**

(b)-(d) (No change.)

13:28-6.29 Curriculum for 1200-hour cosmetology and hairstyling course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND  
CLINICAL PRACTICE:

	<b>Hours of Class and Subject Related Instruction</b>	<b>Hours of Practical Instruction</b>	<b>Total</b>
...			
[Sanitation & Sterilization] <b>Decontamination &amp; Infection Control</b>	3	7	10

...

13:28-6.31 Curriculum for 500-hour teacher training course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND  
CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction -----	Hours of Practical Instruction -----	Total -----
...			
[Sanitation & Sterilization] <b>Decontamination &amp; Infection Control</b>	5	0	5

...

13:28-6.33 Curriculum for 300-hour manicuring course



TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND  
CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction -----	Hours of Practical Instruction -----	Total -----
...			
[Sanitation, Sterilization and Bacteriology] <b>Decontamination &amp; Infection Control</b>	10	5	15

...

13:28-6.34 Curriculum for 600-hour skin care specialty course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND  
CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction -----	Hours of Practical Instruction -----	Total -----
...			
[Bacteriology, Sanitation and Sterilization] <b>Decontamination &amp; Infection Control</b>	20	5	25

...

13:28-6.35 Bond for schools of cosmetology and hairstyling

(a) Each school of cosmetology and hairstyling licensed by the Board shall post a bond in favor of the State in an amount to be determined as follows:

- 1. Schools with an average weekly enrollment of 1 to 20 students . . . . . [\$ 10,000] **\$ 20,000**
- 2. Schools with an average weekly enrollment of 21 to 75 students . . . . . [\$ 15,000] **\$ 30,000**
- 3. Schools with an average weekly enrollment of over 75 students . . . . . [\$ 20,000] **\$ 40,000**

13:28-6.36 Annex classrooms

(a) (No change.)

(b) The minimum requirements for an annex classroom are as follows:

1. The minimum floor space in any annex classroom shall be at least 500 square feet, excluding offices, reception, locker and lavatory space, for the first 25 students.

i. (No change.)

ii. The space provided for any annex classroom shall not be considered part of the minimum space required for a school license and shall not exceed [30 percent of] the **2,250** square footage **work space requirement** of [its main school.] **the primary school location. The annex classroom shall comply with all applicable requirements in this subchapter.**

2. Each annex classroom shall possess and operate equipment adequate and sufficient for the courses of instruction administered. This equipment shall be modern, installed in accordance with standard building codes or safety regulations and operated in conformity with standard safety regulations. The minimum equipment required for all annex classrooms shall include: an [ultraviolet sterilizer] **ultrasonic unit**, a chalk board, one locker per student, separate lavatory facilities for men and women with toilets and sinks having hot and cold running water, a library of texts and reference books and such other necessary equipment in accordance with the approved curriculum. In addition, annex classrooms shall conform to the following equipment standards:

i. An annex classroom approved for instruction in cosmetology and hairstyling shall include: work stations for at least 25 students or for the actual number of students in attendance, whichever is greater, two shampoo bowls and chairs, two dryers, two styling chairs, a manicure station, a utility table with disposable sanitary covering, a make-up stool, a facial steamer, a suction machine, a magnifying lamp, an electric brushing machine, an electric heating mask, a waxing [machine] **unit**, a spray machine, a Wood's lamp[,] and a high frequency instrument.

ii. An annex classroom approved for instruction in manicuring shall include: a manicuring table for every two students,

two basins, a foot bath, a utility table with disposable sanitary covering[,] and a waxing [machine] **unit**.

iii. An annex classroom approved for instruction in skin care specialty shall include: a facial table for every two students, two basins, one utility table with disposable sanitary covering for every two students, a make-up stool, a facial steamer, a suction machine, a galvanic machine, a magnifying lamp, an electric brushing machine, an electric heating mask, a waxing [machine] **unit**, a spray machine, a Wood's lamp[,] and a high frequency instrument.

3.-7. (No change.)

(c)-(d) (No change.)