

CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY



JANUARY 11, 2013
Enforcement Committee Meeting
Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102
Sacramento, CA 95834



Christie Truc Tran, Industry
Member, President

Joseph Federico, Industry Member,
Vice President

Wen Ling Cheng, Public
Member

Deedee Crossett, Industry Member

Katie Dawson, Public Member

Richard Hedges, Public
Member

Frank Lloyd, Public
Member

Kristy Underwood
Executive Officer

Edmund G. Brown Jr., Governor
State of California

Department of Consumer Affairs
Board of Barbering and Cosmetology

Telephone: (916) 575-7100

Website: www.barbercosmo.ca.gov

2420 Del Paso Road, Suite 100
Sacramento, CA 95834

California State Board of Barbering and Cosmetology

Enforcement Committee Meeting Agenda

Friday, January 11, 2013

9:00 A.M. – 11:00 A.M.

Or until completion of business

Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102, 1st Floor
Sacramento, CA 95834

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

1. Welcome and Introductions
2. Approval of Enforcement Committee Meeting Minutes
 - July 16, 2012
3. Discussion and Recommendation on Revisions for Title 16, Division 9, Article 12 of the California Code of Regulations that relates to Health and Safety Requirements.
4. Public Comment

Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

A quorum of the Board will be present. Meetings of the Board of Barbering and Cosmetology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting shall make a request no later than five (5) working days before the meeting to the Board by contacting Tami Guess at (916) 575-7144 or sending a written request to that person at the address noted above.

No Attachment



State and Consumer Services Agency – Edmund G. Brown Jr., Governor
BOARD OF BARBERING AND COSMETOLOGY
P.O. Box 944226, Sacramento, CA 94244-2260
P (800) 952-5210 F (916) 575-7281 www.barbercosmo.ca.gov



**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY
ENFORCEMENT COMMITTEE MEETING
MINUTES OF JULY 16, 2012**

**2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834**

COMMITTEE MEMBERS PRESENT

Richard Hedges
Katie Dawson
Deedee Crossett (via phone)
Frank Lloyd

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Director
Joseph Brown, Inspector Supervisor
James Jacobs, Inspector Supervisor
Xochitl Camargo, Inspector Supervisor (via phone)
Tami Guess, Board Analyst
Sandra Torres, Enforcement Analyst

1. Agenda Item #1, WELCOME AND INTRODUCTIONS

Mr. Hedges called the meeting to order at 9:00 a.m.

2. Agenda Item #2, APPROVAL OF ENFORCEMENT COMMITTEE MEETING MINUTES

Mr. Hedges clarified his statements noted on page 3 of the minutes. He clarified he was frustrated with the bureaucracy they had to go through to help the apprentices between DAS and the Board's authority due to the vague level of responsibility. Upon a motion by Ms. Dawson, seconded by Mr. Lloyd, the minutes were approved by a 4-0 vote.

3. Agenda Item, #3, APPRENTICE PROGRAM REVIEW UPDATE

Sandra Torres provided a brief overview of staff's efforts and future plans. She noted in the past there were inspections but no one person to follow up on the issues to their resolution with other agencies. This is now her job and she feels it will be very beneficial. Ms. Torres stated she has learned many agencies are involved in the apprenticeship process including the Local Education Agency (LEA), the Board and the Division of Apprenticeship Standards (DAS). She noted initially the communication was minimal and she has tried to keep every agency apprised. She believed everyone is now on the same page and working together better. She provided a diagram of the layout of the apprenticeship program. The agencies all work with the program sponsor but the communication between the agencies was limited.

Staff has prepared folders and files of program sponsors to centralize their information. She is keeping abreast of issues, complaints and correspondence, and keeping the files updated. Once the files are complete, the pass-fail rates can be determined. Inspectors have continued to visit establishments with apprentices. Ms. Torres is ensuring all the apprentice information is correct. Cases are being opened on violations such as unlicensed activity, expired licenses and extreme discrepancies of On the Job Training (OJT) hours. Most program sponsors have been responsive. DAS and LEA have also been included.

Two program sponsors were approved -- City Barbering Cosmetology Apprenticeship Committee (Northern California) and Nor Cal Cosmetology Barbering Apprenticeship Program (Alameda and Contra Costa Counties). Ms. Torres stated it was DAS' responsibility to authorize the counties a sponsor can work in. Ms. Underwood was unsure if DAS could look at pass-fail rates. Two more sponsors (Sacramento and La Mesa) were awaiting approval but this will not occur until 2013.

Mr. Lloyd asked if the owner could be cited if they are not on the premises. Typically, they have to be onsite to be cited. The trainer is typically cited for incomplete recordkeeping but the owner is ultimately responsible. Inspector Supervisor, Mr. Jacobs expressed concern that if the trainer is employing the apprentice the trainer should also be cited, even if they are not present. It appears they are finding booth renters (independent contractors) who employ apprentices. This could be a problem as the booth renter probably does not carry workers compensation, which is required. It is a common occurrence, if a trainer changes establishments and takes the apprentice with them. This Board does not recognize independent contractors or booth renters and the owner would be ultimately responsible. In essence, the apprentice belongs to the salon and not the trainer. Ms. Underwood recommended staff follow-up with DAS about apprentice employee status. Mr. Jacobs stated the inspectors did not look at employee status.

Ms. Crossett asked how an apprentice can know their rights. Ms. Torres stated this would be through the program sponsor, who will provide them with a list of responsibilities for each party. The owner and trainer will also sign this. The weekly training the apprentice receives will also emphasize this.

Mr. Hedges asked who is responsible for maintaining the trainer/apprentice ratio. Ms. Torres noted the program sponsor will complete their paperwork for approval through DAS. This did not always include a required ratio. Ms. Torres has recommended adding to Section 918b, allowing two apprentices per trainer at any time.

Ms. Torres has also found apprentices who enroll multiple times. She has recommended adding Section 914.1, "an apprentice may not re-enter the program after two times of being an apprentice without good cause." The hours are good for three years. A person should be able to complete the program within two years. The section would require a person to take the exam within two years but a two year extension may be granted due to "a good cause." She acknowledged some apprentices have taken on second jobs and are not able to work the required weekly hours.

Ms. Torres noted staff receives applications for apprenticeships after completing school but failing the test. This should not be allowed.

Ms. Underwood noted the regulations would take at least one year to take effect. This will give the program sponsors time to change.

Public Comment

Fred Jones of Professional Beauty Federation of California (PBFC) stated he agreed with all the recommendations in principle. He clarified Section 914.1 should include the ability to change categories.

Mr. Jones noted some concerns have arose about an apprentice's ability to work at multiple locations of one employer. This has been approved by DAS. He recommended the proposed regulation to limit the ratio be further clarified to "at any given moment a trainer should only be supervising two apprentices." Ms. Underwood agreed the proposed section should be reworded. Mr. Jacobs noted every trainer has to be listed on an apprentice's form. Ms. Crossett wondered how accurate records could be kept if an apprentice goes to multiple salons. Ms. Underwood stated the trainer is responsible for keeping the records but it may be partial. The trainer will be cited for lack of records. Ms. Torres stated the apprentices do take their own records in a binder but this is not in regulation.

Mr. Jones believed it was important the Board not try to duplicate regulations with other agencies. This could lead to conflict. Regarding employment status, he believed it is important the Board ensures DAS is doing their job regarding apprentices, rather than the Board trying to do the job of DAS. He agreed having one person in charge of this communication is a good solution.

Ms. Crossett expressed her concerns about the Board having a good understanding of the process. Mr. Hedges believed progress has been made. Mr. Jones noted ultimately the establishment owner will be held liable for all violations in the salon. Mr. Jacobs disagreed and stated the owner does not get certain violations (i.e., 7400).

The Committee commended Ms. Torres for her thorough research and work.

4. Agenda Item #4, DISCUSSION AND RECOMMENDATIONS TO UPDATE THE HEALTH AND SAFETY REGULATIONS (ARTICLE 12 OF TITLE 16, DIVISION 9 OF THE CALIFORNIA CODE OF REGULATIONS) RELATED TO ALL LICENSES

Ms. Underwood presented recommended preliminary regulation changes.

979(a): "Before use upon a patron, all non electrical instruments that can be disinfected shall be disinfected." Ms. Dawson believed this is vague. It is noted elsewhere that non electrical instruments that cannot be disinfected are to be thrown away. The change was agreed upon by the committee.

979(b)(2): "...change the disinfectant in accordance with manufacturer's instructions or whenever visibly dirty." Ms. Dawson believed "dirty" should be defined more clearly and preferred the word contaminated. Mr. Jacobs also preferred contaminated. Ms. Crossett believed contaminated was more accurate but dirty may be more understandable. The Committee agreed to use contaminated. Mr. Jacobs disagreed with the use of "manufacturer's instructions" as they may be inefficient. Mr. Hedges recommended adding disinfecting for "10 minutes or more," but the Committee believed the manufacturer's instructions should be followed as better products may evolve and the regulation would need to be changed.

Public Comment

Carrie Harris, Enforcement Analyst of the Board of Barbering and Cosmetology, noted the footspa regulations stated that a registered EPA disinfectant must be used due to the manufacturer's instructions, and cleaned for at least 10 minutes. However, Ms. Crossett noted things can change and it would be difficult to include a time constraint for future regulations.

979(c): Currently states "...in a properly labeled receptacle." Recommended: "...placed in a container labeled soiled or dirty." Mr. Jacobs recommended using contaminated instead of dirty.

Ms. Crossett noted contaminated may not be as understandable and an average hairdresser uses clean and dirty.

The Committee agreed "dirty" could also be used by licensees and they would not be cited. Mr. Lloyd recommended "...container labeled dirty, soiled or contaminated."

979(d): It was proposed to use "cleaned and disinfected." Mr. Jacobs disagreed and it was agreed to use only disinfected.

979(d)(1): "Disinfected shears may not be stored for use in any non disinfectable pouch." Mr. Jacobs inquired what is considered a non disinfectable pouch? How are these pouches to be disinfected? Ms. Dawson preferred "non disinfectable location." Mr. Hedges noted licensees are using pouches that cannot be disinfected and are being fined. Ms. Crossett recommended using "container" other than "pouch." Containers such as drawers can be sprayed, wiped down and disinfected. Ms. Dawson noted plastic trays can be used and disinfected. Mr. Hedges recommended specifically stating leather or fabric pouch. Ms. Crossett disagreed with being too specific and recommended using "clean, closed container" other than "pouch." However, staff noted the Department has lost decisions due to regulations not being specific enough. Mr. Hedges noted this is a common citation in the Disciplinary Review Committee (DRC). Ms. Crossett recommended providing examples of a non disinfectable container on the website. Ms. Underwood read a recent decision found against the Department. In essence, it was found the pouch was "visibly clean on the day of inspection and there was no regulation which would notify licensees that the use of a visibly clean leather is prohibited." Mr. Hedges took a consensus of the Committee's views on this proposed change. Mr. Hedges and Mr. Lloyd agreed, Ms. Dawson and Ms. Crossett disagreed. It was agreed to take the matter to the full Board. Mr. Jacobs recommended using "non disinfectable container."

980(b): It is recommended to add flat irons to this section, and that they be "stored in a covered place that is labeled disinfected." It was agreed to remove the word 'clean'. Ms. Crossett recommended using "hot styling tools."

980(c): This is an addition, "all soiled electrical instruments that have been used on a patron, or soiled in any manner, shall be placed in a receptacle labeled soiled or dirty, excluding hot styling tools." It does not require a lid and can be placed in a drawer.

Mr. Jacobs recommended clarifying where a dirty instrument can be stored after spraying and air drying or waiting to be cleaned. He noted citations are not given when air drying clippers as it is part of the disinfection. As long as they are clean before using on the next patron (979a). However, citations will be issued if a cleaned clipper is not placed in a closed container.

980.1: "Footspas that are out of order be noted as out of order." The cleaning log must reflect when the footspa become unoperable. This was agreed to by the Committee.

980.1 (e)(1 & 2); 980.2 (d)(1 & 2): Change to "at least" 6 hours. This was agreed to by the Committee.

981(a): Propose to add "buffers, pumice stones and wax sticks" as examples and to say, this includes but is not limited to:.

983(b): Currently states "...equally effective cleansing agent." Proposed change: "...equally effective alcohol-based cleansing agent." This information was received from the CDC and the FDA. Ms. Dawson stated the CDC states soap and water is preferred but alcohol cleansing agents may also be used. New proposed change: "...shall thoroughly wash his or her hands with soap and water or an effective alcohol-based cleansing agent." It was noted the regulations require soap and

water be available. Ms. Crossett did not agree washing with a cleansing agent should be an option, however the Board agreed on this at the previous meeting when staff presented research that the alcohol-based cleansing agents were effective. Ms. Dawson noted people may want alternatives to the preferred method and there is no need to be restrictive to soap and water.

Carrie Harris recommended adding “before and after each patron.” Mr. Hedges believed this is a personal decision and the Committee agreed the changes were adequate.

The Committee agreed to the final proposal.

(At this time the Committee took a short break.)

987(b): Regarding laundering towels, proposed change from “at least 140 degrees” to “hot water.” Mr. Jacobs noted some detergents are designed to work in cold water. The textbook notes to “launder according to directions on the item’s label.” It was unsure if the temperature of the water would matter. The item will go to the Department of Health Services for review if approved by the full board. Staff agreed to contact Health Services prior to bringing the issue to the full Board.

987(c): “All clean towels shall be stored in a clean closed cabinet or closed container.” The Committee agreed to this change. Ms. Crossett asked about towels sitting out for patrons. Mr. Jacobs stated this would be a violation. Once folded, laundry needs to be in a closed container/cabinet.

988(a): Proposal to add “waxes” and “cosmetic preparations” to be more specific. Mr. Jacobs and Mr. Brown agreed. Ms. Crossett believed the term “cosmetic preparations” was limiting and should not be used. She noted preparations was not a word commonly used in the industry. Ms. Dawson recommended it to say “...liquids, creams, waxes, cosmetics and other preparations shall be kept in clean and closed containers.” Mr. Lloyd and Mr. Hedges agreed with Ms. Dawson. Mr. Hedges questioned using the term powders but staff noted it should not be specific and includes all powders and can be kept in clean shakers (assumed to be covered).

989: Proposal to remove the word “banned” “No establishment or schools shall have on the premises cosmetic products containing hazardous substances which have been restricted by the U.S. Food and Drug Administration...” The Committee agreed to this change.

Public Comment:

Fred Jones asked if certain restricted products can be used. Staff noted MMA should not be used but currently it is not cited because it is listed as restricted by the FDA and not banned. Mr. Jones noted a product may be restricted but appropriate under certain uses. A chemical may be restricted but allowable when diluted. Ms. Guess disagreed and stated that any chemicals restricted by the FDA should not be used in salons. Studies have shown that MMA is very hazardous but is being used in salons. Mr. Jones discussed the difference between a product being restricted or banned. Restricted items need to be used per instructions. Mr. Hedges stated problems may develop if a restricted product is not used correctly. Ms. Dawson did not believe the Board was set up to determine efficacy.

Staff agreed this section needs to be reviewed further.

990(c): Current wording: “Treatment tables must be covered with a clean towel or a clean sheet of examination paper after each patron.” Inspectors have found the tables were sometimes used for resting and the sheets weren’t changed prior to the next patron. Mr. Hedges recommended “...after each use.” The Committee agreed to this change. Staff also initially recommended adding “After a

towel and/or sheet has once been used, it shall immediately be removed from the treatment table and be deposited in a closed container and not used until properly laundered or sanitized.” However, with the change to “after each use,” this addition will not be needed. Mr. Jacobs requested the definition of a treatment table and wondered if it includes a manicurist’s table. The Committee agrees this would include a manicurist table and should be defined.

990(d): Ms. Underwood noted this should be merged into Section 990(c) and the wording changed to “treatment areas” and defined as any area that the customers’ skin comes into contact with and provide examples. The Committee agreed to the proposed change.

991(a)(1): Currently reads: “No licensee may perform any act which affects the structure or function of living tissue of the face or body.” Proposed addition: “No licensee may perform a medical treatment as defined; the care and management of a patient to combat, ameliorate, or prevent a disease, disorder or injury.” Mr. Hedges questioned the use of the word treatment as it gives the impression of a medical procedure. The Committee agreed this addition clarifies the scope of practice.

Public Comment:

Fred Jones was aware some cosmetologists will work with doctors in managing some issues including hair loss. He recommended making the addition specific to healthcare. He recommended “...as defined as the health care of a patient to combat...” He believed it was appropriate for a cosmetologist to work with a doctor to manage care, but the Committee and staff disagreed. Staff agreed to discuss this proposed change with the Medical Board.

991(b)(4): Agreed to proposal to add “abrasion and/or exfoliation of the skin.”

992(c): Currently reads: “Only commercially available products for the removal of facial skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as required by manufacturer’s instructions.” The Committee agreed with the staff’s changes, as proposed by the skin care advisory expert group. These changes include:

992(c) Only commercially-available products that are not considered medical grade or sold for physician’s use only, which are not over 30% acid content or with a start up pH of 3.0 or higher may be used for the purpose of skin exfoliation.

992(d) Use of creams, lotions, serums or tonics over a 30% acid content or a pH under 3.0 shall be considered the practice of medicine.

992(e) Mixing or combining skin exfoliation products is prohibited except as required by manufacturers instructions.

992(f) All skin peeling agents must be applied using manufacturer’s guidelines for health and safety.

992(g) Application protocols shall be made available upon request by a board representative.

992(h) Client Health/History Cards shall be completed by every patron receiving a skin exfoliating service. Client cards shall be made available upon request by a board representative.

Public Comment:

Fred Jones asked about 992(h), client health history cards. These were recommended by the skin care advisory group and is taught in school. It would protect the licensee and the consumer if everything is in writing. Professional liability insurance typically requires the card.

5. Agenda Item #5, DISCUSSION OF NATURAL HAIR BRAIDING AND HOW TO ENFORCE SECTION 7316(d)(2)

Ms. Underwood provided additional background on this issue. A previous lawsuit exempted braiders from licensure. Inspectors are finding braiders saying they are only braiding and do not need a license. However, when they do other tasks (such as washing hair), they do need a license and will be cited. Mr. Jacobs agreed this is a big problem. Ms. Underwood believed the sunset period would be a good time to introduce certification and/or license requirements. She noted it is a controversial issue. Mr. Hedges noted the scope of hairbraiding has enlarged but is not regulated. Ms. Dawson noted many problems can arise when hairbraiding is not done correctly such as hair loss and scalp diseases. She believed this needs to be addressed for consumer safety.

Ms. Underwood stated 15 states require a license for braiders. A curriculum may need to be developed as it is not taught in every school. Mr. Hedges recommended a test be developed and not require proof of schooling. Ms. Underwood stated there is a national exam for braiding certification. Ms. Crossett believed braiding should be part of a cosmetology license. The consumer may not know a braider is not licensed.

Mr. Hedges recommended a meeting of the experts in the industry including Jerry Tyler and Ken Williams. Ms. Underwood was unsure if there was time to meet as a group. She recommended adding it to the sunset report as a new issue and recommendation. This issue will be taken to the full Board for further discussion.

Public Comment:

Fred Jones noted braiding is occurring in salons and perceived to be under the Board's authority. Traction alopecia is caused by tight braids being done incorrectly. He recommended removing the phrase "mechanical devices" from our regulation.

Mae Handy from Sacramento City College noted she was an expert witness in 1998 regarding hairbraiding. She agreed the industry has gone through a lot of changes since that time. She recommended curriculum be developed to assist people in learning to do braiding correctly. She has been teaching braiding in schools for 30 years.

6. Agenda Item #6, DISCUSSION ON LICENSEE IN CHARGE (SECTION 7348) PERTAINING TO ESTABLISHMENT OWNERS WHO DO NOT HOLD A PERSONAL LICENSE

This is an ongoing issue whether an establishment owner who does not hold a personal license can be in charge. Ms. Underwood conferred with Gary Duke, legal counsel, and they agreed the intent was that the establishment be in the charge of a person who holds a personal license. Mr. Hedges requested Mr. Duke provide his opinion in writing to the Board. He believed having someone with a personal license be in charge, would be a benefit to salon owners to avoid fines and allow them to become more aware of what was occurring in their salons. He noted this is a repeatable violation. Mr. Lloyd believed that salon owners should also receive training. He felt salon owners should be able to be in charge of their establishments. He recommended the board provide some sort of

training to educate establishment owners of their responsibilities. Ms. Dawson asked if the Board requires continuing education. Ms. Underwood stated there is currently no continuing education requirement. Ms. Underwood stated there are no requirements for establishment owners currently, and multiple applications are received yearly. Mr. Brown stated everyone in a salon should be licensed. It was noted that in past years it was the stand of the Board to have someone who possesses a personal license be in charge of the establishment. Staff agreed to research what is done in other states.

7. Agenda Item #7, PUBLIC COMMENT

The public present did not wish to address the Committee.

8. Agenda Item #8, ADJOURNMENT

With no further business, the meeting was adjourned.

Article 12. Health and Safety

977. Health and Safety Definitions

The following words and terms, when used in this chapter shall have the following meanings:

Autoclave-a device used to sterilize equipment and supplies by subjecting them to high pressure saturated steam at 120°C for a specified time.

Over the Counter- Cosmetology, Barbering or Electrology products that are made available for purchase to the general public.

Cosmetics- are substances used to enhance the appearance or of the human body.

Dermis--the layer of skin just below the epidermis; the living layers of the skin

Disinfect or Disinfection-To destroy harmful bacteria, viruses, etc. The use of chemicals to destroy harmful bacteria, viruses and pathogens on implements or tools to render an item safe for use.

Disinfectable-Indicates that an item is able to withstand the disinfection process.

Disinfectant—A product that is registered by the Environmental Protection Agency that has demonstrated bactericidal, fungicidal and virucidal activity. The products used must include a label from the manufacturer that indicates the EPA registration and must be in liquid form to disinfect non-electrical tools and spray or toilette form to disinfect electrical tools and shears.

Dry Heat Sterilizer—A device used to sterilize equipment and supplies by use of hot air that is either free of water vapor or has very little of it.

Epidermis---the outermost layer of the skin; the non-living layer of the skin

Electrical Tools-All tools used in offering barbering and cosmetology services that require electricity to operate by means of an electrical cord, wireless charger, or battery. This includes, but is not limited to: clippers, blow dryers, curling irons, flat irons, etc.

Hot Styling Tools-Tools that utilize heat to style hair.

Non-Electrical Tools —All tools that are used in offering barbering, cosmetology and electrology that do not use any form of electricity to operate. This includes, but is not limited to: shears, razors, cuticle nippers, cuticle pushers, nail clippers, metal files, metal smoothers, combs, hair clips, etc.

Practice of Medicine- the demonstration or application of the learned profession that is mastered by graduate training in a medical school and that is devoted to preventing or alleviating or curing diseases and injuries;

Sanitary-a clean healthy condition

Soiled- dirty

Sterilize or Sterilization—the process which removes or kills all forms of microbial life, including transmissible agents (such as fungi, bacteria, viruses, spore forms, etc.) by use of an autoclave or dry heat sterilizer.

978. Minimum Equipment and Supplies

- (a) Establishments and schools shall have and maintain the following minimum equipment and supplies:
- (1) If hair services are performed, A at least one covered waste receptacle container for the disposal of hair. Hair must be disposed of in a covered waste container.
 - (2) Closed receptacles containers to hold all soiled towels, gowns, smocks and sheets in public areas.
 - (3) Closed, clean cabinets or containers to hold all clean towels, gowns, smocks and sheets.
 - (4) Containers for disinfectant solution for ~~instruments~~ tools and equipment to be disinfected. Containers must be labeled "Disinfectant Solution".
 - (5) Each container specified in (4) shall contain sufficient disinfectant solution to allow for the total immersion of tools ~~and instruments.~~
 - (6) If electrolysis is performed, a steam (autoclave) or dry heat sterilizer that meets the requirements of Section 982.
- (b) Establishments and schools shall have disinfectant solution mixed according to manufacturer's directions, available for use at all times.
- (c) A manufacturer-labeled container for the disinfectant used must be available at all times in the establishment or school. During times that the last remaining disinfectant has been used, the empty manufacturer-labeled container must be present.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

979. Disinfecting Non-Electrical ~~Instruments~~ Tools and Equipment

- (a) Before use upon a client ~~patron~~, all non-electrical instruments tools that can be disinfected, excluding shears, shall be disinfected in the following manner:
- (1) Clean with soap or detergent and water.
 - (2) Then totally immerse in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, used according to manufacturer's instructions.
- (b) The disinfectant solutions specified in subdivision (a) shall:
- (1) Remain covered at all times.
 - (2) Be changed according to the manufacturer's instructions, ~~at least once per week or whenever visibly cloudy or dirty.~~
- (c) All ~~instruments~~ tools that have been used on a ~~patron~~ client or soiled in any manner shall be placed in a container labeled dirty, soiled or contaminated, ~~properly labeled receptacle.~~
- (d) All disinfected ~~instruments~~ tools shall be stored in a clean, covered place which is labeled 'Clean' or 'Disinfected', ~~as such.~~
- (e) Disinfected tools shall not be placed in a container, pouch or holder which cannot be disinfected.
- (f) Shears shall be disinfected according to the following procedures:

- (1) Remove all debris.
- (2) Clean with soap/detergent and water.
- (3) Spray or wipe the shear with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity, used according to manufacturer's instructions.

(g) Disinfected shears shall not be placed in a container, pouch or holder which cannot be disinfected.

~~(g)~~ (h) If instruments tools and equipment specified in this section are sterilized in accordance with the requirements outlined in Section 982, the requirements of this section will be deemed to have been met.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

980. Disinfecting Electrical Instruments Tools

(a) Clippers, vibrators, hot styling tools, curling irons, flat irons, hot combs, and other electrical instruments tools shall be disinfected prior to each use by:

- (1) First removing all foreign matter debris; and
- (2) Disinfecting with an EPA-registered disinfectant spray or wipe with demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions.

(b) All disinfected electrical instruments tools, ~~excluding curling irons and hot combs,~~ shall be stored in a clean covered place.

(c) All soiled electrical tools that have been used on a client, or soiled in any manner, shall be placed in a container labeled soiled, dirty or contaminated (excluding hot styling tools).

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

980.1. Procedures for Cleaning and Disinfecting Whirlpool Footspas, and Air-Jet Basins

(a) As used in this section, "whirlpool footspa" or "spa" is defined as any basin using circulating water.

(b) An air-jet basin is defined as any basin using an air jet stream system to move water.

(c) After use upon each ~~patron~~ client, each whirlpool footspa or air-jet basin shall be cleaned and disinfected in the following sequential manner:

- (1) All water shall be drained from the basin.
- (2) The inside walls of the basin shall be scrubbed and cleaned of all visible ~~residue~~ debris with a clean brush and liquid soap (labeled as such on soap product) and water.
- (3) The spa basin shall be rinsed with water.
- (4) The spa basin shall be refilled with clean water.
- (5) The water in the basin shall be circulated with the correct amount (read manufacturer label for mixing instructions) of the EPA-registered hospital-liquid disinfectant that is labeled as a bactericide, fungicide and virucide, through the basin for at least 10 minutes.
- (6) The spa basin must be drained, rinsed, and wiped dry with a new, clean paper towel.

- (7) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done after a client.
- (d) At the end of each day and after the last client, each whirlpool footspa or air-jet basin shall be cleaned and disinfected in the following sequential manner:
- (1) The screen and any other removable parts shall be removed.
 - (2) Scrub all visible residue **debris** from the screen, inside walls of the basin, any other removable parts, and the area behind them with a clean brush and liquid soap and water.
 - (3) Reinsert the clean screen and any other removable parts.
 - (4) Fill the basin with warm water and detergent (labeled as such on detergent product) and circulate the detergent through the spa system for at least 10 minutes (follow manufacturer's instructions).
 - (5) Drain the detergent solution and rinse the basin.
 - (6) Refill the basin with clean water and circulate the correct amount (read the label for mixing instructions) of the EPA-registered hospital-liquid disinfectant which the label claims is a bactericide, fungicide, and virucide through the basin for at least 10 minutes.
 - (7) Drain, rinse, wipe the basin dry with a **new**, clean paper towel and allow basin to dry completely.
 - (8) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done at the end of the day.
- (e) At least once each week, after completing the procedures provided in subsection (d) (1 through 6) each whirlpool footspa and air-jet basin shall not be drained and the following sequential procedures shall be followed:
- (1) Do not drain the disinfectant solution. The unit shall be turned off and the disinfecting solution shall be left undisturbed in the unit for **at least 6 to 10** hours.
 - (2) After the disinfectant solution has been sitting between 6 to 10 hours, drain and rinse the basin with clean water.
 - (3) Refill the basin with clean water and flush the system.
 - (4) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done weekly.
- (f) The pedicure **equipment**-cleaning log shall be made available upon request by either a patron **client** or a board representative.
- (g) A whirlpool footspa that is "Not in Service" must have a notation on the footspa equipment-cleaning log that the footspa is not in service. The footspa must have an "Not in Service" sign displayed upon the chair and be kept in a clean, sanitary condition.**
- (h) (g)**-A violation of this section may result in an administrative fine and/or disciplinary action. Each footspa or air-jet basin not in compliance with this section may result in a separate violation.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

980.2. Procedures for Cleaning and Disinfecting Pipe-Less Footspas

- (a) As used in this section, "Pipe-Less" footspa is defined as any unit with footplates, impellers, impeller assemblies and propellers.

(b) After use upon each patron **client**, each Pipe-less footspa shall be cleaned and disinfected in the following sequential manner:

- (1) All water shall be drained from the spa basin.
- (2) Remove footplate, and any other removable components according to the manufacturer's instructions.
- (3) Scrub all visible residue **debris** from the impeller, footplate, inside walls of the basin, and/or other components and the areas behind or under each with a clean brush and liquid soap (labeled as such on soap product) and water. Rinse with clean water.
- (4) Reinsert the properly cleaned footplate, and/or other components.
- (5) Refill the basin with clean water and circulate the correct amount (read the label for mixing instructions) of the EPA-registered hospital-liquid disinfectant which the label claims is a bactericide, fungicide, and virucide, through the basin for at least 10 minutes.
- (6) Drain, rinse and wipe the basin dry with a **new**, clean paper towel.
- (7) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done after a client.

(c) At the end of every day and after performing the procedures provided in subsection (b) (1 through 7) and after the last client, each pipe-less footspa shall be cleaned and disinfected in the following sequential manner:

- (1) Fill the basin with warm water and detergent (labeled as such on detergent product) and circulate the detergent through the spa system for at least 10 minutes (follow manufacturer's instructions).
- (2) Drain the detergent solution and rinse the basin.
- (3) Refill the basin with clean water and circulate the correct amount (read the label for mixing instructions) of the EPA-registered hospital-liquid disinfectant which the label claims is a bactericide, fungicide, and virucide, through the basin for at least 10 minutes.
- (4) Drain, rinse and wipe the basin dry with a **new**, clean paper towel.
- (5) Allow the basin to dry completely.
- (6) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done at the end of the day.

(d) At least once each week, after completing the procedures provided in subsection (c) (1 through 3), and the disinfectant solution in each pipe-less footspa shall not be drained and the following sequential procedures shall be followed:

- (1) The unit shall be turned off and the disinfecting solution shall be left in the unit undisturbed for **at least** 6 to 10 hours.
- (2) After the disinfectant solution has been sitting between 6 to 10 hours, rinse and wipe the basin dry with a **new**, clean paper towel.
- (3) Record this procedure in the pedicure **equipment**-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done weekly.

(e) The pedicure **equipment**-cleaning log shall be made available upon request by either a patron **client** or a board representative.

(g) A pipe-less footspa that is "Not in Service" must have a notation on the footspa equipment-cleaning log that the footspa is not in service. The footspa must have an "Not in Service" sign displayed upon the chair and be kept in a clean, sanitary condition.

(h) (f) A violation of this section may result in an administrative fine and/or disciplinary action. Each pipe-less footspa not in compliance with this section may result in a separate violation.

Note: Authority cited: Sections 7312 and 7406, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

980.3. Procedures for Cleaning and Disinfecting Non-Whirlpool Foot Basins or Tubs

- (a) As used in this section, "Non-Whirlpool Foot Basin" or "Tubs" are defined as any basin, tub, footbath, sink and bowl - and all non-electrical equipment that holds water for a client's feet during a pedicure service.
- (b) After use upon each client ~~patron~~, each Non-Whirlpool Basin or Tub shall be cleaned and disinfected in the following sequential manner:
- (1) All water shall be drained from the foot basin or tub.
 - (2) The inside surfaces of the foot basin or tub shall be scrubbed and cleaned of all visible residues debris with a clean brush and liquid soap (labeled as such on soap product) and water.
 - (3) The foot basin or tub shall be rinsed with clean water.
 - (4) Refill the foot basin or tub with clean water and the correct amount (read the label for mixing instructions) of the EPA-registered hospital-liquid disinfectant which the label claims is a bactericide, fungicide, and virucide. Leave the disinfecting solution in the foot basin or tub for at least 10 minutes.
 - (5) Drain, rinse and wipe the basin dry with a new clean paper towel.
 - (6) Record this procedure in the pedicure equipment-cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done after a client.
- (c) The pedicure equipment-cleaning log shall be made available upon request by either a ~~patron~~ client or a board representative.
- (d) A violation of this section may result in an administrative fine and/or disciplinary action. Each non-whirlpool foot basin or tub not in compliance with this section may result in a separate violation.
- (e) All disinfected basins or tubs shall be stored in a clean, covered place which is labeled "Clean" or "Disinfected".

980.4 Disposable Foot Tub Liners

(a) Single use, disposable liners designed specifically and manufactured for use as a foot basin or tub liner shall be disposed of immediately after each use and may not be disinfected or reused.

(1) After disposal of the pedicure basin liner the basin or tub shall be scrubbed and cleaned of all visible debris with a clean brush and liquid soap (labeled as such on soap product) and water. The foot basin or tub shall be rinsed with clean water and wiped dry with a new, clean paper towel.

(2) Record the cleaning procedure in the pedicure equipment – cleaning log. The log shall contain the date and time of each cleaning, initials of the person who completed the procedure, and shall indicate that the cleaning was done after a client.

(3) The pedicure equipment-cleaning log shall be made available upon request by either a client or a board representative.

(4) Establishments that utilize must maintain a supply of liners for use at all times.

Note: Authority cited: Sections 7312 and 7406, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

981. Instruments Tools and Supplies

(a) All instruments tools and supplies which come into direct contact with a client patron and cannot be disinfected (for example, this includes but is not limited to: buffers, pumice stones, wax sticks, toe separators, gloves, cotton pads, sponges, emery boards, and neck strips) shall be disposed of in a waste container receptacle immediately after a single use.

(b) New supply and one-time use tools shall be stored in a clean, covered place labeled 'New'.

(c) (b) No person working or training in an establishment or school shall be permitted to carry any instruments, tools or supplies in or on a garment or uniform (including pouches and holsters) while practicing any of the acts as defined in Section 7316 of the Business and Professions Code.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

982. Sterilizing Electrolysis Instruments, Tools and Use of Electrology Needles/Wire Filaments

(a) Before use upon a client patron in schools and establishments, each electrolysis needle or tweezers all tools that can be sterilized shall be sterilized in the following manner:

(1) first cleaned with detergent and water (which may include the use of ultrasonic equipment) and then be sterilized by one of the following methods:

(1) (A) Steam sterilizer (autoclave), registered and listed with the Federal Food and Drug Administration, used according to manufacturer's instructions.

(2) (B) Dry heat sterilizer, registered and listed with the Federal Food and Drug Administration, used according to manufacturer's instructions.

(C) Chemical (color change) indicators must be used on each sterilized package to indicate the sterilization process was completed.

(2) All sterilized tools shall remain in the package they were sterilized in until ready for use. This package must be labeled 'sterilized' or 'sterilization'.

(3) All tools that have been used on a client or soiled in any manner shall be placed in a container labeled dirty, soiled or contaminated.

(b) (4) Sterilization equipment shall be checked weekly to ensure that it is reaching the temperature required by manufacturer's instructions.

(b) Electrology needles/wire filaments shall be single-use, pre-sterilized and disposable.

(1) Disposable needles/wire filaments must be placed in a puncture resistant sharps container immediately after use, when contaminated before use, when opened and found damaged or when not used before the pre-printed expiration date.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

983. Personal Cleanliness

- (a) ~~(1)~~ The person and attire of a licensee serving a ~~patron~~ client shall at all times be clean.
- (b) ~~(2)~~ Every licensee performing services shall thoroughly wash his or her hands with soap and water or any equally effective alcohol-based cleansing agent immediately before serving each client ~~patron~~.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

984. Disease and Infestation

- (a) No establishment or school shall knowingly permit a person afflicted with an infection or parasitic infestation capable of being transmitted to a client ~~patron~~ to serve clients ~~patrons~~ or train in the establishment or school.
- (b) No establishment or school shall knowingly require or permit a licensee or student to work upon a person with an infection or parasitic infestation capable of being transmitted to the licensee or student.
- (c) Infections or parasitic infestation capable of being transmitted between licensee or student and ~~patron~~ client include, but are not limited to, the following:
- Cold, influenza or other respiratory illness accompanied by a fever, until 24 hours after resolution of the fever.
 - Streptococcal pharyngitis (“Strep throat”), until 24 hours after treatment has been initiated, and 24 hours after resolution of fever.
 - Purulent conjunctivitis (“pink eye”), until examined by a physician and approved for return to work.
 - Pertussis (“whooping cough”), until five days of antibiotic therapy has been completed.
 - Varicella (“chicken pox”), until the sixth day after onset of rash or sooner if all lesions have dried and crusted.
 - Mumps, until nine days after onset of parotid gland swelling.
 - Tuberculosis, until a physician or local health department authority states that the individual is noninfectious.
 - Impetigo (bacterial skin infection), until 24 hours after treatment has begun.
 - Pediculosis (head lice), until the morning after first treatment.
 - Scabies (“crabs”), until after treatment has been completed.
- (d) Blood-borne diseases, such as HIV/AIDS and hepatitis B (HBV), shall not be considered infectious or communicable diseases for the purpose of this section.
- (e) No person working or training in an establishment or school shall ~~massage any person~~ perform services upon a surface of the skin or scalp where such skin is inflamed, ~~broken~~ (e.g., ~~abraded~~, cut) or where a skin infection or eruption is present.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

985. Neck Strips

A sanitary neck strip or towel shall be used to keep the protective covering from coming in direct contact with a client's ~~patron's~~ neck.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

986. Neck Dusters and Brushes

(a) Before use on a client, neck or nail dusters or manicure brushes that are used in an establishment or school on a patron client shall be maintained in a clean and sanitary condition. cleaned in the following manner:

- (1) Remove all visible debris.
- (2) Clean with soap/detergent and water.
- (3) Completely dry duster or brush.
- (4) Store all clean dusters or brushes in a clean, covered place which is labeled 'clean'.
- (5) All dusters or brushes that have been used on a client or soiled in any manner shall be placed in a container labeled dirty, soiled or contaminated.

(b) Before use on a client, natural fiber, facial, acrylic, gel, nail-art, and makeup brushes used in an establishment or school, on a client, shall be cleaned in the following manner:

- (1) Remove all visible debris
- (2) Disinfect by using a cleansing agent(s) such as: monomer, makeup brush liquid/spray cleaner, alcohol, acetone or a similar disinfecting agent, in accordance to the manufacturer's instructions, for disinfection.
- (3) Completely dry brush.
- (4) Store all clean brushes in a clean, covered place which is labeled 'clean'.
- (5) All brushes that have been used on a client or soiled in any manner shall be placed in a container labeled dirty, soiled or contaminated.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(d), Business and Professions Code.

987. Towels, Sheets, Robes and Smocks

- (a) After a towel, sheet, robe or smock has once been used it shall be deposited in a closed receptacle container and not used until properly laundered and sanitized.
- (b) Towels, sheets, robes and smocks shall be laundered either by regular commercial laundering or by a noncommercial laundering process which includes immersion in water at least ~~140~~ 160 degrees F for not less than ~~fifteen (15)~~ twenty-five (25) minutes during the washing or rinsing operation.
- (c) All clean towels, sheets, robes and smocks shall be stored in clean, closed cabinets or a clean, closed container.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

988. Liquids, Creams, Powders and Cosmetics

- (a) All liquids, creams, waxes, shampoos, gels and other cosmetic preparations shall be kept in clean and closed containers. Powders may be kept in clean shakers.
- (b) All bottles and containers shall be distinctly and correctly labeled to disclose their contents. All bottles and containers containing poisonous substances shall be additionally and distinctly marked as such. Poisonous substances that are maintained in the manufactured labeled container are not required to have additional labeling.

(c) When only a portion of a cosmetic preparation is to be used on a patron client, it shall be removed from the container in such a way as not to contaminate the remaining portion.

(1) This provision does not apply to cosmetic preparations that have been demonstrated to be unlikely to transmit pathogens, (e.g. nail polish, artificial nail monomer liquids)

(d) Pencil cosmetics shall be sharpened before each use.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

989. Prohibited Hazardous Substances/Use of Products

No establishment or school shall have on the premises cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration for use in cosmetic products, ~~including liquid methyl methacrylate monomer and methylene chloride.~~ No product shall be used in a manner that is disapproved by the FDA.

(a) No establishment or school shall have on the premises liquid methyl methacrylate monomer and/or methylene chloride.

(b) No product shall be used in a manner that is disapproved by the FDA, OSHA or the EPA.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

990. Headrests and Treatment Tables

(a) The headrest of chairs shall be covered with a clean towel or paper sheet for each client ~~patron~~.

(b) Shampoo trays and bowls must be cleansed with soap and water or other detergent after each shampoo, kept in good repair and in a sanitary condition at all times.

(c) Treatment tables must be covered with either a clean sheet of examination treatment table paper, a clean towel or a clean sheet, after each use for each patron. After a towel or sheet has once been used, it shall immediately be removed from the treatment table and be deposited in a clean, closed container and not used again until it has been properly laundered and sanitized.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

991. Invasive Procedures

(a) No licensee may perform a medical treatment as defined: the care and management of a patient to combat, ameliorate, or prevent a disease, disorder or injury. ~~any act which affects the structure or function of living tissue of the face or body.~~ Any such act shall be considered an invasive procedure.

(b) Invasive procedures include, but are not limited to, the following:

(1) Application of electricity which contracts the muscle.

(2) Application of topical lotions, creams, serums or other substances which affect living tissue.

(3) Penetration of the skin by metal needles, except electrolysis needles.

(4) Abrasion and/or exfoliation of the skin below the non-living, epidermal layers.

(5) Removal of skin by means of a razor-edged instrument tool or similar device.

(6) Removal of callus/corn/skin tag/mole.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312(e), 7316, 7320, 7320.1, Business and Professions Code.

992. Skin Peeling Skin Exfoliation

- (a) Only the non-living, uppermost layers of the facial-skin, known as the epidermis, may, by any method or means, be removed, and then only for the purpose of beautification.
- (b) Skin removal techniques and practices which affect the living layers of the facial-skin, known as the dermis, are prohibited and constitute the practice of medicine.
- (c) Only over the counter commercially available products that are not sold for physician's use only, which are not over 30% acid content or with a start-up pH of 3.0 or higher may be used for the purpose of skin exfoliation. ~~for the removal of facial skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as it is required by manufacturer instructions.~~
- (d) Use of skin exfoliation products over 30% acid content or a pH under 3.0 shall be considered the practice of medicine.
- (e) Mixing or combining skin exfoliation products is prohibited except as required by manufacturer's instructions.
- (f) All skin exfoliation products must be applied using manufacturer's guidelines for health and safety.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312(e), 7316, and 7320, Business and Professions Code.

993. Prohibited Instruments Tools

- (a) No establishment or school shall have on the premises or use any razor-edged or other device or tool for the purpose of ~~which is designed to remove~~ removing calluses or other similar procedures.
- (b) No establishment or school shall have on the premises or use any needle-like instrument tool which is used for the purpose of extracting skin blemishes and other similar procedures.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Sections 7312(e), 7320, and 7320.1, Business and Professions Code.

994. Cleanliness and Repair

- (a) Establishments and schools shall keep the floors, walls, woodwork, ceilings, furniture, furnishings, and fixtures clean and in good repair.
- (b) No establishment or school shall permit an accumulation of waste, hair clippings or refuse.

Note: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7312(e), Business and Professions Code.

