

**State of Kansas**  
**Department of Health and Environment**  
**Notice of Hearing on Proposed Administrative Regulations**

The Kansas Department of Health and Environment (KDHE), Division of Public Health, Bureau of Epidemiology and Public Health Informatics, will conduct a public hearing at 10:00 a.m. Wednesday, February 19, 2020, in the Azure Conference Room, fourth floor, Curtis State Office Building, 1000 SW Jackson, Topeka, Kansas, to consider the adoption of proposed amended KDHE Article 24 regulations 28-24-1, 28-24-2, 28-24-3, 28-24-4, 28-24-5, 28-24-6, 28-24-7, 28-24-8, 28-24-9, 28-24-10, 28-24-11, 28-24-12, 28-24-13, and 28-24-14, regarding sanitary standards for the practice of cosmetology, nail technology, electrology, and esthetics.

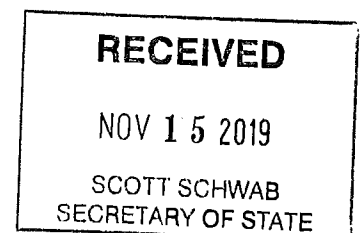
A summary of the proposed regulations and estimated economic impact follows:

**Summary of Regulations:**

**K.A.R. 28-24-1. Definitions.** Adds definitions for the terms disinfect, disinfectant, practitioner, safety data sheet, and sterilization. Revises the definitions of the terms bleach solution, clean, consumer, product, protective gloves, school, and single-use.

**K.A.R. 28-24-2. Personal cleanliness.** Requires that a practitioner clean their hands or use an alcohol-based hand sanitizer before and after each consumer service.

**K.A.R. 28-24-3. Communicable diseases or conditions.** Stipulates that a practitioner shall not provide services to a consumer who has a communicable disease or condition, as suggested by certain conditions, and that a practitioner who has a communicable disease or condition, as suggested by certain conditions, shall not provide services to a consumer. Specifies procedures if a service is started and the practitioner discovers that the consumer has a communicable disease or condition.



**K.A.R. 28-24-4. Linens and capes.** Updates the procedures for cleaning used linens and capes and the procedures for storing clean linens and capes.

**K.A.R. 28-4-5. Surfaces and treatment tables.** Requires that a practitioner daily disinfect surfaces that come into contact with a consumer during services and that treatment tables be covered with clean examination paper, paper towels or linen before providing services to each consumer.

**K.A.R. 28-4-6. Products and containers.** Requires that product be kept in labeled and closed containers. Specifies the procedures for handling product if only a portion of a product is used on a consumer and the procedures for use of cosmetic pencils.

**K.A.R. 28-24-7. Waxing.** Updates the procedures for using wax or sugar paste.

**K.A.R. 28-24-8. Single-use items.** Updates the procedures for storage and disposal of single-use items.

**K.A.R. 28-24-9. Pedicure equipment.** Requires that pedicure equipment be cleaned immediately after each pedicure service and updates the procedures for cleaning pedicure equipment. Adds requirements for cleaning pedicure equipment if a pedicure liner was not used during the pedicure service. Specifies that pedicure equipment remain clean and disinfected even if the equipment is not in service or not able to be used in a service.

**K.A.R. 28-24-10. Cleaning and disinfecting nonelectrical instruments and equipment.** Updates procedures for cleaning and disinfecting nonelectrical instruments and nonelectrical pieces of equipment other than shears and makeup brushes. Adds requirements for disinfecting shears and makeup brushes.

**K.A.R. 28-24-11. Disinfecting electrical instruments.** Updates the procedures for disinfecting electrical instruments and requires that electrical instruments be disinfected after

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each consumer service. Adds requirements for cleaning towels in a towel warmer, for disinfecting towel warmers, and for disinfecting each metal bit and mandrel for an electric file.

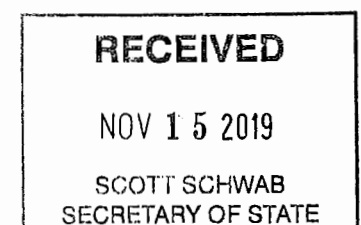
**K.A.R. 28-24-12. Electrolysis instruments, equipment, and practices.** Requires that practitioners use only single-use electrolysis instruments or sterilized electrolysis equipment on a consumer. Updates the procedures for sterilizing electrolysis instruments and equipment and for disposing of needles and other sharp items.

**K.A.R. 28-24-13. Physical facilities.** Requires that each owner of a school, establishment, or mobile establishment ensure the applicable requirements of this regulation. Specifies the following requirements for each school or establishment: floors, walls, ceilings, furniture, and fixtures that are clean and in good repair; plumbing that provides hot and cold running, potable water and provides for disposal of used water; two restrooms for each school; restrooms in the building in which the establishment or school is located; a restroom sink not used for services or cleaning instruments or equipment; for cosmetology services, a shampoo bowl with sprayer and hot and cold running water separate from the restroom. Adds a requirement that establishments that provide nail technology, esthetics or electrology have a hand-washing sink with hot and cold running water separate from the restroom.

**K.A.R. 28-24-14. Prohibitions.** Adds possessing methyl methacrylate monomer (MMA) and any product banned or restricted by the board of cosmetology as prohibited in an establishment or school. Specifies that a practitioner shall not carry any instrument or supplies in or on a garment or uniform.

**Economic Impact:**

Cost to the agency: The proposed regulations will not result in any costs to KDHE or any costs that could not be absorbed in the ongoing KDHE budget.



Cost to the regulated community: The proposed regulations will potentially have implementation and compliance costs for the total number of licensed facilities, including licensed schools, of approximately \$46,872.00 annually. The most costly expense will be the required disinfection of surfaces that come into contact with consumers. This expense is estimated to be a yearly increase per licensed facility of \$10.80.

Cost to other governmental agencies or units: The Kansas Board of Cosmetology is required by statute to inspect cosmetology, electrology, and tanning facilities to protect the health and safety of the consuming public. The proposed regulations will add only minimal costs that will be absorbed in the ongoing budget of the Kansas Board of Cosmetology.

A detailed economic impact is provided in the economic impact statement that is available from the KDHE contact person or at the KDHE Bureau of Epidemiology and Public Health Informatics website, as listed below.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Farah S. Ahmed, MPH, PhD, Environmental Health Officer and State Epidemiologist, Bureau of Epidemiology and Public Health Informatics, Kansas Department of Health and Environment, Curtis State Office Bldg., 1000 SW Jackson, Suite 330, Topeka, KS 66612-1365, by email to [Farah.Ahmed@ks.gov](mailto:Farah.Ahmed@ks.gov) or by fax to 1-877-427-7318. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations as well as an opportunity to submit their written comments. It is requested that each individual giving oral comment also provide a written copy for the record. In order to give each individual an opportunity to present their

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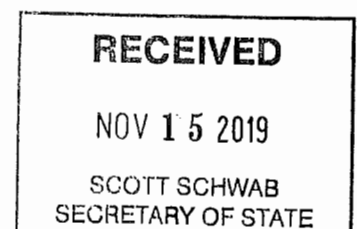
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views, it may be necessary for the hearing officer to request that each presenter limit an oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and the corresponding economic impact statement may be obtained from the KDHE Bureau of Epidemiology and Public Health Informatics website, at <http://www.kdheks.gov/bephi/index.html> at the Regulations and Statutes link, or by contacting Farah S. Ahmed at [Farah.Ahmed@ks.gov](mailto:Farah.Ahmed@ks.gov), 785-296-6426, or fax 1-877-427-7318. Questions pertaining to the proposed regulations should be directed to Farah S. Ahmed at the contact information above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Farah S. Ahmed.

Lee A. Norman, M.D.  
Secretary



28-24-1. Definitions. As used in this article of the department's regulations, each of the following terms shall have the meaning specified in this regulation: (a) "Apprentice" has the meaning specified in K.S.A. 65-1901, and amendments thereto.

(b) "Bleach solution" means ~~a mixture consisting of one part liquid bleach and nine parts water. The solution shall be kept in a closed container, and a fresh solution shall be made at least once every 24 hours~~ chlorine bleach used for disinfection purposes. Bleach solution shall be mixed, stored, and used according to manufacturer's instructions.

(e) (b) "Board" means the Kansas board of cosmetology.

(d) (c) "Clean" means ~~free from all soil and dirt and washed with soap or detergent free of visible or surface debris through washing with soap and water or with detergent and water.~~ Clean shall not mean disinfected.

(e) (d) "Communicable disease or condition" means a disease or condition that is diagnosed by a licensed health care professional as being contagious or transmissible and that can be transmitted ~~in~~ during the practice of cosmetology, nail technology, electrology, or esthetics.

(f) (e) "Consumer" means ~~a person who receives services from a licensed cosmetologist, electrologist, manicurist, esthetician, or cosmetology technician~~ any individual who receives cosmetology, electrology, nail technology, or esthetic services.

(f) "Disinfect" means to use a disinfectant on a clean, nonporous item or surface to kill bacteria, viruses, and fungi.

(g) "Disinfectant" means an EPA-registered disinfecting solution that is bactericidal, virucidal, and fungicidal. Disinfectants can be in the form of a liquid concentrate, wipe, spray,

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or foam.

~~(g)~~ (h) "EPA" means the United States environmental protection agency.

~~(h)~~ (i) "Establishment" means any place licensed by the board of cosmetology where cosmetology, nail technology, electrology, or esthetics is practiced, other than a school.

~~(i)~~ (j) "FDA" means the food and drug administration of the United States department of health and human services.

~~(j)~~ "Licensee" means any person licensed as a cosmetologist, cosmetology technician, manicurist, electrologist, esthetician, or instructor.

(k) "Mobile establishment" means a self-contained, enclosed mobile unit licensed for the practice of one or more of the following:

- (1) Cosmetology;
- (2) nail technology;
- (3) esthetics; ~~and~~ or
- (4) electrology.

(l) "Noninvasive," when used to describe procedures or services, means the procedures or services confined to the nonliving cells of the epidermis found in the stratum corneum layer of the skin. The practice of cosmetology, nail technology, or esthetics shall not alter, cut, or damage any living cells.

~~(m) "Operator" means the person who is licensed to operate an establishment or school.~~

"Practitioner" means an individual who practices cosmetology, nail technology, electrology, or esthetics.

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(n) "Product" means any liquid, cream, powder, spray, or other material used on the consumer in the practice of cosmetology, electrology, nail technology, or esthetics substance used on a consumer in the practice of cosmetology, electrology, nail technology, or esthetics.

(o) "Protective gloves" means single-use gloves made of nitrile, vinyl, or latex or of an alternate material that provides equivalent protection.

(p) "Safety data sheet" and "SDS" mean written or printed material concerning a hazardous chemical that is prepared in accordance with 29 C.F.R. 1910.1200(g).

(q) "School" means any place licensed by the board of cosmetology for the training of cosmetologists, manicurists, estheticians, electrologists, and instructors in training where cosmetology, esthetics, nail technology, or electrology is taught.

(q) (r) "Single-use," when used to describe ~~presterilized products or items, means~~ presterilized products or items intended to be disposed of immediately after one use an item used in the practice of cosmetology, nail technology, electrology, or esthetics, means that the item is porous and cannot be disinfected, regardless of manufacturer designation.

(s) "Sterilization" means the process used to render an instrument free of all forms of living microorganisms by use of a steam autoclave sterilizer or dry-heat sterilizer. The use of ultraviolet light shall not be an acceptable form of sterilization.

(r) "Universal precautions" means the following guidelines and controls published by the centers for disease control (CDC), which are hereby adopted by reference:

(1) ~~"Guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health care and public safety workers: a response to P.L. 100-607, the~~

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~~health omnibus programs extension act of 1988," as published in morbidity and mortality weekly report (MMWR) on June 23, 1989, vol. 38, no. S-6; and~~

~~(2) "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," as published in morbidity and mortality weekly report (MMWR) on July 12, 1991, vol. 40, no. RR-08.~~

(Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-2. Personal cleanliness. (a) ~~Each licensee or apprentice shall thoroughly wash that person's hands with liquid soap and water or with any equally effective cleansing solution before serving each consumer.~~

(b) ~~Each licensee or apprentice serving a consumer shall be clean at all times. This requirement shall include the uniform or attire worn by the licensee or apprentice~~ Each practitioner shall clean that individual's hands or use an alcohol-based hand sanitizer before and after each consumer service. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Jan. 2, 1998; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-3. Communicable diseases or conditions; universal precautions. (a) ~~No licensee or apprentice afflicted with a communicable disease or condition, as defined in K.A.R. 28-24-1, shall be permitted to work or train in a school or establishment. No practitioner shall provide either of the following:~~

(1) Any service to a consumer who has pediculosis, open sores, inflamed tissue suggesting a communicable disease or condition, fungus, lice, including head, body, or pubic, or ringworm, until the consumer furnishes to the practitioner a statement signed by a licensed physician stating that the communicable disease or condition is not in an infectious, contagious, or communicable stage; or

(2) any service while having pediculosis, open sores, or inflamed tissue suggesting a communicable disease or condition, fungus, lice, including head, body, or pubic, or ringworm, until the practitioner obtains a statement signed by a licensed physician stating that the communicable disease or condition is not in an infectious, contagious, or communicable stage.

~~(b) Services shall not knowingly be performed on or by any person who has a communicable disease or condition or parasites that could be transmitted in the delivery of services under these regulations. Blood-borne diseases, including HIV infection, hepatitis B (HBV), and hepatitis C (HCV), shall not be considered infectious or contagious communicable diseases or conditions under this regulation. If a service has been started and a practitioner discovers that a consumer has pediculosis, open sores, inflamed tissue suggesting a communicable disease or condition, fungus, lice, including head, body, or pubic, or ringworm, the practitioner shall perform the following:~~

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(1) Stop services immediately in a safe manner;

(2) inform the consumer why the service was stopped; and

(3) clean and disinfect all affected tools, work areas, and waiting areas.

(c) If there is a likelihood of exposure to blood or body fluids while practicing cosmetology, nail technology, esthetics, or electrology, the ~~apprentice or licensee~~ practitioner shall wear single-use protective gloves, and shall adhere to universal precautions when exposed to blood or body fluids each contaminated single-use item shall be double-bagged, sealed, and disposed of in a closed waste receptacle.

(d) If a blood ~~spill~~ exposure occurs, the ~~licensee or apprentice~~ practitioner shall perform all of the following procedures:

(1) Stop service immediately;

(2) ~~don~~ put on protective gloves;

(3) clean the injured area with an antiseptic solution and cover the wound with a sterile bandage to prevent further blood exposure;

(4) ~~double bag and dispose of all contaminated items~~ clean and disinfect all equipment, instruments, and surfaces that came in contact with blood; and

(5) ~~clean and disinfect all equipment, tools, and implements that have come in contact with the blood; and~~

(6) ~~clean the station with disinfectant~~ double-bag all contaminated items, including gloves, and dispose of the contaminated items in a closed waste receptacle. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended

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28-24-4. Towels, robes, and Linens and capes. (a) After a towel, robe, or linen has been used once, the licensee or apprentice shall deposit the item in a closed and labeled receptacle and shall not use the towel, robe, or linen again until the item has been properly laundered and sanitized After each service, each practitioner shall place all used linens, including towels, robes, and sheets, in a closed and labeled container or an enclosed storage area, including closets and cabinets. The practitioner shall not use these linens again until each item has been cleaned in a washing machine with detergent and hot water. After being cleaned, the linens shall be dried until no moisture remains in the fabric.

(b) ~~Each licensee or apprentice shall launder used towels, robes, and linens using either regular commercial laundering or a noncommercial laundering process in which the towels, robes, and linens are immersed in water with a temperature of at least 140 degrees Fahrenheit for at least 15 minutes during the washing or rinsing operation~~ Each cape shall be cleaned or disinfected after each service.

(c) ~~Each licensee or apprentice shall store all clean towels, robes, and linens in a clean, closed, and labeled cabinet~~ All clean linens and capes shall be stored in a closed and labeled container or an enclosed storage area. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Jan. 2, 1998; amended Oct. 5, 2007; amended

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28-24-5. ~~Headrests, shampoo bowls, treatment tables, and sinks~~ Surfaces and treatment tables.

(a) ~~Each licensee or apprentice shall sanitize the shampoo bowls, back bars, service chairs, manicure and treatment tables, sinks, nonporous surfaces, and workstation areas before each consumer service~~ Each practitioner shall daily disinfect any surface that came into contact with a consumer during services, including shampoo bowls, chairs, headrests, and treatment tables.

(b) ~~Each treatment table or manicure table shall be covered with a clean sheet of examination paper or a clean towel, paper towels, or linen for each consumer service before providing services to each consumer. Each item, except for any single-use item, that comes into contact with skin shall be disinfected before the item is used in providing services to another consumer.~~

(b) ~~Each establishment shall have at least one shampoo bowl with a shampoo spray, in working order at all times, to be used with hot and cold running water.~~

(c) ~~Each school shall have at least two handwashing sinks with hot and cold running water in the work area.~~ (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-6. Bottles Products and containers. Each licensee or apprentice shall ensure that each bottle and container in use shall be distinctly and correctly labeled to disclose the contents. In addition, each bottle or container containing any poisonous or caustic substance shall be distinctly marked as such and shall be stored in an area that is not open to the public (a) All products shall be kept in labeled and closed containers. Each container shall be kept clean so that the label is legible. Each container shall be closed when not in use.

(b) If only a portion of a product is to be used on a consumer, each practitioner shall remove the product from its container in a way that does not contaminate the unused portion in the container. Each practitioner shall discard any remaining portion that was removed from the container but was not used during that consumer's service in a covered waste receptacle immediately after use. If cosmetic pencils are used, each pencil shall be sharpened before each use and the sharpener shall be cleaned and disinfected before being used again. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-7. Products Waxing. (a) Each licensee or apprentice shall keep all products in properly labeled, clean, and closed containers.

(b) When only a portion of a product is to be used on a consumer, the licensee or apprentice shall remove the product from a bulk supply container in a way that does not contaminate the unused portion. The licensee or apprentice shall discard any remaining portion that is not used during that consumer's service.

(c) Each licensee or apprentice shall maintain all products in a manner that keeps the products free of contaminants.

(d) A licensee or apprentice shall not use in any establishment or school any product banned or restricted by the FDA for use in cosmetology, nail technology, esthetics, or electrology. Each practitioner shall maintain all wax and sugar paste at a temperature specified by the manufacturer's instructions.

(b) No applicators shall be left standing in the wax or sugar paste at any time.

(c) Each roll-on wax cartridge shall be considered a single-use item and shall be disposed of in a covered waste receptacle after the service. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-8. Instruments and supplies Single-use items. (a) Each licensee or apprentice shall use a sanitary neck strip or towel to keep the full-length protective covering from coming in direct contact with the neck of each consumer receiving cosmetology services Each practitioner shall store all single-use items separately in a clean, labeled, and covered container or in the manufacturer's original packaging.

(b) ~~Each licensee or apprentice shall dispose of any supplies or instruments that come in direct contact with a consumer and cannot be disinfected or sterilized. These supplies or instruments shall be disposed of in a covered waste receptacle immediately after the single use~~ Each practitioner shall dispose of any used single-use item in a covered waste receptacle immediately after use. All razors and other sharp items shall be disposed of in a sharps container following the service.

(c) ~~Each licensee or apprentice shall immediately dispose of any single-use material coming into contact with blood or other bodily fluids. The contaminated material shall be double bagged, sealed, and disposed of. All needles and any other sharp items shall be disposed of in a sharps container.~~

(d) ~~Each sanding band used on an electric file shall be a single-use item. The licensee or apprentice~~ Each practitioner shall dispose of each sanding band in a covered waste receptacle immediately after it the sanding band is used.

(e) ~~In the practice of electrology, all needles shall be single-use items. The licensee or apprentice shall dispose of each needle after it is used.~~

(f) ~~Each licensee or apprentice shall properly disinfect each metal bit for an electric file after each use on a consumer and then shall store the bit in a clean, closed, and labeled~~

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~~container until its next use.~~

~~(g) No licensee or apprentice shall be permitted to carry any instrument or supplies in or on a garment or uniform, including an instrument belt and an instrument organizer.~~

(Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-9. Pedicure equipment. For the purposes of this regulation, the term "pedicure equipment" shall mean any apparatus that holds water for the purpose of pedicure service. ~~Each cosmetologist or manicurist and each apprentice of nail technology or cosmetology shall disinfect and maintain all pedicure equipment according to this regulation.~~

(a) ~~Each cosmetologist, cosmetology technician, or manicurist and each apprentice of nail technology or cosmetology practitioner~~ shall perform all of the following immediately after each pedicure service:

(1) Drain the pedicure equipment of all water, ~~and remove all debris from the equipment, and remove all removable parts;~~

(2) if a pedicure liner was used during the pedicure service, dispose of the pedicure liner in a covered waste receptacle;

(3) clean all removable parts and the surfaces and walls of the pedicure equipment, including the inlet and all debris trapped behind any removable parts, with soap or detergent and, rinse with clean warm potable water, and disinfect with a liquid disinfectant used according to the manufacturer's instructions;

~~(3) (4) circulate a bleach solution or an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, and tuberculocidal activity used according to the manufacturer's instructions through the equipment for 10 minutes and then drain and rinse the equipment with warm clean water; and replace all clean removable parts;~~

(5) if a pedicure liner was not used during the pedicure service, perform one of the following:

(A) If the pedicure equipment is circulating, fill the pedicure equipment with potable

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water and circulate a bleach solution or a liquid disinfectant used according to the manufacturer's instructions through the pedicure equipment for 10 minutes and then drain and rinse the pedicure equipment with potable water; or

(B) if the pedicure equipment is noncirculating, allow the bleach solution or liquid disinfectant to stand for 10 minutes and then drain and rinse the pedicure equipment with potable water; and

(4) (6) wipe the pedicure equipment dry with a clean towel.

(b) ~~At the end of each day, each cosmetologist, cosmetology technician, or manicurist and each apprentice of nail technology or cosmetology shall perform the following:~~

(1) ~~Drain the pedicure equipment of all water and remove all debris from the equipment;~~

(2) ~~remove all debris trapped behind any removable parts of the equipment;~~

(3)(A) ~~Wash all removable parts and the inlet with soap or detergent and then with a bleach solution; or~~

(B) ~~totally immerse all removable parts and the inlet in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, and tuberculocidal activity used according to the manufacturer's instructions;~~

(4) ~~replace all removable parts; and~~

(5) ~~flush the equipment with soap and water for 10 minutes and then rinse, drain, and allow the equipment to air-dry.~~

(e) ~~Each week, each cosmetologist, cosmetology technician, or manicurist and each~~

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K.A.R. 28-24-9, page 3

~~apprentice shall ensure that all of the following cleaning and disinfecting procedures are followed:~~

~~(1) After the cleaning procedures specified in subsection (b) are followed, the pedicure equipment shall be filled with bleach solution, which shall be circulated through the system for five to 10 minutes before the jets are turned off.~~

~~(2) The bleach solution shall be allowed to remain in the equipment for at least six hours. Then the equipment shall be drained and flushed with warm clean water. Each practitioner shall ensure that all pedicure equipment remains in a clean and disinfected condition, even if the pedicure equipment is not in service or not able to be used in a service.~~

(Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-10. Cleaning and disinfecting nonelectrical instruments and equipment. (a) Each licensee or apprentice practitioner shall ~~disinfect each nonelectrical instrument or piece of equipment in the perform the~~ following manner before it is used on a consumer after each service as applicable:

(1) Clean the each nonelectrical instrument or nonelectrical piece of equipment with soap or detergent and with water;

(2) rinse the instrument or equipment with clean potable water; and

(3) use one of the following disinfection methods:

(A) For instruments and equipment other than shears and makeup brushes, perform one of the following:

(i) Totally immerse the instrument or equipment in an EPA-registered, hospital-grade a disinfectant that has demonstrated bactericidal, fungicidal, and virucidal activity when used and disinfect according to the manufacturer's instructions and then rinse the instrument or equipment with clean potable water; or

~~(B)~~(ii) totally immerse the instrument or equipment in bleach solution for 10 minutes and then rinse the instrument or equipment with clean potable water;

(B) for shears, use a concentrate, spray, wipe, or foam disinfectant according to the manufacturer's instructions; and

(C) for makeup brushes, use a concentrate, spray, or foam disinfectant according to the manufacturer's instructions.

(b) Each licensee or apprentice shall immediately disinfect each nonelectrical instrument or piece of equipment that has come in contact with blood or other

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body fluids. The instrument or equipment shall be disinfected in the following manner:

~~(1) Clean with soap or detergent and with water;~~

~~(2) rinse with clean water; and~~

~~(3) totally immerse in an EPA-registered, hospital-grade disinfectant that has demonstrated bactericidal, fungicidal, virucidal, and tuberculocidal activity when used according to the manufacturer's instructions and rinse with clean water.~~

~~(e) Each licensee and apprentice practitioner shall ensure that the disinfectant solutions or bleach solution specified in subsections subsection (a) and (b) are is prepared, available for use, and covered at all times. EPA-registered Disinfectants shall be changed at least once per week or more often if the solution becomes visibly cloudy or dirty. A and bleach solution solutions shall be prepared changed daily or more often if the disinfectant or bleach solution becomes diluted visibly cloudy or dirty.~~

~~(d) (c) For each disinfectant used as specified in subsections subsection (a) and (b), one of the following shall be available at all times in the establishment or school and shall be provided upon request to the board of cosmetology or the board's designee:~~

~~(1) The manufacturer's material safety data sheet (MSDS) SDS; or and~~

~~(2) the manufacturer-labeled container with sufficient disinfectant or bleach solution to ensure safe services.~~

~~(e) (d) Each nonelectrical instrument and each nonelectrical piece of equipment that has been used on a consumer or soiled in any manner shall be placed in a properly labeled, covered receptacle container until the instrument or piece of equipment is cleaned and disinfected.~~

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~~(f)~~ (e) All disinfected nonelectrical instruments and all disinfected nonelectrical pieces of equipment shall be stored in a ~~properly~~ labeled, and clean, enclosed cabinet, drawer, or covered container reserved for clean instruments only.

~~(g)~~ (f) The electrolysis instruments and pieces of equipment that are sterilized in accordance with K.A.R. 28-24-12 shall not be subject to the requirements of this regulation.

(Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Jan. 2, 1998; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-11. Disinfecting electrical instruments. (a) Each licensee or apprentice practitioner shall disinfect each electrical instrument in the following manner before providing any service to each consumer after each service, as follows:

(1) Remove all foreign matter debris from the electrical instrument; and

(2) use one of the following disinfection methods:

(A) completely saturate the portion of the electrical instrument that comes came in contact with the consumer with a bleach solution or with a disinfectant liquid spray or foam that is EPA-registered and has demonstrated bactericidal, fungicidal, and virucidal activity when used according to the manufacturer's instructions; or

(B) with a bleach solution, completely saturate the portion of the electrical instrument that comes into contact with the consumer, and then rinse that portion of the electrical instrument with clean water.

(b) All electrical instruments and equipment that have come in contact with blood or other body fluids shall be disinfected immediately in the following manner:

(1) Remove all foreign matter from the instrument; and

(2) use one of the following disinfection methods:

(A) Completely saturate the portion of the electrical instrument that comes in contact with the consumer with a bleach solution or with a disinfectant liquid spray or foam that is EPA-registered and has demonstrated bactericidal, fungicidal, virucidal, and tuberculocidal activity when used according to the manufacturer's instructions; or

(B) with a bleach solution, completely saturate the portion of the electrical instrument that comes into contact with the consumer, and then rinse the instrument with clean water.

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(e) Each disinfected electrical instrument shall be stored in a ~~properly labeled, clean enclosed cabinet or covered container reserved for clean instruments only~~ clean area on a stand or hook or on a clean towel, covered by a clean towel or in a labeled, clean, closed container or drawer reserved for clean instruments only.

(c) At the end of each day, all towels remaining in a towel warmer shall be removed.  
The towels shall not be reused until properly laundered. Each towel warmer shall be disinfected daily according to the manufacturer's instructions.

(d) Each practitioner shall clean and disinfect each metal bit and mandrel for an electric file after each use on a consumer and then shall store the bit and mandrel in a clean, closed, and labeled container until the next use. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-12. Electrolysis instruments, equipment, and practices. Each practitioner shall use only single-use electrolysis instruments or sterilized electrolysis equipment shall be used on a consumer.

(a) ~~Each licensee or apprentice practitioner shall first clean all non-single-use nonelectrical instruments or equipment that comes in contact with an individual consumer by performing each of the following steps after each use with an individual consumer and before sterilization:~~

~~(1) Clean the instruments or equipment with warm, soapy water with detergent to remove visible debris;~~

~~(2) rinse and air-dry the instruments or equipment; and~~

~~(3) immerse the non-single-use electrolysis instruments or equipment in an ultrasonic unit that is operated in accordance with the manufacturer's instructions and that contains potable water and either a protein-dissolving an enzyme detergent or an enzyme cleaner after each use and before sterilization.~~

(b) ~~Each licensee or apprentice practitioner shall ensure that all non-single-use nonelectrical electrolysis instruments and equipment are sterilized by adhering to either or both of the following practices as follows:~~

~~(1) By placing reusable electrolysis instruments in glass test tubes or sterilization bags with color strip indicators and then placing the test tubes or bags in a steam autoclave sterilizer or a dry-heat sterilizer that is approved and listed by the FDA and that is used, cleaned, and maintained according to the manufacturer's directions; or~~

~~(2) by using single-use, prepackaged, sterilized instruments or equipment obtained from~~

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suppliers or manufacturers.

(c) Each steam autoclave sterilizer and each dry-heat sterilizer shall meet the following requirements:

- (1) Be approved by the ~~U.S. food and drug administration (FDA)~~;
- (2) contain visible physical indicators, including a thermometer and a timer, necessary to ensure that the steam autoclave sterilizer is functioning properly during sterilization cycles;
- (3) be used with chemical indicators that change color after exposure to the sterilization process, to ensure that all sterilization requirements are met; and
- (4) be cleaned, used, and maintained according to the manufacturer's instructions.

(d) Each cleaned electrolysis instrument or piece of equipment shall be sterilized in accordance with the manufacturer's instructions for each specific sterilizer and by utilizing one of the following:

(1) Steam autoclave sterilizer. If a steam autoclave sterilizer is used, the instruments or equipment shall be sterilized for 15 to 20 minutes at 250 degrees Fahrenheit, and the pressure shall consist of 15 to 20 pounds per square inch (psi).

(2) Dry-heat sterilizer. If a dry-heat sterilizer is used, the instruments and equipment shall be sterilized for either 60 minutes at 340 degrees Fahrenheit or 120 minutes at 320 degrees Fahrenheit.

(e) ~~Each operator~~ The owner of each establishment shall use a sterilization-monitoring service or laboratory using commercially prepared spores at least monthly to ensure that all microorganisms have been destroyed and sterilization has been achieved.

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(1) ~~Each operator~~ The owner of each establishment shall maintain a log at the establishment with the date and results of each monthly test for a ~~minimum of~~ at least three years and shall make the records available for review at any time by the board or the board's designee.

(2) A copy of the manufacturer's procedural manual for operation of the steam autoclave sterilizer or dry-heat sterilizer shall be available for inspection by the board or the board's designee.

(f) ~~Each licensee or apprentice practitioner~~ shall place only the single-use instrument or sterilized equipment to be used for each consumer on a clean ~~field~~ nonporous surface and shall replace the clean ~~field~~ surface with a new clean ~~field~~ surface after each ~~consumer service~~.

(g) ~~Each licensee or apprentice practitioner~~ shall dispose of ~~each needle~~ all needles and any other sharp equipment items in a ~~puncture-resistant, leakproof container that can be securely closed for the handling, storage, transportation, and disposal of sharps~~ container following the service. ~~The container shall be red and shall be labeled with the biohazard symbol.~~

(h) The surface of each counter, each ~~piece of furniture~~ treatment table, and each piece of equipment in each area where a consumer is served shall be made of smooth, nonporous materials. ~~Each licensee or apprentice practitioner shall clean these surfaces~~ disinfect all nonporous surfaces, including counters, treatment tables, and pieces of equipment, after each service by using either an EPA-registered a disinfectant according to the manufacturer's instructions or a bleach solution. (Authorized by and implementing K.S.A. 65-1,148; effective

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K.A.R. 28-24-12, page 4

Jan. 4, 1993; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-13. Physical facilities. Each owner of a school, an establishment, or a mobile establishment shall ensure that the applicable requirements of this regulation are met.

(a) The operator of each school or establishment shall meet the following requirements:

(1) ~~Keep the~~ Each school or establishment shall be well lighted lit and well ventilated by natural or mechanical methods that remove or exhaust fumes, vapor, or dust to prevent hazardous conditions from occurring and to allow the free flow of air in a room in proportion to the size and the capacity of the room; ~~and .~~

(2) ~~keep the floors, walls, ceilings, furniture and other fixtures and apparatus, and all other exposed surfaces in each school or establishment clean, free of dust, hair and other debris, and in good repair at all times. All curtains shall be kept carefully laundered or chemically cleaned~~ The floors, walls, ceilings, furniture, and fixtures shall be clean and in good repair at all times.

(b)(1) ~~Except as provided in paragraph (b)(2),~~ If a room used for residential purposes is ~~also used for or is~~ adjacent to a room used for the practice of cosmetology, nail technology, esthetics, or electrology, ~~then~~ a solid partition shall separate the portion of the premises used for residential purposes from the licensed area. The partition may contain a door if it remains closed, except for entering and leaving.

(2) Each establishment that has an initial license issued on or after December 31, 2007 and that is located in a residence shall have a separate, outside entrance to the establishment.

(c) If a room used for nonlicensed business purposes is also used for or is adjacent to a room used for the practice of cosmetology, nail technology, esthetics, or electrology and if the board of cosmetology, upon consultation with the secretary of health and environment,

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determines that the proximity of the licensed or nonlicensed activities poses a possible threat to the health of the employees, the consumers, or the public, ~~then the operator~~ owner of the school or establishment ~~may be required by the board to meet~~ shall mitigate the risk as directed by the board, including by meeting one or both of the following requirements:

(1) A solid partition shall separate the portion of the premises used for nonlicensed business purposes from the licensed area. The partition may contain a door if it remains closed, except for entering and leaving.

(2) A separate, outside entrance shall be provided for the school or establishment.

(d) Each school or establishment ~~shall have a safe water supply~~ shall have plumbing that provides hot and cold running, potable water at all times and that provides for the disposal of used water.

(e)(1) Each establishment shall have at least one restroom. Each school shall have at least two restrooms. Each restroom shall be in the building in which the establishment or school is located.

(2) Each restroom shall include at least one working toilet and one hand-washing sink with hot and cold running water, with a liquid soap dispenser, and either disposable towels or an air dryer. ~~The operator shall keep~~ Each restroom shall be kept in a sanitary condition.

(3) ~~Each restroom shall be located within the building in which the establishment is housed.~~ A restroom sink shall not be used for services or for cleaning instruments or equipment.

(f)(1) ~~Each school shall have at least two restrooms. Each restroom shall have at least~~

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~~one working toilet and one hand washing sink, with a liquid soap dispenser and either disposable towels or an air dryer. The operator shall keep each restroom in a sanitary condition~~  
Each establishment that provides cosmetology services shall have a shampoo bowl with a sprayer and hot and cold running water that is separate from the restroom.

(2) Each establishment that provides nail technology, esthetics, or electrology services shall have a hand-washing sink with hot and cold running water that is separate from the restroom.

(g) The following requirements shall apply to each mobile establishment:

(1) All equipment shall be securely anchored to the mobile establishment.

(2) No services shall be performed while the mobile establishment is in motion.

(3) Each mobile establishment shall have the following:

(A) A hand-washing sink that has hot and cold running water;

(B) a self-contained supply of potable water. The water tank shall have a capacity of at least ~~400~~ 20 gallons, and the holding tanks shall have at least the same capacity; and

(C) one or more self-contained, recirculating, flush chemical toilets with a holding tank.

(Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Jan. 2, 1998; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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28-24-14. Prohibitions. (a) The following shall be prohibited in ~~any area of an~~ each establishment or school ~~in which consumers are provided service~~:

(1) ~~Smoking, eating, possessing or consuming alcoholic beverages, or preparing food in~~ the service area;

(2) using neck dusters ~~or~~ and nail dusters;

(3) possessing any animal ~~in the establishment or school~~. This prohibition shall not apply to any assistance dog, as defined in K.S.A. 39-1113 and amendments thereto;

(4) using a razor-type ~~device~~ devices to remove calluses or skin blemishes;

(5) using invasive skin-removal techniques, products, and practices that remove viable cells that are deeper than the stratum corneum; ~~and~~

(6) placing waste in open waste ~~containers~~ receptacles;

(7) possessing methyl methacrylate monomer (MMA); and

(8) using any product banned or restricted by the board for use in cosmetology, nail technology, esthetics, or electrology.

(b) No practitioner shall carry any instrument or supplies in or on a garment or uniform, including an instrument belt and an instrument organizer.

(c) The ~~operator~~ owner of a school or establishment shall not permit excessive amounts of waste, refuse, or any other items that could cause a hazard to accumulate on the premises of the school or establishment. (Authorized by and implementing K.S.A. 65-1,148; effective Jan. 4, 1993; amended Jan. 2, 1998; amended Oct. 5, 2007; amended P-\_\_\_\_\_.)

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**Kansas Administrative Regulations  
Economic Impact Statement  
For the Kansas Division of the Budget**

Kansas Department of Health and Environment  
Agency.

Susan Vogel  
Agency Contact

296-1291  
Contact Phone Number

K.A.R. 28-24-1 through 28-24-14

K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget  
900 SW Jackson, Room 504-N  
Topeka, KS 66612

**I. Brief description of the proposed rule(s) and regulation(s).**

The proposed regulations are sanitary standards that apply to cosmetology, including nail technology and esthetics, electrology and tanning establishments. The regulations are necessary updates to the health and sanitation compliance and to prevent infectious and contagious diseases within each establishment.

**II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)***

The proposed regulations align with Federal regulation of public safety standards regarding health and sanitation.

Rules and regulations of contiguous states are similar in nature with little or no difference in the approach in these proposed regulations. Please see below.

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|                     | Missouri   | Oklahoma   | Nebraska   | Colorado  |
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| <b>Definitions</b>  | NONE related to infection control  | NONE related to infection control  | Disinfectant means an EPA-registered hospital grade disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal, used in accordance with the manufacturer's instructions for mixing and immersion. Disinfection means cleansing to remove agents of infection, disease, or infestation by insects or vermin, and soil, dust, or foreign material. Wet-sanitizer means a closed receptacle which holds the disinfectant solution. | Cleaning is not disinfection, but means to physically remove all visible debris by: brushing by hand; Washing or scrubbing with liquid soap, detergent, or antiseptic; Laundering in a washing machine or dishwasher with detergent; Using an ultrasonic cleaner; Using a solvent; or Other adequate methods<br>Disinfection is not cleaning, but is the use of chemicals that Destroy pathogens on implements and other nonliving surfaces that renders an item safe for handling, use, and disposal. Multi-use items are items constructed of hard non-porous materials with smooth surfaces such as metal, glass, or plastic; cloth towels and linens capable of being laundered; and typically can be used on more than one client. |
| <b>Disinfectant</b> | An Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with | All disinfection immersion liquid must be changed daily or sooner if visibly contaminated. Disinfectants for use by cosmetology establishments and | The disinfectant solution remains covered at all times. The disinfectant solution is changed whenever visibly cloudy or dirty but no less often than once a week; and Follow manufacturer's directions for mixing. Formaldehyde  | Appropriate disinfectants include: EPA-registered hospital disinfectants used according to manufacturer's instructions; Bleach solution mixed daily   |

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|   | demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions.  | schools shall be used only if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label. / EPA registered spray disinfectant with oil base allowed for use on sharp/cutting edge items when used as instructed on manufacturers label/"Each cosmetology establishment shall have in use at all times, at least one (1) dry and one (1) wet sanitizer for the purpose of sanitizing combs, brushes and other implements after each use. | vapor, ultra- violet ray treatment procedures; alcohol, bleach or hydrogen peroxide are not acceptable disinfectants   | at a minimum standard of 3/4 cup of bleach per gallon of water with a contact time of 10 minutes; 70% isopropyl alcohol with a contact time of 10 minutes /70%-85% ethyl alcohol with a contact time of 10 minutes.   |
| <b>Tuberculocidal</b>                     | NO  | NO  | NO   | NO  |
| <b>Non-electrical implement procedure</b> | Implements and instruments shall be sanitized after use on each patron. All implements (instruments or tools) used in cosmetology establishments and schools, including scissors, clips, blades, rods, brushes, combs, etc. shall be thoroughly cleansed after each use. All implements which may come in contact directly or indirectly with the skin of the patron shall be disinfected with an | All items shall be cleaned/sanitized by removing all visible debris from an item or surface by using soap/water or a cleaning agent / Items shall be rinsed thoroughly in plain water /Items shall be placed in a wet sanitizer, which is a large, pan-type container which may be of plastic, enamel, stainless steel, or rubber and shall be fully immersed in an EPA approved disinfectant prepared according  | The owner must ensure that all implements are disinfected before use on a client by using the following procedures. Cosmetologists, estheticians, and students/apprentices must comply with the following requirements. Immersion Disinfection: Remove foreign matter; Wash hands with liquid soap and water or an instant hand sanitizer; Wash implement with hot water and soap to remove all traces of soil; Thoroughly rinse in water to remove all traces of soap. Place the implement in an EPA-registered | Appropriate disinfecting methods are:<br>*Disinfection by complete immersion where the entire item, implement, or surface is covered by the disinfectant for 10 minutes or according to manufacturer's instructions<br>*Disinfection by spraying where the entire item, implement, or surface is sprayed with the disinfectant to stay moist for 10 minutes or according to |

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|                              | Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. All implements shall be completely immersed in the solution or, if not capable of immersion, thoroughly dipped in the solution for a period of not less than five (5) minutes | to manufacturer's directions. The items must stay immersed for full contact time according to manufacturer's instructions in order that item or surface stays moist with disinfection for all pathogens listed on the label to be effectively destroyed. Combs may be disinfected in a cylinder jar by immersing in an EPA approved disinfectant prepared according to manufacturer's directions | hospital grade disinfectant, prepared according to the directions on the label. The disinfectant must be proven effective against HIV-1, Hepatitis B, or Tuberculocidal; The disinfectant solution must be deep enough to cover implements totally; and The implements must stay in the disinfectant solution for ten minutes or more; Before removing the sanitized implement(s), wash hands with liquid soap and water or an instant hand sanitizer; Rinse the implement(s) in water; Air-dry on a sanitary surface, dry with a clean sanitized towel, or dry with an electric air sanitizer. Spray Disinfection: Metal implements may be sprayed. Remove foreign matter; Wash hands with liquid soap and water or an instant hand sanitizer; Spray implement until it is totally saturated with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal. | manufacturer's instructions.<br><br>Multi-use equipment, implements, or materials ("multi-use items") not addressed in this rule shall be cleaned and disinfected immediately after each client. Immediately after each client, the following implements shall be brushed or wiped clean and sprayed with an appropriate disinfectant: Haircutting shears; Thinning shears; Straight razors and razor shapers; and Clippers and edgers. After each client, the following implements shall be cleaned and disinfected by complete immersion or stored in a container for soiled or dirty items until the implements can be cleaned and disinfected at the end of the day: Sectioning clips and clippies; Rods and rollers; and Combs, brushes, and picks. End of day, all items wiped or sprayed must be fully immersed |
| <b>Electrical Implements</b> | Not Specifically addressed  |  | Electrical appliances that come in contact with a client's hair or skin generally are disinfected by the following method: Remove all foreign matter;   | Electrical equipment that cannot be immersed in liquid shall be brushed or wiped clean and sprayed   |

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|                   |  |   | Spray with an EPA-registered disinfectant that is proven effective against HIV-1, Hepatitis B, or Tuberculocidal; and Wipe dry with a clean towel.  | with an EPA-registered hospital disinfectant; isopropyl alcohol; ethyl alcohol; or bleach solution immediately after each client.  |
| <b>Storage</b>    | Implements shall either be stored in the solution or removed and stored in a dust-tight cabinet, covered container, or drawer at all times when not in use. The dust-tight cabinet, covered container, or drawer shall be kept free of other items not capable of being disinfected. Implements shall be permitted to air dry. |   | Store disinfected implements in a clean enclosed cabinet or covered container reserved for clean implements. Cabinets, drawers, containers used for storage of implements and towels are clean. Implements that have been used on a client or soiled in any manner are placed in a properly labeled covered receptacle until disinfected; Sanitized implements are stored in a clean closed container or drawer until used; | *All clean and disinfected implements and materials when not in use shall be stored in a clean dry container, or other sanitary manner, that is separate from soiled implements and materials<br>Storage of Tools, Implements, and Supplies. Clean and disinfected tools, implements, supplies and other items, when not in use, shall be stored in a clean manner or container separate from soiled or dirty items. Soiled or dirty tools, implements, supplies and other items shall be stored in a container separate from clean items until such time it is cleaned and disinfected. |
| <b>Prohibited</b> | No cosmetology licensee shall provide any cosmetology services that involve the use of any liquid product containing methyl methacrylate (MMA). Licensees are responsible for ensuring that their nail service   | MMA, Styptic pencils and lump alum are prohibited | Sable or fabric neck dusters or brushes (cosmetic brushes are acceptable); Styptic pencils; and Cabinet fumigants. Formaldehyde vapor, ultra- violet ray treatment procedures, alcohol, bleach or hydrogen peroxide are not acceptable disinfectants  | *Licensees shall not use any product or supply that has been banned, deemed to be poisonous, unsafe for use in the barbering and cosmetology industry, or not approved by the United States Food and Drug Administration   |

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|  | <p>products do not contain MMA as a monomer agent for cosmetic nail applications or any other purpose. A licensee shall not use or offer to use in the performance of cosmetology services, or possess on the premises of a licensed establishment, any razor-type callus shaver designed or intended to cut growths of skin on hands or feet such as corns and calluses including, but not limited to, a credo blade or similar type instrument.</p>        |  |   | <p>(FDA) or other local, state or federal governmental agencies responsible for making such determinations. Possession or storage of any item deemed poisonous, unsafe, or banned by the FDA or other governmental agency shall be considered prima facie evidence of use<br/>         *Methyl Methacrylate Liquid Monomers, a.k.a., MMA; and<br/>         *Razor-type callus shavers designed and intended to cut growths of skin such as corns and calluses.</p> |
| <p><b>Lotions, creams, etc. (Products)</b></p> | <p>Storage and Use of Powders, Creams, Emollients, Etc. For areas where all classified occupations of cosmetology are practiced, including retail cosmetic sales counters, open powder boxes and common powder puffs are forbidden. Powder must be used from shakers or other similar dispensing devices. Creams, emollients, and the like shall be removed from containers with clean, sanitized spatulas or may be dispensed on a sterile cotton swab.</p> | <p>Lotion, powder or water must be dispensed from a shaker or bottle /Creams and semi-solids must be removed from container with a spatula</p> | <p>All liquids, cosmetics, creams, gels, pastes, powders, and other products are kept in clean, closed containers; Original product bottles and containers have an original manufacturer label, which discloses their contents; When only a portion of the product is to be used on a client, the product is removed from the container by a spatula, scoop, spoon, or dropper so that the product does not come in direct contact with the client and to assure the remaining product is not contaminated; and If a product is poured into another container, such as a shaker, dispenser pump container, or spray container, the container is</p> | <p>Items subject to possible cross contamination by re-dipping into a multi-use container such as creams, cosmetics, astringents, lotions, removers, waxes including paraffin wax, moisturizers, masks, and oils shall be used in a manner so as not to contaminate the remaining product. Any product that becomes contaminated shall be discarded after use on that particular client. Permitted procedures to avoid cross contamination</p>                     |

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|                   | All containers shall be covered when not in use. |  | labeled to identify the product.  | are: *Removing and placing the product into a smaller container for use on the client and then disposing of the product remaining in the smaller container after the service *Using a single-use disposable implement such as a wooden spatula to remove the product from the container and disposing of such implement after application of the product on the client<br>*Using a clean applicator bottle to apply the product  |
| Pedicure/Manicure | Not specifically addressed                       | Manicuring bowls, brushes, and other washable items shall be cleaned and sanitized after each use and shall be kept in a closed area, free from contamination, when not in use. (c) Manicuring instruments, tweezers, and other non-metal implements shall be cleaned and sanitized. Implements shall be sanitized using an EPA registered product. Sanitized implements shall be stored in a sealed plastic bag or must remain in a dry closed/covered/light sanitizer (drawer, cabinet or box-type) until ready for use on next patron. At | The owner must ensure that all cosmetologists who provide manicuring or nail technology services follow 172 NAC 34. | Pedicure Bowls: Clean& disinfect (Spray) bowls after each client / disinfect (circulating) at end of day Tools: Immediately after each client, the following multi-use implements shall be cleaned to remove all visible debris and disinfected by complete immersion in an appropriate disinfectant in accordance with this rule:<br>(a) Metal and hard plastic nail pushers;<br>(b) Non-porous and plastic nail files;<br>(c) Cuticle nippers;<br>(d) Tweezers;<br>(e) Nail and dusting brushes;<br>(f) Fingernail clippers; |

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|         |  | <p>least two (2) sets of manicuring implements shall be maintained for each practicing manicurist in order that one set is appropriately sanitized for use on each patron. Pedicure equipment is a unit that holds water for a pedicure service, including whirlpool spas, 'pipe-less' units, footbaths, basins, tubs, sinks and bowls which shall be cleaned by scrubbing surface with a brush, using an enzymatic or surfactant detergent (soap) and water. After cleaning, pedicure equipment, tools and implements shall be disinfected by using an EPA-registered disinfectant</p> |   | <p>(g) Electric file diamond, carbide, natural, and metal bits; and<br/>(h) Metal and plastic spatulas. Immediately after each client, the following single-use implements shall be discarded in a trash container:<br/>(a) Orangewood stick;<br/>(b) Cotton balls;<br/>(c) Nail wipes;<br/>(d) Tissues;<br/>(e) Paper towels;<br/>(f) Emery boards or porous nail files;<br/>(g) Buffer blocks;<br/>(h) Disposable gloves;<br/>(i) Electric file sanders, arbor b</p> |
| Laundry | <p>*Clean towels shall be used for each patron. * A closed cabinet or drawer shall be provided for clean towels and linens. *Soiled towels shall be placed in a close able, leak-proof container immediately upon completion of use.</p> | <p>*Clean towels shall be used for each patron.<br/>*Clean towels and other linens shall be kept in a closed area that is free from contamination.<br/>*A suitable hamper-type container shall be provided for soiled towels.<br/>*The headrest of the facial chair shall be covered with a clean towel for each patron.<br/>*An appropriate supply of clean towels, linens and neck strips shall be</p>  | <p>Laundry facilities are clean, including the washer and dryer, it has a closed receptacle in which to store soiled towels; and the equipment is used for the establishment laundry only, not personal items. Used/Soiled Towel/Linen Storage: Cloth towels/linens are deposited in a closed receptacle after use; Used/soiled cloth towels/linens are not used again until properly laundered and sanitized; and Disposable towels are discarded in a closed waste receptacle, with a plastic</p> | <p>Not specifically addressed</p>  |

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|                              |  | maintained in the Establishment.  | liner, immediately following each cosmetology or esthetics service. Cloth towels are laundered either: By regular commercial laundering; or By a noncommercial laundering process which includes immersion in water at 140 degrees Fahrenheit for not less than 15 minutes during the washing or rinsing operation Clean Towel/Linen Storage: All clean towels/linens are stored in a clean, enclosed cabinet or container until used; and All disposable towels are stored in a clean, enclosed cabinet or container until used. |  |
| <b>Communicable Diseases</b> | Disease Control: Except as otherwise provided by the Americans With Disabilities Act, a licensee, apprentice, student, or retail cosmetic salesperson providing cosmetology services with a communicable disease shall take all proper precautions to prevent the spread of the disease to any person while practicing barbering, cosmetology, or acting as a salesperson. A licensee, apprentice, or student attending a patron known by the licensee, apprentice, or cosmetologist to have a | *Licensees shall use universal precautions (treat blood and other body fluids/materials as if infectious) If a Board licensee, student or apprentice has reason to suspect that a patron is suffering from any communicable or infectious disease, the licensee's hands shall be washed and disinfected. Services shall be discontinued, and patron referred to a physician.<br>*No person in charge of an Establishment or school, if knowingly infected with an infectious, contagious, communicable disease shall work | No person afflicted with an infectious or communicable disease, which may be transmitted during the performance of the acts of cosmetology or esthetics, is permitted to work or train in an establishment. No client known to have an infectious or communicable disease, which may be transmitted during the performance of the acts of cosmetology or esthetics, is permitted to receive cosmetology or esthetics services.  | A licensee shall not perform services on a client if the licensee has reason to believe the client has an unhealthy condition; a communicable disease; contagious condition; skin or nail tissue that is inflamed, infected, broken, raised or swollen; or an open wound or sore in the area affected unless the client provides written authorization from a licensed physician |

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|                       | communicable disease shall also take all proper precautions to prevent the spread of the disease to any person, except as otherwise provided by the Americans With Disabilities Act. Disposable gloves shall be worn by any licensee, apprentice, or student with open wounds, dermatitis, or other non- intact skin of the hands.   | in, nor shall he permit any person infected with communicable disease to work in an Establishment or school. *No licensee, student or apprentice shall massage any person when the surface to be massaged is inflamed or has open cuts, lesions or infection. *If head lice is detected, the licensee, student or apprentice should not proceed with further services and shall wash and disinfect hands. Infected person should be referred to a physician or health clinic. |  |   |
| <b>Blood Exposure</b> | *Licensee or student must stop service immediately Licensee or student must place disposable gloves on hands; *Cleanse cut area of patron, apply antiseptic and/or liquid styptic or spray styptic, as necessary. Note: Do not allow container or nozzles to touch or contact the wound; use an applicator as appropriate; * Cover cut area with adhesive bandage as indicated; If work area and/or equipment are soiled with blood, licensee or student cosmetologist shall | Not specifically addressed  | Procedure<br>a. Stop service for client injury: Scrub licensee/student/apprentice hands with liquid soap and water; Glove hands of licensee/student/apprentice. Change gloves upon contamination, tearing or penetration; Clean client's injured area, as necessary; Apply antiseptic and/or styptic, as necessary; Do not use styptic pencils; Cover with a band aid or liquid sealant; Clean blood spill area; Place all disposable contaminated objects and gloves in a plastic bag; Dispose of plastic bag in covered waste receptacle; Clean hands with liquid soap and water; Clean non-disposable tools with a disinfectant; and Return to service. | An EPA-registered-hospital disinfectant, or a 10% bleach solution, shall be used per manufacturer's instructions to clean up all visible blood or body fluid. Ethyl and isopropyl alcohol is not appropriate. Universal Precautions shall be utilized to clean blood and body fluids. 2. Styptic shall be used to stop minor bleeding with a disposable applicator. 3. If any multi-use instrument is contacted with blood or body fluid, it shall be |

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|              | disinfect work area and/or blood spill area and dispose of or disinfect all contaminated objects; *Remove and dispose of all contaminated objects and disposable gloves and clean hands with an antimicrobial cleanser. |   |                        | immediately cleaned and disinfected using an EPA registered-hospital disinfectant or totally immersed in a 10% bleach solution for 10 minutes. 4. If any single-use instrument contacts blood or body fluid, it shall be immediately double-bagged and discarded in a closed trash container or biohazard container.  |
| Hand Washing | Not addressed   | Hands of licensee must be washed prior to any service | Prior to every service | *Prior to nail services<br>*Prior to all esthetics services   |
| Wax          | Not addressed   | Not specifically addressed                            | Must be "kept clean"   | *Section 12-8-103(10.5), C.R.S., limits the scope of waxing by manicurists to the client's leg up to the knee and the arm up to the elbow. The Director considers the hands and feet to be within the scope and appropriate areas for waxing. Hair removal on any other part of the body, such as eyebrows, lips, bikini areas, etc., is not permitted by manicurists and must be performed by licensed cosmetologists or estheticians.<br><br>*The use of soft and hard waxes, sugar, depilatories, and tweezers are |

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|                       |   |  |  | appropriate methods by licensed manicurists to remove superfluous hair.   |
| <b>Makeup/Brushes</b> | All applicators must be single use or disinfected between customers   | Not specifically addressed   | Not specifically addressed   | not specifically addressed  |
| <b>Bleach</b>         | Not required-recommend based on water heater temp   | Not required   | Not required   | Not Required,   |
| <b>Notes</b>          | <p>*Ample supply of water not to exceed one hundred twenty degrees Fahrenheit (120 °F) at all times.</p> <p>*Headrests shall be covered with a clean towel or paper protector for each usage.</p> <p>*A new laundered towel or neck strip shall be placed around each patron's neck to prevent cape or haircloth from touching skin.</p> <p>*Personal Cleanliness. Every operator, instructor, or instructor trainee shall wear only washable clothing while working in a cosmetology establishment or school. All students and apprentices in any school or cosmetology establishment shall wear washable clothing while in attendance</p> | Any cosmetology licensee who can reasonably anticipate, as the result of performing any cosmetology service, contact with blood and other potentially infectious material, shall wear protective disposable gloves while performing the services. Gloves shall not be re-used and shall be disposed of properly immediately after use. | Single Use: Unused supplies are stored in a clean, enclosed container or drawer; Used/soiled disposable supplies are discarded immediately in a clean, closed waste receptacle with a plastic liner; Washable and disinfectable dusters or brushes, such as plastic or nylon, may be used; No non-washable or non-disinfectable dusters or brushes, such as sable or fabric, are used; Neck strips or a clean towel must be used under a cape in order to prevent the cape from coming into contact with the skin or hair of each client; a sanitized or disposable cape (1 per client) may be used in lieu of neck strips or towels; Supplies and implements which come in direct contact with a client and cannot be disinfected, such as cotton pads, cotton balls, neck strips, orangewood sticks, pads, "Q-tips", sponges, and other similar items, are disposed of in a covered waste receptacle, with a plastic liner, immediately after use. | <p>*Single-use equipment, implements, or materials ("single-use items") not addressed in this rule shall be discarded after each application or service. Single-use items are items made or constructed of paper, wood, or other porous materials usually intended for one application or client service.</p> <p>*Bottles and Containers: All bottles and containers in use shall be distinctly and correctly labeled to disclose their contents. All bottles containing poisonous or caustic substances shall be additionally and distinctly marked as such and shall be stored in an area not open to the public. All poisonous or caustic substances shall be stored according to manufacturer's instructions.</p> |

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**III. Agency analysis specifically addressing following:**

**A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;**

The Kansas Board of Cosmetology (KBOC) is required by statute to inspect cosmetology, electrology and tanning establishments to protect the health and safety of the consuming public. The proposed regulations are an update resulting from industry standards and product availability and will not enhance or restrict business activities and growth.

**B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;**

The proposed regulations will potentially have implementation and compliance costs for licensed facility owners and/or licensed practitioners of approximately \$47,252.60 annually (see paragraph III. F.). The types of disinfectants used will determine potential costs on the facility owners. There are no implementation and compliance costs for utility ratepayers, individuals and local governments.

**C. Businesses that would be directly affected by the proposed rule and regulation;**

As of June 30, 2018, there were 4,240 licensed cosmetology (including nail technology, esthetic and electrology) facilities, 27 licensed schools and 24,778 licensed practitioners within the same professions that would be directly affected by these regulations. Practitioners are required to provide services in licensed facilities.

**D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;**

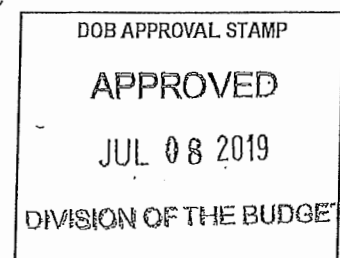
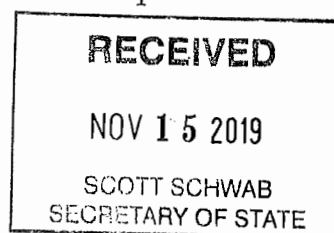
The benefits of the proposed changes to these regulations will fulfill the mission to protect the health and safety of the consuming public by licensing qualified individuals and enforcing standards of practice. The regulations have not been updated since 2007 and the proposed changes align closely with laws enforced by contiguous states.

**E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

All proposed regulations were communicated to licensees through surveys and responses to the surveys were discussed at Board meetings.

**F. An estimate, expressed as a total dollar figure, of the annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

The total annual implementation and compliance costs will be approximately \$46,872.00.





An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

The annual implementation and compliance costs will be approximately \$46,872.00 for each of the first five years. Therefore, the implementation and compliance costs will be \$93,744.00 in any two-year period.

**Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?**

YES ☐ NO ☒

**Give a detailed statement of the data and methodology used in estimating the above cost estimate.**

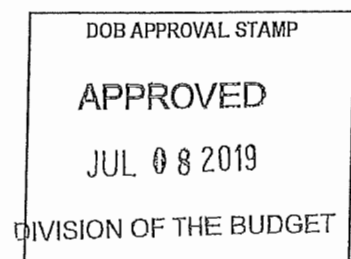
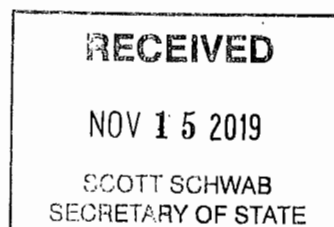
There are several variables that affect the total dollar figure for each licensed establishment. The board anticipates the biggest expense that will be most costly to licensed establishments and schools is to require disinfection of surfaces that come into contact with consumers. Current regulation only requires those surfaces to be cleaned. A disinfectant wipe is costlier than a cleaning wipe.

|  | Facility Type                    |                |
|--|----------------------------------|----------------|
|  | Schools                          | Establishments |
| Number of Licensed Facilities            | 27                               | 4313           |
| Avg. Wipes/Month                         | 30                               | 30             |
| \$ Increase/Wipe                         | \$0.03                           | \$0.03         |
| \$ Monthly Increase                      | \$0.90                           | \$0.90         |
| \$ Yearly Increase Per Licensed Facility | \$10.80                          | \$10.80        |
| <b>Total Annual Implementation</b>       | <b>Approximately \$46,872.00</b> |                |

The Board also anticipates this total to be offset by the removal of a required disinfectant with tuberculocidal activity. Additionally, the Board does not require or recommend a specific brand of disinfectant to be used. Licensed schools and establishments have the option to buy higher priced disinfectants or use regular chlorine bleach as a universal disinfectant within the licensed school or establishment.

**Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held; those in attendance, and any pertinent information from the hearing.**

YES ☐ NO ☒



- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed amended regulations will have no effect on the cities, counties or school districts within the state. However, when the notice of hearing for these regulations is published in the *Kansas Register*, standard agency procedure will be followed and the three organizations will be contacted electronically for comment with attached copies of the regulations, economic impact statement and published notice of hearing.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

KBOC kept the regulated community informed and obtained information as part of the development of regulations through responses from surveys, invited the regulated community to attend Board meetings, conversations at Board meetings and provided information on the KBOC website.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

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