

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-78
Hawaii Administrative Rules

MM DD, YYYY

1. Chapter 16-78, Hawaii Administrative Rules,
entitled "Cosmetology" is amended and compiled to read
as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 78

COSMETOLOGY

Subchapter 1 General Provisions

§16-78-1	Objective
§16-78-2	Definitions
§16-78-3	Notification and filing of names, addresses, and changes
§16-78-4	Duplicate certificates and licenses
§16-78-5	Renewal of license
§16-78-5.5	Restoration of forfeited license
§16-78-6	Responsibility
§16-78-7	Workmanship

Subchapter 2 Applications

§16-78-9	Forms and instructions
§16-78-10	Application for examination and license
§16-78-11	License applications
§16-78-12	Applications for registration
§16-78-13	Denial
§16-78-14	Demand for hearing
§16-78-15	Falsification of application
§16-78-16	Abandonment of application

Subchapter 3 Validation

§16-78-19	Requirements for registration
§16-78-20	Requirements for examination and license
§16-78-21	Temporary permit
§16-78-22	Curriculum

Subchapter 4 Examinations

§16-78-26	Subject matter
§16-78-27	Passing score
§16-78-28	Examination
§16-78-29	Reexamination
§16-78-30	Language
§16-78-31	Supplies and equipment
§16-78-32	Repealed

Subchapter 5 Exemptions and Exceptions

§16-78-36	Exemptions
§16-78-37	Exceptions

Subchapter 6 Beauty Shop Requirements

§16-78-41	Compliance with other laws
§16-78-42	Shop
§16-78-43	Price list
§16-78-44	Employment of apprentices
§16-78-45	Employment of barbers

Subchapter 7 Beauty School Requirements

§16-78-48	Schools
§16-78-49	Application
§16-78-50	License
§16-78-51	Courses of study
§16-78-52	Law and rules
§16-78-53	Principal
§16-78-54	Instructor-student ratio
§16-78-55	Instructor trainee
§16-78-56	Bond
§16-78-57	School facilities
§16-78-58	Equipment
§16-78-59	Enrollment
§16-78-60	School hours
§16-78-61	Students
§16-78-62	Instructors
§16-78-63	Library
§16-78-64	Signs

Subchapter 8 Oral Testimony

§16-78-68	Oral testimony
-----------	----------------

Subchapter 9 Practice and Procedure

§16-78-72	Administrative practice and procedure
-----------	---------------------------------------

Subchapter 10 Medical Clearance--Repealed

§16-78-76	Repealed
-----------	----------

SUBCHAPTER 1

GENERAL PROVISIONS

§16-78-1 Objective. This chapter is intended to clarify and implement chapter 439, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated. [Eff 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-2 Definitions.

"Certificate of registration" means either a license or a registration certificate issued by the board.

"Director" means the director of the department.

"Executive secretary" means any person employed and assigned by the department to provide administrative services to the board, and to act as a liaison between the board and the department.

"Instructor-trainee" means a person who is engaged in a school in learning to be an instructor and while so doing does or assists in teaching any of the classified practices under the direct supervision of an instructor.

"Person" includes individuals, partnerships, corporations, associations, or public or private organization of any character other than governmental agencies. [Eff 7/4/64; am 4/17/70; am and ren §16-78-2, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (IMP: HRS §439-1)

§16-78-3 Notification and filing of names, addresses, and changes. (a) Any licensed person shall file one's mailing address with the board and shall notify the board in writing within thirty days of any and all changes.

(b) In addition to the requirements of subsection (a), an apprentice or instructor-trainee shall file with the board the name and address of the beauty shop or school where that person is learning and the name and license number of the beauty operator or instructor from whom that person is learning, and shall notify the board in writing within thirty days of any and all changes.

(c) In addition to the requirements of subsection (a) a licensed beauty shop, or school shall file the name and location of the shop or school, the name and license number of the person in charge of and responsible for the shop or school, and, in the case of a partnership, corporation, or association, shall also file with the board the names and addresses of the partners, officers, and directors, as the case may be, and shall notify the board within thirty days of all changes. [Eff 7/4/64; am and ren §16-78-3, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-4 Duplicate certificates and licenses. A fee shall be assessed for duplicate certificates and licenses. [Eff 7/4/64; am and ren §16-78-4, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-5 Renewal of license. Renewal fees paid by mail shall be considered as paid when due if the envelope bears a postmark of December 31 or earlier. [Eff 7/4/64; am and ren §16-78-5, 7/2/81; am and comp

12/21/89; comp 2/22/05; comp] (Auth:
HRS §439-7) (Imp: HRS §439-15)

§16-78-5.5 Restoration of forfeited license.

(a) A license is immediately and automatically forfeited after the expiration date for non-compliance with the requirements for maintaining or renewing the license.

(b) A forfeited license may be restored under the following conditions:

- (1) File a completed restoration application along with a valid signature;
- (2) Payment of all delinquent biennial renewal fees including the current fee;
- (3) Payment of a penalty fee for each biennial renewal as provided in the department's fee rules, chapter 16-53; and
- (4) Should the restoration request be made after three years from the date of forfeiture, a written explanation along with supporting documentation shall be necessary and shall be subject to approval. [Eff and comp 2/22/05; comp] (Auth: HRS §439-2) (Imp: §439-15)

§16-78-6 Responsibility. Beauty shop or beauty school shall be responsible for all operations and shall be responsible to see that only duly licensed or registered persons work in the place of business or school. [Eff and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-7 Workmanship. All work performed shall conform to the industry standards. Conduct or practice contrary to recognized industry standards

shall be construed as professional misconduct, gross carelessness, or manifest incapacity. [Eff and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-19)

SUBCHAPTER 2

APPLICATIONS

§16-78-9 Forms and instructions. (a) An application, accompanied by the required fees and filed with the board, shall be prepared in accordance with and contain the information called for in the application form prescribed by the board, or any instructions which may be required by the board.

(b) The executive secretary or such other person authorized by the department shall determine the sufficiency of qualifications of applicants.

(c) The applicant shall attach to the required and appropriate application a recent passport sized photograph. [Eff 7/4/64; am and ren §16-78-9, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §§439-7, 439-15) (Imp: HRS §439-11)

§16-78-10 Application for examination and license. (a) Applications for examination and license for a beauty operator or an instructor shall be filed at least seven weeks prior to the examination month, which may be regularly given not less than three times a year.

(b) A temporary permit may be issued to an applicant that has met the requirements for examination. The applicant shall provide the information necessary to issue a temporary permit. [Eff 7/4/64; am and ren §16-78-10, 7/2/81; am and comp

12/21/89; comp 2/22/05; comp] (Auth:
HRS §439-7) (Imp: HRS §§439-11, 439-16)

§16-78-11 License applications. (a)

Applications for license of a beauty shop shall include the necessary documents and information as required in sections 16-78-41 to 16-78-45, in addition to:

- (1) Verification that the shop complies with the sanitary requirements of the department of health;
- (2) Name of a currently licensed beauty operator who shall practice at the shop;
- (3) Should the applicant be a corporation or partnership, verification of proper registration with business registration division (BREG); and
- (4) Should the applicant be an individual, a passport sized photograph of the applicant taken not more than one year prior to the date of application.

(b) Applications for license of a beauty school shall submit the necessary documents and information as required by sections 16-78-48 to 16-78-63. [Eff 7/4/64; am 12/27/66; am and ren §16-78-11, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp]
(Auth: HRS §439-7) (Imp: HRS §§439-17, 439-18)

§16-78-12 Applications for registration.

Applications for registration shall be for an apprentice and an instructor trainee. [Eff 7/4/64; am and ren §16-78-12, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7)
(Imp: HRS §439-10)

§16-78-13 Denial. In the event an application for examination, issuance or restoration of a license, or registration is denied or refused, the board shall notify the applicant by letter of the board's action which shall include a concise statement of the reasons therefor and if the applicant is entitled to a hearing, a statement informing the applicant to the right to a hearing if the applicant so desires. [Eff 7/4/64; am and ren §16-78-13, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-19)

§16-78-14 Demand for hearing. Any person whose application for admission to the examination, for the issuance, or restoration of a license, or registration has been denied by the board, shall be entitled to a hearing; provided that a demand for a hearing is filed with the board within sixty days of the date of the letter informing the applicant of the denial of application; and provided further that this section shall not apply to a denial based on the failure to file an application within the period provided by this chapter. [Eff 7/4/64; am and ren §16-78-14, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-20)

§16-78-15 Falsification of application. The board may deny an applicant admission to the examination, or issuance of license, void applicant's examination score, or revoke a license on the ground of falsification of any information supplied in the application for examination, application for license, application for registration, experience verification form, or supporting documents. [Eff 7/4/64; am and ren §16-78-15, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-19)

§16-78-16 Abandonment of application. An application shall be deemed to have been abandoned if all requirements, including filing of forms and payment of fees have not been completed within two years from the date first filed. [Eff and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-2)

SUBCHAPTER 3

VALIDATION

- §16-78-19 Requirements for registration.** (a)
The apprentice applicant shall:
- (1) Submit verification of having an education equivalent to the completion of high school;
 - (2) Provide the name and address of the beauty shop, and the name of the beauty operator supervising the apprentice;
 - (3) Applicants who are transferring from a shop to a school or a school to a shop shall submit verification of training hours completed at the shop or school. Apprentices transferring to a school may be credited with one half number of training hours. Students transferring to a shop may be credited with double the number of training hours;
 - (4) Apprentices shall have forty-two months from the date of registration to complete training at the minimum of twenty hours per week;
 - (5) Apprenticeship training shall comply with the board's apprenticeship manual and apprenticeship curriculum. Exhibit A

- entitled "Apprenticeship Manual," dated March 9, 1988, located at the end of this chapter, is made part of this chapter; and
- (6) No credit will be given for beauty training in a shop prior to date of registration with the board.
 - (b) An instructor-trainee shall:
 - (1) Submit verification of having an education equivalent to the completion of high school;
 - (2) Provide a copy of a current beauty operator license in good standing; and
 - (3) Submit verification of one year beauty operator experience in this State or another jurisdiction having standards substantially equivalent to those of this State. [Eff 7/4/64; am and ren §16-78-19, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-10)

§16-78-20 Requirements for examination and license. (a) Instructor applicants shall provide verification of:

- (1) Having a current beauty operator license or an instructor license;
 - (2) Having one year experience as a licensed beauty operator; and
 - (3) Satisfactorily completing not less than six hundred hours or four months of beauty school instructor training in this State or another jurisdiction having substantially equivalent standards. If the training is not substantially equivalent, the applicant shall provide verification of one year instructor experience.
- (b) Beauty operator applicants shall have an education equivalent to the completion of high school. One year experience as a licensed beauty operator in another jurisdiction shall satisfy the high school education requirement.

(c) Beauty operator applicants shall satisfy the beauty training requirement as a student at a beauty school, as an apprentice in a beauty shop, or being currently licensed in another jurisdiction.

- (1) Beauty training from another jurisdiction shall be accepted provided that the training is substantially equivalent to those as prescribed by the board. If the training is less than those prescribed by the board, then the applicant shall make up the difference as a beauty student or as an apprentice; or
- (2) The license of an applicant currently licensed in another jurisdiction shall be recognized provided that the jurisdiction has substantially equivalent training as prescribed by the board. If the training requirement is less than those prescribed by the board, then the applicant shall make up the difference as a beauty student or provide verification of one year experience as a licensed beauty operator in that jurisdiction. [Eff 7/4/64; am and ren §16-78-20, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §§439-7, 439-12) (Imp: §§439-11, 439-12)

§16-78-21 Temporary permit. (a) A temporary permit shall be issued upon request to applicants approved for examination to train and work while waiting for the examination.

(b) The temporary permit shall cover a period of three examinations as consecutively scheduled by the board from the date the applicant qualifies for the first examination and requests a temporary permit.

(c) The temporary permit provides the qualified applicant to train and work in a licensed beauty shop under supervision of a licensed beauty operator in the appropriate certification category. [Eff 7/4/64; am 12/27/66; am and ren §16-78-21, 7/2/81; am and comp

12/21/89; comp 2/22/05; comp] (Auth:
HRS §§439-7, 439-11) (Imp: HRS §439-16)

§16-78-22 Curriculum. The curriculum for beauty training includes, but is not limited to, the subjects and hours for each certification category and instructor-trainee as follows:

- (1) Exhibit B entitled "Apprenticeship Curriculum," dated March 9, 1988, located at the end of this chapter, is made a part of this chapter;
- (2) Exhibit C entitled "Beauty School Curriculum," dated March 9, 1988, located at the end of this chapter, is made a part of this chapter; and
- (3) Exhibit D entitled "Instructor-trainee Curriculum," dated March 9, 1988, located at the end of this chapter, is made a part of this chapter. [Eff 7/4/64; am 4/17/70; am and ren §16-78-22, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp]
(Auth: HRS §§439-7, 439-12) (Imp: HRS §439-12)

SUBCHAPTER 4

EXAMINATIONS

§16-78-26 Subject matter. The examination shall be designed to test the applicant's theoretical and practical knowledge in the practice of cosmetology and cosmetology law and rules which the board or its designated testing service determines to be essential to the protection of the general public. [Eff 7/4/64; am and ren §16-78-26, 7/2/81; am and comp 12/21/89;

comp 2/22/05; comp] (Auth: HRS §439-
7) (Imp: HRS §439-14)

§16-78-27 Passing score. A grade of not less than 75.00 points shall be a passing score for any part of the examination. [Eff 7/4/64; am and ren §16-78-27, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-14)

§16-78-28 Examination. (a) No license shall be issued to any person unless the person takes and passes the examination as prescribed by the board for the license applied for. Failure to obtain a passing score shall result in failure of the examination as a whole.

(b) The examination shall be given only on established dates and at designated locations in the State. Exceptions to established dates shall be made for the benefit of candidates who for religious reasons may not sit on scheduled examination dates. Conditions and procedures for admittance to this special date shall be determined by the board and testing service.

(c) Examinations shall be conducted in accordance with procedures formulated by the testing service authorized by the board to administer examinations. Failure to follow such procedures shall result in immediate disqualification from the examination and may bar applicants from being examined in any future examinations. [Eff 7/4/64; am and ren §16-78-28, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp HRS §439-14)

§16-78-29 Reexamination. (a) An applicant who fails to attain a passing score in any part of the examination shall be required to repeat the entire examination.

(b) Should an applicant fail to get a passing score by the end of the second year from the date of qualifying for the first examination, the applicant shall file an application for re-examination.

(c) An applicant who registers for examination but fails to sit for the examination is a no show applicant and forfeits the examination fee. The no show applicant shall register and pay examination fee for any subsequent examination. [Eff 7/4/64; am and ren §16-78-29, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7)
(Imp: HRS §439-7)

§16-78-30 Language. All examinations shall be conducted in the English language and no applicant shall be permitted the use of an interpreter. [Eff 7/4/64; am and ren §16-78-30, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7)
(Imp: HRS §439-7)

§16-78-31 Supplies and equipment. Each applicant shall be required to provide their own supplies, and equipment for the examination. [Eff 7/4/64; am and ren §16-78-31, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-32 Repealed. [R 12/21/89]

EXEMPTIONS AND EXCEPTIONS

§16-78-36 Exemptions. The rules governing the practice of cosmetology shall not apply to the following persons when acting within the scope of their profession or occupation:

- (1) Persons authorized by law of this State to practice medicine and surgery;
- (2) Persons authorized by law of this State to practice barbering;
- (3) An officer or employee of the United States, if the practice is performed by the employees within the federal property;
- (4) Manufacturer's representatives or sales persons in retail outlets who sell beauty products or techniques for promotional purposes without compensation for the cosmetology services;
- (5) Persons who are employed by a firm or corporation dealing as a beauty operator for the sole purpose of giving demonstrations on the use of the products on one's self or a model;
- (6) Educational activities conducted in connection with any monthly, annual, or other special program from which the general public is excluded. This exemption shall apply only to the specific days of the special program;
- (7) Persons employed by theatrical groups, modeling agencies or photography studios without being directly compensated by the client being serviced; or
- (8) Persons employed by health care facilities who are providing care to patients. [Eff 7/4/64; am and ren §16-78-36, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp
] (Auth: HRS §439-7) (Imp: HRS §439-2)

§16-78-37 Exceptions. The practice of cosmetology shall be carried on only by persons duly licensed to practice in this State and only in a licensed beauty shop, except as provided in this subsection. A duly licensed beauty operator may practice cosmetology:

- (1) Upon patients or residents in a hospital or nursing home;
- (2) Upon inmates or residents of institutions of mental health or correctional institutions;
- (3) Upon an invalid or handicapped person in that person's place of residence;
- (4) Upon a person at a charitable event, provided this exception shall apply only to the specific event on the specific day or days;
- (5) Educational activities conducted in connection with any monthly, annual, or other special program from which the general public is excluded. This exception shall apply only to the specific days of the special program; and
- (6) As an employee of a theatrical group, modeling agency or photography studio, provided the client does not compensate the licensee. [Eff 7/4/64; am and ren §16-78-37, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

SUBCHAPTER 6

BEAUTY SHOP REQUIREMENTS

§16-78-41 Compliance with other laws. The board may accept a signed statement from the department of health that the shop for which the certificate is sought is or will be in full compliance with all State public health and safety requirements. [Eff 7/4/64; am and ren §16-78-41, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-42 Shop. A fee shall be charged for relocation under the same name and ownership. License certificates are nontransferable. [Eff 7/4/64; am 12/27/66; am and ren §16-78-42, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-43 Price list. (a) No beauty shop shall perform any work upon the public unless there is displayed in a conspicuous place, both reception room and work room, one or more signs which shall read as follows:

"PRICE LIST AVAILABLE UPON REQUEST"

This sign shall be printed in letters of not less than three-fourths inch in size.

(b) Every shop shall have a price list available. The price of each and every service offered and the price of each and every product to be used in connection with the services shall be plainly set forth on a price list. [Eff 12/27/66; am and ren §16-78-43, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-44 Employment of apprentices. Shops employing apprentices shall comply with the board's apprenticeship manual and apprenticeship curriculum. Failure to comply may be cause for disciplinary action. [Eff 12/17/66; am 4/17/70; am and ren §16-78-44, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-45 Employment of barbers. A barber with a valid and current license shall be permitted to work in a beauty shop without meeting any additional cosmetology licensing requirements. [Eff and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-1)

SUBCHAPTER 7

BEAUTY SCHOOL REQUIREMENTS

§16-78-48 Schools. No license for a beauty school shall be issued unless the applicant presents evidence to the board that the applicant has satisfactory school facilities, equipment, meets all of the requirements of the board, and is qualified to offer a course of study as provided by the board. [Eff 7/4/64; am 4/17/70; am and ren §16-78-48, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §§439-7, 439-19) (Imp: HRS §439-18)

§16-78-49 Application. Each applicant for certificate of registration to conduct a school shall submit the following to the board:

- (1) A complete statement of the applicant's training and experience in order to establish his fitness to conduct a school as proposed;
- (2) A bank reference of the applicant's financial standing;
- (3) Certificate of clearance from the county building department and from the department of health;
- (4) Concise floor plan, giving measurements of all spaces and total space and showing placement of all equipment;
- (5) A copy of student contract and enrollment forms;
- (6) Copy of school catalog or brochure and all documents proposed to be used in recruiting students;
- (7) A statement of the method and content of advertising to be used;
- (8) Copy of diploma or certificate to be awarded;
- (9) Schedule of all fees, tuition and charges to be made;
- (10) Name and certificate of principal in charge of school and name and certificate number of all instructors;
- (11) Copy of school rules;
- (12) A surety or cash bond in the sum of \$10,000 payable and in a form satisfactory to the board. The condition contained therein shall be that the school shall provide indemnification to any student who suffers loss as a result of the school not fulfilling its obligations under the terms of its certificate of registration. The bonding requirement may be reduced at the discretion of the board by a showing of the school that the requirement is excessive and that at no time advance collections from students amount to as much as \$10,000; and
- (13) An itemized list of all materials that constitute a student's kit. [Eff 7/4/64; am

4/17/70; am and ren §16-78-49, 7/2/81; am
and comp 12/21/89; comp 2/22/05; comp
] (Auth: §439-7) (Imp:
HRS §439-7)

§16-78-50 License. Licenses to operate a beauty school are nontransferable. [Eff 7/4/64; am and ren §16-78-50, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-51 Courses of study. Courses of study shall be in accordance with the board's beauty school curriculum and instructor-trainee curriculum. [Eff 7/4/64; am and ren §16-78-51, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-18)

§16-78-52 Law and rules. State law and rules adopted by the [State] state board shall be taught in all classes. [Eff 7/4/64; am and ren §16-78-52, 7/2/81; comp 12/21/89; comp 2/22/05; am and comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-53 Principal. The principal shall provide the name and certificate number of all instructors and be in charge of and responsible for the operation of the school. [Eff 7/4/64; am and ren §16-78-53, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-54 Instructor-student ratio. The instructor student ratio shall be one instructor for every twenty-five students. A school shall have a minimum of two licensed instructors, which may include the principal, provided the principal is a licensed instructor. [Eff 7/4/64; am 4/17/70; am and ren §16-78-54, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-55 Instructor-trainee. The beauty school shall assure the instructor-trainee is in compliance with the following:

- (1) Training shall be under direct supervision of a licensed instructor;
- (2) Training shall comply with the board's instructor-trainee curriculum;
- (3) Instructor-trainee shall not practice cosmetology at the beauty school as a beauty operator;
- (4) Instructor-trainee shall be furnished with an instructor manual; and
- (5) Instructor-trainee shall be identified with a name tag stating "Instructor-trainee."
[Eff 7/4/64; am and ren §16-78-55, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-18)

§16-78-56 Bond. The surety or cash bond required to be furnished by any school shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or cancelled by the surety. Such termination or cancellation shall not be effective, however, unless notice thereof is delivered by the surety to the board

at least sixty days prior to date of termination or cancellation. The certificate of registration of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto a new bond has been filed with the board. [Eff 7/4/64; am 4/14/70; am and ren §16-78-56, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-57 School facilities. The room or rooms where work is done on customers shall not be used as a class or lecture room when customers are present. There shall be adequate facilities for classroom use, appropriately equipped. There shall also be sufficient lockers available for students' private property. [Eff 7/4/64; am 9/9/66; am and ren §16-78-57, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-58 Equipment. (a) The school shall maintain at least the following minimum equipment for each twenty-five students enrolled:

- (1) Three shampoo bowls;
- (2) Three dryers;
- (3) Sufficient reclining chairs for facials (punees are acceptable);
- (4) Three manicure tables;
- (5) One chair and dresserette station for each student;
- (6) Mannequin for each student with first quality hair for use in practicing the art of cosmetology (mannequins shall be placed on firm stands);
- (7) Wet sterilizers (sufficiently large to accommodate the instruments used by twenty-five students);
- (8) Electrical appliances for the proper training of beauty culture; and

(9) X-ray equipment shall not be used.

(b) The requirement of subsection (a) shall be standard beauty equipment and maintained in good working condition. [Eff 7/4/64; am and ren 7.11; 9/9/66; am and ren §16-78-58, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-59 Enrollment. (a) The number of students shall be small enough to permit an effective educational program. The number of students shall be set so that the total of students, patrons, and faculty does not exceed the occupancy requirements of the [~~State~~] state board of health and the building department of the county in which the school is located.

(b) Students shall be at least sixteen years of age and have an education equivalent to the completion of high school. [Eff 9/9/66; am and ren §16-78-59, 7/2/81; am and comp 12/21/89; comp 2/22/05; am and comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-60 School hours. The program of instruction for any instructor or student shall not exceed forty hours per week nor more than eight hours in any one day. [Eff 7/4/64; am and ren 7.13; 9/9/66; am and ren §16-78-60, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-61 Students. Students who resume their beauty culture courses after a lapse of three years or more shall not receive credit hours for previous course work. [Eff 7/4/64; am and ren 7.14; 9/9/66; am and ren §16-78-61, 7/2/81; comp 12/21/89; comp]

2/22/05; comp] (Auth: HRS §439-7)
(Imp: HRS §439-7)

§16-78-62 Instructors. The beauty school shall assure the instructors are in compliance with the following:

- (1) Instructors shall be in attendance at all times when students are working upon customers;
- (2) Instructors shall not practice cosmetology at the school as operators; and
- (3) Instructors shall teach only in the certification category in which the instructor holds a beauty operator license and shall be identified with a name stating "instructor" and the appropriate beauty operator category. [Eff 7/4/64; am and ren 7.15; 9/9/66; am and ren §16-78-62, 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-63 Library. Each school shall maintain a reasonably adequate library of books relating to the science and art of beauty culture. [Eff 7/4/64; am and ren 7.16; 9/9/66; am and ren §16-78-63, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §439-7) (Imp: HRS §439-7)

§16-78-64 Signs. No school shall perform any work upon or for members of the general public unless there is displayed in a conspicuous place in both reception room and work room one or more signs no smaller than 18" x 24" which shall read as follows: "School of Beauty Culture Work done by students under supervision." No school shall advertise or hold

itself out as doing professional work, or in any manner guaranteeing the work of students. [Eff 7/4/64; am and ren 7.17; 9/9/66; am and ren §16-78-64, 7/2/81; comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §4397) (Imp: HRS §439-7)

SUBCHAPTER 8

ORAL TESTIMONY

§16-78-68 Oral testimony. (a) The board shall accept oral testimony on any item which is on the agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony shall notify the board not later than forty-eight hours before the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony at the beginning of the testimony shall identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and

(6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearings relief, declaratory relief, or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff 11/7/64; am 12/28/69; am and ren §16-78-68 7/2/81; am and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §§438-5, 92-3) (Imp: HRS §§438-5, 92-3)

SUBCHAPTER 9

PRACTICE AND PROCEDURE

§16-78-72 Administrative practice and procedure.

The rules of practice and procedures for cosmetology shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 12/21/89; comp 2/22/05; comp] (Auth: HRS §91-2) (Imp: HRS §91-2)

~~[SUBCHAPTER 10~~

~~MEDICAL CLEARANCE~~

~~§16-78-76 Medical clearance.~~ Upon the department of health declaring an emergency or epidemic concerning one or more contagious or infectious disease or diseases, all licensed beauty operators, licensed instructors, beauty operator applicants, instructor applicants, instructor-trainees, students, and apprentices shall provide a medical clearance certificate from a physician attesting that the licensee or applicant is free from that particular contagious or infectious disease or diseases, as the case may be." [Eff and comp 12/21/89; comp 2/22/05; R] (Auth: HRS §439-7) (Imp: HRS §439-12.5)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-78, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on MM DD, YYYY, and filed with the Office of the Lieutenant Governor.

CATHERINE P. AWAKUNI COLÓN
Director of Commerce and
Consumer Affairs

APPROVED AS TO FORM:

Deputy Attorney General