

BOARDS AND COMMISSIONS
Board of Cosmetology
(Amendment)

201 KAR 12:030. Licensing, permits, and examinations.

RELATES TO: KRS 317A.020, 317A.050, 317A.060

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to promulgate administrative regulations governing licenses in cosmetology, esthetic practices, and nail technology, including the operation of schools and salons of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes procedures for examinations and licensing.

Section 1. Fees. License and permit fees are set forth in 201 KAR 12:260.

Section 2. Prior Felony Convictions. An applicant for any license, permit, or examination issued or conducted by the board convicted of a prior felony shall include with his or her application:

- (1) A signed letter of explanation from the applicant;
- (2) A certified copy of the judgment and sentence from the issuing court; and
- (3) A letter of good standing from the applicant's probation or parole officer, if currently on probation or parole.

Section 3. Reciprocal Licensing. (1) A license issued by another state shall be considered comparable if the laws of that state require at a minimum:

- (a) 1,500 hours of curriculum for cosmetology;
- (b) 450 hours of curriculum for nail technology;
- (c) 750 hours of curriculum for esthetics; or
- (d) 750 hours of curriculum for instructors.

(2) An applicant licensed in another state may be licensed by reciprocity by submitting the Out of State Transfer Application and the following:

- (a) Digital certification showing proof of a passing score on a board-approved nationally recognized theory and practical exam;
- (b) Current digital certification of the out of state license from the issuing state board;
- (c) Diploma or certified testing documents proving 12th grade equivalency education;
- (d) Payment of the applicable license and endorsement fees required by 201 KAR 12:260;
- (e) A copy of the applicant's government-issued photo identification; and
- (f) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(3) An applicant from a state whose licensing requirements fail to meet subsection (1) of this section shall apply for a reciprocal license by submitting:

- (a) Documentation required by subsection (2)(a) through (f) of this section; and
 - (b) Payment of the applicable examination fees established in 201 KAR 12:260.
- (4) Active duty military and family members shall apply for a reciprocal license by submitting:
- (a) All documents required by subsection 2(a) through (f) of this section;
 - (b) The Military Transfer Application;
 - (c) A copy of the sponsor's active-duty orders listing the applicant as sponsor or an accom-

panying family member; and

(d) Payment of a twenty-five (25) dollar license fee.

(5) All requests for certification of hours or a license shall use the Certification Request Form accompanied by a copy of the applicant's government-issued photo identification^[7] and payment of the fee as set forth in 201 KAR 12:260. Certifications shall be transmitted digitally to the reciprocal state agency.

Section 4. Permits. (1) Any person who engages in the practice of threading, makeup artistry, or eyelash artistry shall first obtain a permit from the board by submitting a completed Permit Application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

(a) A copy of the applicant's government-issued photo identification;

(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;

(c) Proof of completion of a board-approved sanitation course within the (1) year period preceding the application; and

(d) Proof of completion of a board-approved~~[national certification]~~ program, if applying for an eyelash artistry permit.

Section 5. Examination Registration. (1) Applicants shall register as follows:

(a) A student of a licensed cosmetology school shall register with the board at least eight (8) months prior to graduation for the requested cosmetologist examination date;

(b) A nail technician student shall register with the board at least ~~forty-five~~^[fortyfive] (45) days prior to graduation for the requested nail technician examination date; and

(c) An esthetician student shall register with the board at least four (4) months prior to graduation for the requested esthetician examination date.

(2) A completed Application for Examination or Out of State Application for Examination shall be received in the Board office no later than ten (10) business days prior to the examination date to be scheduled for either the theory test or the practical demonstration component of the exam. Each exam component shall be scheduled using a separate application and payment of the fee set forth in 201 KAR 12:260.

(3) All examination applicants shall submit a two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(4) Theory examination dates shall be valid for ninety (90) days from student notification.

(5) A passing score for the theory examination, proper application, and payment of fees shall be required prior to being scheduled for the practical examination.

(6) An applicant with curriculum hours obtained in another state shall include with the Out of State Application for Examination the following:

(a) Certification of curriculum hours from the state licensing board or agency where the hours were obtained, if the state requires the reporting of curriculum hours; or

(b) Certification of the valid licensing status of the school attended from the state board or licensing authority and an official transcript certified by the school.

(7) Examination applicants shall wear a full set of solid color medical scrubs and bring all instruments and supplies as listed on the board Web site for the practical examination. White colored scrubs or other clothing is prohibited.

Section 6. Examination Components. (1) The examination shall consist of a theory test and a practical demonstration taken from the curriculum requirements specified in 201 KAR 12:082.

- (2) The practical demonstration shall be performed on a:
 - (a) Mannequin head and hand for the cosmetology practical examination;
 - (b) Mannequin head for the esthetician or blow drying services practical examination; or
 - (c) Mannequin hand for the nail technician practical examination.
- (3) The applicant shall provide a mannequin head or hand as needed for an examination.

Section 7. Grading. (1) A minimum passing grade of seventy (70) percent on the theory test and the practical demonstration shall be required for the cosmetologist, esthetician, and nail technician examinations

(2) A minimum passing grade of eighty (80) percent on the theory test and eighty-five (85) percent on the practical demonstration shall be required for all instructor examinations.

(3) All passing exam scores shall be valid for six (6) months from completion.

Section 8. Practice before Examination Prohibited. A student engaging in the practice of cosmetology, esthetic practices, or nail technology prior to the board examination shall be ineligible to take the examination for a period of one (1) year from the date of the unauthorized practice.

Section 9. License Application. (1) An applicant who passes the examination shall have ninety (90) days following the examination to apply for a license using the License Application form and the documentation listed below:

(a) Diploma or certified testing documents proving 12th grade equivalency education;

(b) Payment of the applicable license fee required by 201 KAR 12:260;

(c) A copy of the applicant's government-issued photo identification; and

(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

(2) Failure to apply for a license as required by subsection (1) of this section shall require payment of the appropriate restoration and licensing fees set forth in 201 KAR 12:260 before a license may be issued.

(3) An applicant may apply for an apprentice instructor license to be used for training in an approved program after one (1) year of professional licensing. Applicants shall use the Apprentice Instructor Application and provide the documentation listed below:

(a) Diploma or certified testing documents proving 12th grade equivalency education;

(b) Payment of the applicable license fee required by 201 KAR 12:260;

(c) A copy of the applicant's government-issued photo identification; and

(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.

Section 10. Retaking Examinations. (1) Any applicant who fails either the theory test or the practical demonstration may retake that portion of the examination upon submitting a new Application for Examination with a two (2) by two (2) inch passport photo of the applicant taken within the preceding six (6) months, and paying the examination fee required by 201 KAR 12:260.

(a) After three (3) failed attempts, the examinee shall be required to wait six (6) months before retaking either portion of the examination. If the examinee does not receive a passing score after the third attempt, then the individual shall take an eighty (80) hour supplemental course in theory studies at a school licensed by the board prior to being eligible to retaking the examination.

(b) Following the supplemental course, the examinee may attempt the examination[~~test~~] two

(2) additional times. If the examinee fails both attempts the examinee shall be prohibited from taking the examination within three (3) years from the date of the final failed attempt.

(2) An applicant caught cheating or impersonating another shall not be allowed to retake the examination for a minimum of one (1) year from the date of the original examination.

(3) Any applicant who fails to report for the examination on the date specified by the board shall submit a new examination application and examination fee prior to being rescheduled for examination. The board may waive the examination fee for good cause shown. "Good cause" includes:

(a) An illness or medical condition of the applicant that prohibits the applicant from reporting for the examination; or

(b) A death, illness, or medical condition in the applicant's immediate family that prohibits the applicant from reporting for the examination.

(4) Documents and certificates submitted with an Application for Examination are valid for one (1) year following the date of submission after which time applicants shall submit updated documents and a new examination application.

Section 11. Duplicate Licenses, Renewal, and Restoration. (1) If a license is lost, destroyed, or stolen after issuance, a duplicate license may be issued. The licensee shall submit a statement verifying the loss of the license using the Duplicate License Application that includes a copy of a government-issued photo identification, and pay the duplicate license fee listed in 201 KAR 12:260. Each duplicate license shall be marked "duplicate".

(2) The annual license renewal period is July 1 through July 31. All licenses and permits shall:

(a) Be renewed using the Renewal Application or by using the board's online portal;

(b) Include the required copy of a government-issued photo identification;

(c) Include payment of the fee set forth 201 KAR 12:260; and

(d) Include payment of any outstanding fines associated with a prior disciplinary action as described in KRS 317A.145.

(3) To restore an expired license or permit, a Restoration Application shall be submitted to the board with payment of the restoration fee for each year the license has been expired, the total of which shall not exceed \$300 per license restored, as~~and license fees~~ set forth in 201 KAR 12:260, together with~~and~~ the following:

(a) For an expired individual license or permit, a copy of a government-issued photo identification;

(b) For an expired salon license or limited facility permit, a new Salon Application or Limited Facility Permit Application; or

(c) For an expired school license, a new School Application.

Section 12. Salon and Facility Applications. (1) Each person, firm, or corporation applying for a license to operate a new or relocating beauty salon, nail salon, esthetic salon, or limited facility shall submit the Salon Application or Limited Facility Permit Application with required copies of state identification and driver's licenses, pay the applicable fee set forth in 201 KAR 12:260, and be inspected by the board inspector a minimum of five (5) business days prior to opening for business.

(2) A new or relocating salon or facility shall comply with all applicable city, county, state zoning, building, and plumbing laws, administrative regulations, and codes.

(3) A salon or facility may be located on the premises of a nursing home or assisted living facility if the salon or facility meets all requirements of this section.

(4) Any salon or facility located in a residence shall have a separate outside entrance for

business purposes only. This subsection shall not apply to a nursing home or assisted living facility if the home or facility has obtained a salon license from the board.

(5) A salon or facility shall not open for business prior to issuance of its license or permit.

(6) Each salon shall maintain a board licensed manager properly licensed in the services the salon provides at all times.

(7) Salon and limited beauty salon licenses and facility permits shall be mailed to the Kentucky mailing address on the application.

Section 13. Change in Salon Ownership or Transfer of Interest.

(1) The owners, firm, or corporation operating a licensed salon shall submit to the board a new Salon Application, Limited Facility Permit Application, or Manager Change Form and payment of the license or change fee as set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership or changing managers.

(2) No transfer of ownership interest in a salon shall take effect while the salon license to be transferred is the subject of ongoing disciplinary action pursuant to KRS 317A.145.

Section 14. School Licenses. (1) Each person, firm, or corporation applying for a license to operate a school shall submit a School Application and the applicable fee set forth in 201 KAR 12:260.

(2) The School Application shall be accompanied by:

(a) A proposed student contract listing all financial charges to enrolling students; and

(b) A proposed floor plan drawn to scale by a draftsman or architect[; ~~and~~

~~(c) Proof of five (5) years of residency in the Commonwealth].~~

(3) Each school shall comply with city, county, and state zoning, building, and plumbing laws, administrative regulations and codes.

(4) Prior to license issuance and following the receipt of a completed application with all accompanying materials, the board inspector and board administrator shall conduct an inspection.

(5)(a) The inspection shall be completed within twelve (12) months of the date that the School Application and all accompanying materials are received unless the board extends the time period for good cause. "Good cause" includes:

1. An illness or medical condition of the applicant that prohibits the applicant from completing the final preparations; or

2. A death, illness, or medical condition in the applicant's immediate family that prohibits the applicant from completing the final preparations.

(b) Requests for an extension of time shall be submitted in writing to the board and include the following:

1. The reason for the extension and the term of the request; and

2. Supportive documentation of the extension request.

(6) A license to operate a school shall be valid only for the location and person, firm, or corporate owner named on the application. A school license shall not be transferable from one (1) location to another or from one (1) owner to another.

(7) The school license shall contain:

(a) The name of the proposed school; and

(b) A statement that the proposed school may operate educational programs beyond secondary education.

(8) Each licensed school shall maintain a board licensed instructor as school manager at all times.

Section 15. Change in School Ownership or Management. (1) The owners, firm, or corporation operating a licensed school shall submit to the board a new School Application or a Manager Change Form and payment of the applicable fee set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership or changing school managers.

(2) A prospective owner(s) or manager shall meet all qualifications of KRS Chapter 317A and 201 KAR Chapter 12, and obtain approval of the board prior to assuming operation of the school.

Section 16. Classification as School. Any person, establishment, firm, or corporation that accepts, directly or indirectly, compensation for teaching any subject of cosmetology as defined in KRS 317A.010 shall comply with KRS Chapter 317A and 201 KAR Chapter 12.

Section 17. Owner and Manager Student Prohibited. An owner, partner, stockholder, corporate officer, or a manager of a licensed school shall not be enrolled as a student in the school.

Section 18. Board Member Disclosure. A board member shall disclose to the board a financial interest in a salon or school when submitting an application for a salon or school license.

Section 19. Demonstration Permits. Professional services performed outside a licensed facility shall have approval of the board and display the proper permit. Permits may be obtained by completing the Demonstration Permit Application and paying the applicable fee set forth in 201 KAR 12:260.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Out of State Transfer Application", October 2018;
- (b) "Military Transfer Application", October 2018;
- (c) "Certification Request Form" October 2018;
- (d) "Permit Application", January 2019;
- (e) "Application for Examination", January 2019;
- (f) "Out of State Application for Examination", October 2018;
- (g) "License Application", June 2019;
- (h) "Apprentice Instructor Application", June 2019;
- (i) "Duplicate License Application", January 2019;
- (j)~~(h)~~ "Renewal Application", January 2019;
- (k)~~(i)~~ "Restoration Application", ~~June~~January 2019;
- (l)~~(j)~~ "Salon Application", June 2019;
- (m)~~October 2018~~;
- (k) "Limited Facility Permit Application", ~~June~~January 2019;
- (n)~~(h)~~ "Manager Change Form", October 2018;
- (o)~~(m)~~ "School Application", October 2018;and
- (p)~~(n)~~ "Demonstration Permit Application", October 2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JEANETTA THORNBURY, Chair

APPROVED BY AGENCY: July 15, 2019

FILED WITH LRC: July 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:30 a.m. on August 21, 2019 at 111 St. James Court, STE A, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on August 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Julie Campbell, Board Administrator, 111 St. James Court, STE A, Frankfort, Kentucky 40601, phone 15025644262, email julie.campbell@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Julie Campbell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for all examinations, licenses, and permits provided by the Kentucky Board of Cosmetology (KBC).

(b) The necessity of this administrative regulation: This amendment is necessary to establish the procedures to apply for examinations, permits, and licenses issued by the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317A.050 requires KBC to issue licenses once certain statutory requirements are met. All applicants for any license type are required to submit the appropriate application for licensure. This administrative regulation conforms to KRS 317A.050 by establishing the content and supporting documentation necessary to apply for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment provides a specific process for any interested person to apply for and receive a permit or license to practice cosmetology, esthetics, shampoo and style, or nail technology in the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment expands the type of training programs that may be approved by the board for issuance of an eyelash permit, provides clarity regarding how the restoration of license fees are processed, and provides additional forms that inadvertently were not included during the previous amendment to this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include new forms that inadvertently were not included during the previous amendment of this administrative regulation, to expand the training programs available for board approval so that more eye lash permits may be issued, and to provide clarity regarding the process of how restoration of license fees are processed.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides the necessary steps to apply for a license or permit as authorized by KRS 317A.050.

(d) How the amendment will assist in the effective administration of the statutes: Through one concise administrative regulation, this amendment will facilitate the public's ability to apply for and receive the necessary examination, permit, and licensing to practice or teach cosmetology, esthetics, shampoo and style, or nail technology in the Commonwealth.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All students with finalized exam scores, approximately 5000 at any given time, are affected by this amendment. Any person choosing to apply for an apprentice license will also be affected.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Students applying for a cosmetology or apprentice license will not have to take additional action as a result of this amendment. These individuals were already required to submit an application pursuant to KRS 317A.050. This regulation merely states the documentation that had always been required to be submitted pursuant to the application instructions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no anticipated costs to the regulated entities due to this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: This amendment will simplify the process for applicants receiving a first time or new license and implement a form to support the requirements of licensure in the apprentice instructor program.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no additional costs involved due to this amendment.

(b) On a continuing basis: There are no additional costs involved due to this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The KBC is entirely self-funded through collecting fees for examinations, permits, and licenses. Funds necessary for the implementation and enforcement of this administrative regulation are derived from the fees collected for KBC services.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not create an increase in fees. Prior KBC policy required that a licensee attempting to restore an expired license pay a restoration fee equal to the renewal fee for each year the license had been expired. This amendment caps that amount at \$300 per license being restored, whereas prior policy did not provide a cap on the potential restoration fee.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment does not directly or indirectly increase fees. In fact, this amendment places a cap on a fee that under previous regulation could in theory have resulted in substantial license restoration costs.

(9) TIERING: Is tiering applied? Tiering is not applied as the requirements of this amendment apply equally to all applicants, permittees, and licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Cosmetology.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the

action taken by the administrative regulation. KRS 317A.050, KRS 317A.060.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The new licenses being issued are for students already in contact with schools and programs through this agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Licensure guidelines here are only enforcing a process for current students or licensees looking to complete licensure or enroll in an apprentice instructor program.

(c) How much will it cost to administer this program for the first year? There are no new costs involved only a formalization of the forms and accompanying documents needed for initial licensure.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs involved only a formalization of the forms and accompanying documents needed for initial licensure. There is an ever changing base of students being trained in this profession and there is no way to predict that volume at this time.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Increase.

Expenditures (+/-):

Increase.

Other Explanation: At this time, it is unclear how many applicants will avail themselves of the a new license. The expected increase in revenue and expenditures associated with the new licenses contained in this amendment can not be accurately assessed at this time. The individuals seeking new licensure using the forms in this amendment are already students or licensees of the agency.