

BOARDS AND COMMISSIONS
Kentucky Board of Cosmetology
(Amendment)

201 KAR 12:060. Inspections.

RELATES TO: KRS 317A.060, 317A.140

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to promulgate administrative regulations governing the operation of any schools, limited facilities, and salons of cosmetology, nail technology, threading, eyelash artistry, makeup artistry, ~~and~~ esthetics, and to protect the health and safety of the public. This administrative regulation establishes inspection and health and safety requirements for all schools and salons of cosmetology, nail technology, threading, eyelash artistry, makeup artistry, and esthetics.

Section 1. Public Display.

- (1)
 - (a) Each licensee or permit holder shall attach his or her picture to the license or permit and place it in an accessible and conspicuous area in the salon, limited facility, or school.
 - (b) Each licensed facility's license shall be posted in an accessible and conspicuous area with the information required by this subsection.
- (2) A conspicuous area shall be visible to the public and shall include:
 - (a) The main entrance door or window of the premises; and
 - (b) The workstation of the employee.
- (3) A salon or school manager shall have the manager's license posted with a picture in an accessible and conspicuous area at all times.
- (4) A school shall, at all times, display in a centralized and accessible conspicuous public place the student permits of all students enrolled.
- (5) Each licensed salon, limited facility, or school shall post the most recent inspection report in an accessible and conspicuous area.

Section 2. Inspections.

- (1) Any board member, administrator, or inspector may enter any establishment licensed by this board or any place purported to be practicing cosmetology, nail technology, threading, eyelash artistry, makeup artistry, or esthetics, during reasonable~~normal~~ working hours or at any time when the establishment is open to the public, for the purpose of determining if an individual, salon, limited facility, or school is complying with KRS Chapter 317A and 201 KAR Chapter 12.
- (2) A board member, administrator, or inspector may require the licensee or permittee to produce for inspection and copying books, papers, or records required by the board or pertaining to licensed activity.
- (3) Each establishment licensed by the board shall be inspected a minimum of two (2) times per year.
- (4) A salon, limited facility, or school shall schedule an inspection of the salon, limited facility, or school after an inspector twice attempts, but is unable, to inspect the salon or school.
- (5) Failure of the salon, limited facility, or school owner or manager to schedule an inspection within thirty (30) days of two (2) consecutive failed inspection attempts shall constitute unprofessional conduct.
- (6) The owner and manager of each establishment licensed by the board shall be responsible for compliance with KRS Chapter 317A and 201 KAR Chapter 12.

Section 3. Unprofessional Conduct. Unprofessional conduct under KRS 317A.140 includes the following:

- (1) Intentionally withholding information or lying to a board member or board employee who is conducting a lawful inspection or investigation of an alleged or potential violation of KRS Chapter 317A or 201 KAR Chapter 12;
- (2) A salon, limited facility, or school remaining open to the public if not appropriately licensed by the board;
- (3) Providing or teaching any cosmetology, nail technology, esthetic, lash artistry, makeup artistry, or threading services unless appropriately licensed or permitted by the board under 201 KAR Chapter 12;
- (4) Failure to comply with the lawful request of the board, ~~for~~ the executive director~~[board administrator]~~, inspector, or agent for the following:
 - (a) Allow entry to perform an ~~[Permit]~~ inspection of the licensed premises; or
 - (b) Allow the ~~[Permit]~~ inspection of or the copying or production of books, papers, documents, or records of information or material pertaining to activity licensed by the board or related to the provisions of KRS Chapter 317A or the administrative regulations promulgated by the board; or
 - (c) Refusing to provide a valid state or federal government issued identification matching the posted license or permit; or
 - (d) Removal of any posted notice from the board pertaining to violations, inspection failures, or lack of licensure by the board.
- (5) Any attempt by a license or permit holder to bribe a Kentucky Board of Cosmetology representative or induce a board representative to violate a provision of KRS 317A or 201 KAR Chapter 12;
- (6) Any attempt to fraudulently produce or duplicate board requested documents or licensure; or
- (7) Any violation of the Code of Ethics as stated in 201 KAR 12:230.

Section 4. Signage. The main entrance to any establishment licensed by the board shall display a sign indicating a beauty salon, nail salon, esthetic salon, limited facility, or cosmetology school. The sign shall indicate the name of the salon; limited facility, or school as it is registered with the Kentucky Board of Cosmetology and shall be clearly visible at the main entrance of the establishment.

MARGARET MEREDITH, Board Chair

APPROVED BY AGENCY: July 12, 2022

FILED WITH LRC: July 12, 2022 at 2:40 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 21, 2022, at 10:00 am, at the Kentucky Board of Cosmetology office. 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 was received by that date, the hearing may be cancelled. 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 September 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Julie M. Campbell, Executive Director, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, (502) 564-4262, email julie.campbell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie M. Campbell

(1) Provide a brief summary of:

(a) What this administrative regulation does:

Regulation outlines inspection process and requirements for posting and agency authority to enter a facility.

(b) The necessity of this administrative regulation:

It is necessary to define authorities and required postings to ensure public awareness and compliance from licensees on documents pertinent to licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 317A.060 requires the board to promulgate administrative regulations governing the operation of any schools, limited facilities, and salons of cosmetology, nail technology, threading, eyelash artistry, makeup artistry, esthetics, and to protect the health and safety of the public.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

Posting of licensure, previous inspections, professional conduct and inspections provide public assurance of safety and accountability.

(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:

additional terms are outlined to continue to protect the public from unlicensed and unsafe practices.

(b) The necessity of the amendment to this administrative regulation:

clarity and inclusive items from the prevailing statute are added for clarity.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 317A requires the board to promulgate safety standards to protect the public.

(d) How the amendment will assist in the effective administration of the statutes:

this will allow staff to require proof of identity to reduce the fraud of unlicensed individuals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All members of the public will be impacted by increased safety awareness in facilities.

(4) Provide an analysis of how the entities identified in question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

No additional steps are necessary to comply with this regulation- a government issued id is a requirement of licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

no additional cost will be necessary.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Public assurance that the individuals are licensed properly for safety in the industry.

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

(a) Initially:

no additional costs

(b) On a continuing basis:

no additional costs

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

All funding for agency are from licensing fees and will remain that way.

(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:

No additional funds or fees are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

no additional fees are created with this regulation.

(9) TIERING: Is tiering applied?

No tiering is needed all funds are from a restricted source.

FISCAL NOTE

(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?

No additional agencies will be affected by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 317A is the prevailing authority statute there is no federal oversight on these items.

(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.

(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?

No additional revenue

(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?

No additional revenue

(c) How much will it cost to administer this program for the first year?

No additional cost

(d) How much will it cost to administer this program for subsequent years?

No additional cost

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

Revenues (+/-):N/A

Expenditures (+/-):N/A

Other Explanation:

N/A

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

No additional savings will occur and no additional expenditures

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

No additional savings will be created.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

No cost savings is created

(c) How much will it cost the regulated entities for the first year?

No additional costs will occur

(d) How much will it cost the regulated entities for subsequent years?

No additional costs.

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

Cost Savings (+/-):n/a

Expenditures (+/-):n/a

Other Explanation:

n/a

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There is no major economic impact associated with this regulation.