

53 N.J.R. 1798(a)

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RULE ADOPTIONS

Reporter

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > NEW JERSEY STATE BOARD OF COSMETOLOGY AND HAIRSTYLING

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:28-1.1, 1.1A, 1.2, 1.3, 1.7, 1A.1, 2.1, 2.2, 2.3, 2.5, 2.7, 2.8, 2.9, 2.10, 2.13, 2.14, 2.15, 3.3, 4.1, 4.2, 4.3, 4.4, 6.1, 6.7, 6.8, 6.10, 6.13, 6.15, 6.16, 6.20, 6.21, 6.22, 6.23, 6.27, 6.29, 6.31, and 6.36

Adopted New Rules: N.J.A.C. 13:28-6.35 and 6.36

Text

Licensure Requirements for Hair Braiding and Hair Braiding Shops; Curriculum for Hair Braiders; Requirements for Cosmetology-Hairstyling, Beauty Culture, Barbering, Manicuring, and Skin Care Specialty

Proposed: December 2, 2019, at 51 N.J.R. 1779(a) (The notice of proposal would have expired on December 2, 2020, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 103, to January 1, 2022).

Adopted: June 9, 2020, by the New Jersey State Board of Cosmetology and Hairstyling, Ms. Janice Alvarez, Chairperson.

Filed: September 20, 2021, as R.2021 d.118, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:5B-6(r) and P.L. 2018, c. 126.

Effective Date: October 18, 2021.

Expiration Date: February 4, 2023.

Summary of Public Comments and Agency Responses:

The official comment period ended January 31, 2020. The Board received comments from:

1. Dawn Rivard
2. J. J. Janas
3. Angela Ivana
4. Adrienne Blanks
5. Institute for Justice
6. Cosmo Safe
7. The NJ Hair Braiding Freedom Coalition

1. COMMENT: Commenters noted that wig making, wig application, and wig styling are different tasks and are all separate and distinct from hair braiding. Commenters further averred that wig making is not conducted in hair braiding shops and conversely hair braiding is not performed in wig shops. Several commenters stated that hair braiders are not wig makers. One commenter stated that hair braiding is not essential to wig making. Commenters contended that lack of clarity regarding wig making under this regulation, and the law, would unintentionally impact artisanal wig makers in the medical, religious, or production fields, referencing the making of wigs for cancer patients, Jewish communities, and in media and entertainment. Commenters expressed concern that they will lose work opportunities and/or be penalized and subject to fines for making wigs without licensure.

2. COMMENT: Commenters contend that the rule should only apply to wig styling and application, as the materials and methods used may pose some risk to consumer health and safety. Commenters sought clarity that the rule should apply to wig application and styling processes only when done on a human head in a salon. Commenters also noted that wig making takes place on a mannequin head or wig block, and not on a human head.

3. COMMENT: One commenter noted that wig making has been recently popularized as a trend on social media and specified such media does not depict the most common practices of artisanal wig making, wig applications, or wig styling.

RESPONSES TO COMMENTS 1, 2, AND 3: The Board notes that its rules do not apply to conduct occurring in artisanal wig shops, so long as the services appurtenant to wig making are not being performed while the wig is being worn by a person, in accordance with N.J.S.A. 45:5B-3. The Board notes, however, that there are some wig making, application, and styling services performed in shops, and pursuant to N.J.S.A. 45:5B-1 et seq., it is the Board's prerogative and obligation to establish rules to protect consumers in such situations. N.J.S.A. 45:5B-3(bb) defines "hair braiding," which "may include: ... making of wigs from natural hair, natural or synthetic fibers, and hair extensions..." The Board also notes that cosmetology and hair styling, beauty culture, and barbering licensees are permitted to provide services included in hair braiding pursuant to N.J.A.C. 13:28-1.1(a)6 and "the cutting, fitting, coloring, or styling of hair pieces or wigs to the extent that the services are being worn by a person." N.J.A.C. 13:28-1.1. Therefore, by adopting rules concerning hair braiding, the Board is acting within its authority delegated by N.J.S.A. 45:5B-1 et seq., to regulate the conduct of all of its licensees.

4. COMMENT: Multiple commenters expressed concern with the high cost of a hair braiding education, which could preclude some hair braiders from enrolling in a hair braiding program in a cosmetology school and leave program graduates in substantial debt. Several commenters referenced studies, including ones that indicated that many beauty professionals earn less than \$ 24,000 per year while New Jersey cosmetology programs can cost \$ 17,000. One commenter noted that the rules do nothing to ensure that training is offered or affordable. One commenter recommended establishing cost caps for this type of education and noted the prevalence of predatory practices in cosmetology programs.

RESPONSE: A primary reason for the statutory and regulatory changes was to provide an opportunity to hair braiders to practice their craft without the onerous requirements of obtaining a full cosmetology license, namely the cost of, and time spent, attending cosmetology school. The costs of education referenced by the commenters are those for full cosmetology and hairstyling programs, which take at least 1,200 hours to complete. In contrast, hair braiding programs will take 40 or 50 hours and are expected to cost far less than cosmetology and hairstyling programs. For example, after reviewing comments, the Division contacted a licensed [page=1799] school offering a hair braiding program and was informed that the program charges less than \$ 2,000 for a 50-hour course of instruction, a fraction of the cost of a full cosmetology and hairstyling program. The Board is not considering establishing cost caps at this time and does not currently impose regulatory cost caps for other cosmetology programs. Finally, the Board

believes that costs associated with obtaining a hair braiding education are outweighed by the benefit of consumer protection afforded to those who receive services from hair braiders who have obtained formal education in important topics like infection control and fundamental hair braiding techniques.

5. COMMENT: One commenter expressed concern with the ability of a Caucasian or American instructor to teach the artistic, practical, and technical skills of African hair braiding when the professionals themselves are from Africa or the Caribbean.

RESPONSE: N.J.S.A. 45:5B-23 establishes the requirements to be a teacher licensed by the Board. These requirements include, but are not limited to, holding licensure as a cosmetologist, which requires completion of a 1,200-hour course with a clinical component; completion of a 500-hour teacher training course with a clinical component; completion of a 30-hour teaching methods course conducted by a college approved by the Commission on Higher Education and recognized by the Board, or a college in another state that is approved by the higher education authorities of that state and recognized by the Board; six months of employment experience in a licensed shop; and successful completion of an examination. These requirements ensure that teachers of hair braiding programs are qualified and able to teach hair braiding.

6. COMMENT: Several commenters expressed concern with the cost of, and requirement that students be provided by the school with a hair braiding kit pursuant to N.J.A.C. 13:28-6.20. Commenters averred that braiders should not have to bear the cost (folded into their tuition) when they already own the items contained in the kit, and that this requirement only benefits schools by raising profit potential, without benefit to the public or hair braiding students. Commenters contended that students should be afforded the option to provide their own kit materials.

RESPONSE: The Board is aware that some hair braiding students may have their own supplies that are substantially similar to the supplies in the required kit. However, the Board notes that for health, safety, and sanitation reasons all regulated cosmetology students are subject to similar rules (principally-that the schools provide kits for students). Moreover, by requiring that complete kits are provided by schools, the Board is ensuring that students will have all the materials they need to take the practical examination required for licensure reducing the risk that students will be unduly hampered by inadequate equipment in their training and in their attempts to obtain licensure. The provision of these kits provides uniform quality of materials to students during their education and examination, in

addition to ensuring training with recognized equipment. The Board also notes that a potentially significant number of hair braiding students will not engage in the practice of hair braiding before attending school, especially as time passes from the date the Board's rules are adopted. Therefore, the Board declines to change this requirement.

7. COMMENT: Multiple commenters indicated support for a low-cost online training program, independent of the cosmetology schools, which would focus on health, safety, and sanitation training. One commenter noted that online training would need to be provided in multiple languages. Some commenters suggested that training should be allowed in salons or through apprenticeship-style learning, with instruction provided by experienced hair braiders. One commenter noted that other states have less onerous training requirements, such as basic online training plus an examination and recommended that the Board take such an approach. One commenter indicated that a certificate of completion of an online training could be posted in shops, demonstrating to consumers that the braiders are trained on health and sanitation and could enhance their existing businesses.

8. COMMENT: One commenter asked whether the Board would be willing to consider the portion of the authorizing statute that permits the Board of Education to approve specialty programs, explore online training to maximize access, and implement a viable training option, in light of the fact that schools have not yet implemented hair braiding programs.

RESPONSE TO COMMENTS 7 AND 8: Pursuant to N.J.S.A. 45:5B-22.2, all hair braiding applicants seeking initial licensure are required to "Demonstrate successful completion of a course of instruction in hair braiding, the curriculum for which shall be established by the board pursuant to regulation ..." The statute requires that the course shall be provided by a school of cosmetology and hair styling licensed in the State; a public school approved by the State Board of Education or a State Board of Education approved program; or in a school of cosmetology and hair styling, beauty culture, or hair braiding licensed in another state or foreign country which, in the opinion of the Board, offered curricula that are substantially similar to what is offered in the State. The applicant must also take and pass an examination conducted by the Board. The alternative training options referenced by commenters (the Board permitting apprenticeships in shops and the Board approving programs not affiliated with a licensed school) do not comply with the requirements under the applicable statute and so the Board does not have the authority to propose or implement these options. If the State Board of Education approved a hair braiding program, whether in-person or online, the Board would be required to accept completion of that program as satisfaction of the education requirement pursuant to N.J.S.A. 45:5B-22.2.

Nothing in the law or rules prohibits the Board from authorizing education programs that conduct coursework online, but the Board notes that it is unlikely that practical instruction could be sufficiently achieved through exclusively online education. Additionally, the Board notes that the training requirements for hair braiders in New Jersey are comparable to, or less onerous than, the requirements of neighboring states; New York State and Pennsylvania both require passage of a 300-hour course in hair braiding.

9. COMMENT: Several commenters expressed concern that the education, training, and supplies, namely textbooks, required by the proposed rules are not currently available to hair braiders. Several commenters expressed concern that the lack of established curriculum and textbooks may result in students failing courses, a lack of standardization for this course of study, and a general failure to meet the convenience, affordability, and cultural relevancy needs of hair braiding professionals across the State.

10. COMMENT: One commenter suggested that the deadline for compliance with education and licensure requirements be extended until one year from the date that 10 percent of schools (about six schools) offer a hair braiding curriculum.

11. COMMENT: One commenter referenced the intentions of the New Jersey Department of Education to ensure all of New Jersey's 1.4 million students have equitable access to high-quality education and achieve academic excellence. One commenter questioned what the State of New Jersey is doing to create equitable access to training for hair braiders.

RESPONSE TO COMMENTS 9, 10, AND 11: The Board appreciates the concern expressed by the commenters regarding the current availability of academic resources and programs for hair braiding. The Board notes that hair braiding training materials exist and that the Board has already approved hair braiding curricula at two schools. The Board also notes that some schools are awaiting accreditation from the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS). The Board will continue to monitor progress made by schools in obtaining accreditation and developing standardized curriculum and training materials. The Board notes that by creating a regulatory regime that requires abbreviated training in hair braiding rather than the full 1,200-hour curriculum required for licensed cosmetologists and hairstylists, P.L. 2018, c. 126, decreased barriers to entry into the hair braiding profession for all New Jersey residents.

12. COMMENT: One commenter agreed with language that the commenter believes is contained in the rule that establishes upper limits on the

duration of hair braiding curricula and stated that imposing only an upper limit will allow programs to focus on mastery of the health and public safety content, which, in the commenter's opinion, matters more than the number of hours of coursework or other curriculum components.

RESPONSE: The Board notes that the rules, as written, require an applicant for licensure as a hair braiding specialist to complete either a 40- or 50-hour course of instruction, and that N.J.S.A. 45:5B-22.2 establishes that the curriculum shall last *no more than* 40 or 50 hours. The Board agrees with the commenter as to the importance of instruction in health and safety but adds that the established curriculum allocates hours of [page=1800] subject matter and practical instruction to ensure that students receive adequate training in each area of instruction.

13. COMMENT: Several commenters expressed concern regarding the number of course hours required, course content, and curriculum focus in the proposed rule. One commenter noted that the hair braiding statute provides that a braider must obtain instruction "not to exceed" 40 or 50 hours. One commenter suggested that 10 hours of additional training serve no point, as braiders already know how to braid. Several commenters noted that hair braiding is learned through informal channels outside of school, including from home, communities, and online. One commenter noted that cultural art forms vary based on where braiders are from and that they learned the art of their profession from their community.

RESPONSE: The Board is aware of the statutory language that the education requirement for hair braiders is not to exceed 40 or 50 hours, dependent upon prior experience. It is the Board's position that a minimum 40 hours of schooling is necessary to ensure hair braiders are properly trained to protect consumers. The Board further believes that an additional 10 hours of training for students that cannot demonstrate experience pursuant to N.J.A.C. 13:28-1.1(e)lvii, will help provide the necessary skill set for hair braiding students to engage in practice upon licensure by the Board. The Board declines to revise the curriculum hours, leaving them at 40 and 50 hours, respectively.

Additionally, as noted in the Response to Comments 8 and 9, the alternative training options referenced by the commenters do not satisfy the requirements of the hair braiding statute and the Board cannot deviate from the statutory requirements.

14. COMMENT: Several commenters note that hair braiders want to learn about health, safety, and sanitation, with limited or no desire to learn techniques affiliated with the practice of hair braiding (for

example, shampooing, conditioning, hair drying, and various braid styles).

15. COMMENT: One commenter critiqued the method of regulating course hours in artistic, practical, and technique-based content, when the Board's regulations should be primarily concerned with public health and safety. One commenter indicated the State should not regulate the different styles and techniques used by hair braiders, as those styles and techniques are not regulated for other licensees of cosmetology and hair styling. One commenter noted that artistic techniques are subjective and based on the client's preferences. One commenter indicated that hygiene, health, and safety are not preferences and should be standardized for public safety.

16. COMMENT: One commenter compared hair braiding to bartending, in that optional artistic classes can be offered to those lacking skill in the art, which are independent of State requirements. One commenter alluded to the State's recognition of certain programs because of their focus on health and safety, and that such programs do not teach artistic skills or techniques. One commenter questioned why the same concept underlying training and testing for culinary workers cannot be utilized for hair braiders. Commenters indicated that that State boards should focus more narrowly on health and safety theory-based curriculum, rather than a curriculum based on hours and practical techniques. One commenter indicated that measuring hair braiders' mastery over public health and safety content, instead of focusing on hours and art, would better serve the State's intention to provide equitable education while protecting public health and safety.

RESPONSE TO COMMENTS 14, 15, AND 16: The Board recognizes the importance of health and safety as part of the education for any licensee, but also believes that it has a duty to ensure licensees have the necessary skill set to competently provide the regulated services. Thus, the established hair braiding curriculum addresses fundamental skills in addition to safety and sanitation, just as curricula do for other groups of Board licensees. The Board believes that a 40- to 50-hour curriculum strikes a suitable balance between ensuring proper training, with an emphasis on health and safety, while still reducing barriers to licensure that a hair braider would otherwise face (that is, needing to obtain a full cosmetology and hairstyling license in order to braid hair). The Board disagrees with the commenter who stated that hair braiding methods and techniques are subject to greater regulation than methods and techniques used by other groups of Board licensees.

17. COMMENT: Several commenters expressed concern with the rules surrounding the high school or equivalent education for hair braiding

licensees. One commenter expressed concern that schools may require high school diplomas, GEDs, immigration documents, or "other documentation beyond what is necessary to practice." Commenters noted that there are individuals, specifically immigrants, who have braided for many years but never received a formal education, high school diploma, or GED. One commenter questioned how individuals who possess the experience but not the formal education required by the rules would be expected to obtain an education and evidence of that education to become licensed. One commenter inquired whether cosmetology schools will be required to verify the high school education or equivalent requirement of each student prior to acceptance or deny students the opportunity to sit for an exam after the student has paid for a hair braiding program.

18. COMMENT: One commenter questioned the necessity of the education requirements if the student can read in a common language, write, and pass testing with a satisfactory score. One commenter noted that some laws historically favored certain groups, and that the laws' successors build upon existing laws and rules, the results of which unintentionally limit, burden, and exclude minority populations. One commenter proposed a waiver to the education requirement if a student or candidate can pass the Board testing with satisfactory scores.

RESPONSE TO COMMENTS 17 AND 18: N.J.S.A. 45:5B-16.d requires that all applicants for initial licensure as a practicing licensee submit to the Board satisfactory evidence that the applicant has "successfully completed high school or has successfully passed an examination developed by the General Education Development (GED) Testing Service." The Board does not have the authority to deviate from the statutory requirements. The Board notes that N.J.A.C. 13:28-6.21(a) requires that applications "for student registration and all training courses administered by licensed schools shall be accompanied by proof, by affidavit or otherwise, that the particular student has been informed that he or she must meet the minimum requirements for admission to licensing examination and that an examination must be taken and successfully completed. A copy of this notification must be retained in the student personnel file." Additionally, N.J.A.C. 13:28-6.22 requires schools to "submit applications to the Board for each student for examination within 30 days after the student's completion of the course of study. Each application must be accompanied by ... a copy of a high school or equivalency diploma ..."

19. COMMENT: Multiple commenters contended that the Board should expand allowable evidence to demonstrate three years of hair braiding experience, that the formal evidence requirement is a major barrier, and that many individuals lack required documentation. One commenter contended that many braiders are immigrants to the United States and

that it is extremely unlikely their home countries offer a hair braiding business certificate. One commenter noted that not all hair braiders have a W-2 form, which is likely only available if the braider worked in another state. Commenters noted that notarized attestation is problematic as many braiders are self-employed and, therefore, cannot certify themselves, and that obtaining W-2 forms or attestations is unduly expensive and time consuming.

20. COMMENT: One commenter indicated that there is little incentive for braiders to complete an attestation on behalf of their employees. One commenter contended that combined with the restriction on chair rentals, these rules establish extremely hostile burdens for braiders. One commenter compared the requirements of proving employment to the requirements and restrictions to obtain a private or Federal Housing Administration (FHA) loan. One commenter contended that New Jersey should not parallel the restrictions imposed by private lenders but, rather, should be more flexible like the Federal government regarding FHA loans, in accepting a wider range of proof and documentation with cultural awareness, context, and understanding for true social impact.

21. COMMENT: One commenter proposed that the following documentation be included for hair braiders to demonstrate experience: an affidavit attesting to the braider's own experience; a lease or letter from the landlord of a hair braiding shop; a utility bill with the hair braiding shop name listed; a local business license for the hair braiding shop; all tax forms for the hair braiding shop; a business bank statement for the hair braiding shop; a letter from a braider's client; a service invoice; and any certificate from another country or state.

[page=1801] RESPONSE TO COMMENTS 19, 20, and 21: N.J.A.C. 13:28-1.1(e)1vi(1) provides how hair braiding license applicants may demonstrate three years of experience as a hair braider. The language specifically states that applicants "shall submit documents, such as, but not limited to, a Form W-2 from previously or currently held employment ... or a notarized attestation from previous or current employers..." The regulation does not require business certificates from other countries, submission of a Form W-2, or an attestation; rather the regulation provides examples of acceptable documentary evidence. Additionally, the Board does not believe that the process of obtaining attestations or copies of Form W-2 is too costly or time consuming. The Board has discretionary authority under this provision to review and consider whatever documentary evidence applicants submit, including, but not limited to: personal affidavits; leases or letters from landlords; utility bills; local business licenses; tax forms; business bank statements; letters from a braider's clients; a service invoice; and any certificate that can be obtained from a country or state, as suggested by the commenters. To afford applicants the

greatest flexibility in identifying and submitting documents that may prove the required experience, the Board declines to change this rule. The Board may provide additional guidance to applicants regarding acceptable documentary evidence, such as posting on its website a nonexclusive list of documents that will satisfy the documentation requirement at N.J.A.C. 13:28-1.1(e)1vi(1).

22. COMMENT: Several commenters noted that enforcement of the hair braiding provisions should not occur until the affected parties have had the opportunity to comply with the regulations that went into effect on October 30, 2019, and cited the lack of hair braiding programs at cosmetology schools as a major roadblock to compliance. One commenter contended that hair braiders and hair braiding shops will not be able to either apply for a waiver or complete the required training by February 27, 2020. A commenter noted that enforcement should not commence until after review of the effects of the regulations has been conducted.

23. COMMENT: One commenter noted communications with over 60 cosmetology schools in New Jersey, none of which currently offered natural hair braiding as part of their curriculum. One commenter noted that while the new rules claim to make it easier for a cosmetology school to expand its curriculum by reducing the time it takes for approval, only three of the cosmetology schools contacted expressed interest in developing hair braiding curricula in the next six to 12 months. One commenter indicated that even if schools wanted to offer the curriculum, schools would require more time to assemble and offer the required curriculum.

24. COMMENT: One commenter proposed that the rules should include an automatic sunset review, to determine whether the new rules are necessary or fair and would provide the Board and the public the opportunity to automatically review the effectiveness of the rules after a stated period of time. One commenter contended that the sunset review will demonstrate that the effectiveness of the rules will be substantially outweighed by the costs of enforcing the regulations. One commenter noted that the Board's predicted public impacts and policy outcomes of the new rules are unsubstantiated and that the projected impact assessments should be used as criteria to evaluate the rules. One commenter encouraged the Board to consider the negative effects of hair braiding licensing regulation and noted it is an unnecessary and costly use of State resources. One commenter recommended that the Board repeal the specialty licenses if, during the sunset review, less than 10 percent of schools offer accessible and substantive hair braiding curriculum.

25. COMMENT: One commenter noted that at least 28 states have expressly exempted natural hair braiders from cosmetology licensing laws, and a number of other states do not regulate braiding under their cosmetology or similar laws.

RESPONSE TO COMMENTS 22, 23, 24, and 25: The Board appreciates the concern expressed by the commenters regarding the current availability of academic resources and programs for hair braiding. As noted previously, the Board will continue to monitor progress made by schools in obtaining accreditation and developing and implementing hair braiding programs. The Board also notes that it has approved curriculum for hair braiding at multiple schools and that there is no indication that the number of schools offering programs is insufficient to meet the demand from individuals who wish to complete these educational programs. The Board notes that the requirement for a hair braiding specialist license is established by statute at N.J.S.A. 45:5B-1 et seq., that includes education and examination requirements noted previously. The Board is tasked with promulgating rules to effectuate the law, including establishing a hair braiding curriculum pursuant to N.J.S.A. 45:5B-22.2.

The Board notes that hair braiding shops operating prior to January 2, 2019, were provided the opportunity to comply with hair braiding shop requirements or to apply for a waiver to the shop requirements by February 27, 2020, pursuant to N.J.A.C. 13:28-2.1(i). The Board notes that all rules promulgated by the Board are subject to a sunset review every seven years when the chapter is set to expire, at which point the Board reviews its rules and may propose revisions after assessing the impact of the current rules. In addition to mandatory sunset reviews, the Board may elect to propose revisions to each rule at any time.

26. COMMENT: Several commenters expressed concern that the rules burden hair braiders and minority groups, benefit cosmetology schools by increasing profits, and fail to promote positive social impact.

27. COMMENT: Commenters contend that the rules are culturally insensitive and unfairly impact African American women, and African- and Caribbean-immigrants as hair braiding is a practice predominantly performed in and by members of these communities. The commenter noted that women of color are generally the only individuals who require braiding of natural hair in order to put on a wig. One commenter further noted that regulating techniques rather than focusing on hygiene, health, and safety creates unfair rulemaking, which disproportionately impacts communities of color and minority groups.

28. COMMENT: One commenter noted that there are diversity and inclusion issues faced by people of color in beauty education,

especially in regards to textbooks and curriculums developed to meet the needs of the community. One commenter discussed the historical issue of price gouging aimed at communities of color, and specifically referenced predatory interest rate practices on cars and homes for African Americans and the generally increased cost of beauty products used by African American women and African- or Caribbean-immigrant women.

29. COMMENT: One commenter noted that most beauty schools are private, for-profit institutions that may engage in predatory practices and that the rule's effect is antithetical to its purpose, namely creating a licensing solution without overly disrupting braiders' means of earning a living.

30. COMMENT: One commenter contended that licensing requirements reflect anticompetitive tendencies rather than a desire to protect public health, and that it is exceedingly rare for complaints to be filed against hair braiders.

31. COMMENT: One commenter indicated that the Board did not consult with enough interested parties that are unassociated with politics and cosmetology schools, and, therefore, did not create culturally relevant social impact plans for the communities of color that these regulations effect. One commenter noted that consideration of cultural context is relevant and important when crafting rules for minority groups in society.

32. COMMENT: One commenter noted that the rules do not protect hair braiding consumers, but rather create barriers to entry for new and existing hair braiders, who are primarily women of color.

RESPONSE TO COMMENTS 26 THROUGH 32: The Board understands that the rules require hair braiders to complete an educational program in order to obtain licensure. As noted in the Response to Comment 4, the cost for attending a 40- or 50-hour hair braiding program is expected to be far lower than the cost of a 1,200-hour cosmetology and hairstyling program. The Board also believes that any burden imposed by the statute and rules is outweighed by the benefit provided to consumers, which primarily include African American women and African- and Caribbean-immigrant women, who receive services from hair braiders that have complied with training and health and safety education requirements. The Board is also aware of diversity and inclusivity issues faced by the hair braiding community, including the increased costs for beauty products and services for African American women and African- and Caribbean-immigrant women. In consideration of these issues, the Board will continue to review and approve curricula offered at cosmetology schools pursuant to N.J.S.A. 45:5B-6. The Board also notes that

throughout the rulemaking process, the Board held meetings that [page=1802] members of the public were able to attend and where they provided comments.

The Board notes that the intent of the new rules, and all cosmetology rules, is to ensure services are being offered in a manner which is sanitary and safe and is not intended to deceive or mislead the general public. The Board notes that the rules are consistent with the legislative intent to end the imposition of penalties on hair braiders who practiced without a license, and to instead provide the hair braiding community with a tailored licensure option. The Board further notes that the statute and rules are intended to serve the hair braiding community and consumers generally; any benefit to cosmetology schools as a result of the new rules is incidental. The Board further notes that its rules conform to the requirements established at N.J.S.A. 45:5B-22.2, that applicants for licensure are required to demonstrate successful completion of a course of instruction in hair braiding, the curriculum for which shall be established by the Board, at a school of cosmetology and hair styling licensed in the State; a public school approved by the State Board of Education or a State Board of education approved program; or in a school of cosmetology and hair styling, beauty culture, or hair braiding licensed in another state or foreign country which, in the opinion of the Board, offered curricula that are substantially similar to what is offered in the State.

33. COMMENT: One commenter noted that the definition of "registered student" in the rule limits the ability of the State to aid in adopting innovative, equitable, and easily accessible programming, because only private school students are included under the definition of "registered student." N.J.A.C. 13:28-1A.1 defines a registered student, which excludes "a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education." One commenter believes that that "registered student" is being redefined, and need not be so, for a minority group of students attending private cosmetology schools, as opposed to schools or programs approved by the State Board of Education. One commenter averred that there need not be a distinction between junior and senior level hair braiding students, when the distinction is in training for someone who can prove three years of experience and someone who cannot is merely seven to 10 hours of artistic braid training. One commenter contended that the focus on curriculum hours and the attempt to distinguish between junior and senior hair braiding students using an hourly distinction further creates undue burdens for an education program that does not yet exist.

RESPONSE: The definitions for "registered student" and "senior student" are limited by, and utilize language derivative at N.J.S.A.

45:5B-3.o and r, respectively. N.J.S.A. 45:5B-3.o specifically excludes "a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education or in any other cosmetology and hairstyling program approved by the State Board of Education." The Board is not redefining the definition "registered student" and disagrees with the commenter's assertion that the definition of "registered student" limits the State's ability to adopt innovative, equitable, and easily accessible education, as the definition imposes no limitations on the actions of the State Board of Education. The Board notes that the distinction between junior and senior hair braiding students is derived from N.J.S.A. 45:5B-3.r, which distinguishes senior students as "a registered student who has successfully completed one-half of the total hours of instruction required for licensure ..." The Board does not possess the authority to deviate from the statutory provisions and, therefore, declines to amend the rules.

34. COMMENT: One commenter noted that hair braiders desire a credential that will help them when dealing with city officials, enable the public to see them as highly regarded professionals, and provide them with access to other business benefits like to cosmetology insurance and product discounts.

RESPONSE: The Board notes that a license from the Board may be useful and desired by hair braiders in the State and thanks the commenter for its support.

Federal Standards Statement

A Federal standards analysis is not required because readopted rules are not subject to any Federal standards or requirements.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. PRACTICING LICENSES, APPLICATION, AND EXAMINATIONS

13:28-1.1 Practicing licenses; application and education requirements; acceptable documentation of credentials; license renewals; reinstatement; inactive status

(a) The following practicing licenses shall be available from the Board:

1. Cosmetology and hairstyling license, which shall authorize the holder to provide the following services:

i. (No change.)

ii. Shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving, styling of the hair, and all services included in hair braiding, as set forth at (a)6 below;

iii.-vi. (No change.)

vii. Manicuring the fingernails, nail-sculpturing, or pedicuring the toenails; and

viii. Cutting, fitting, coloring, or styling of hairpieces or wigs to the extent that the services are being performed while the wig is being worn by a person;

2. Beauty culture license, which shall authorize the holder to provide the following services:

i. Shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving, styling of the hair, and all services included in hair braiding, as set forth at (a)6 below, with the exception of weaving;

ii.-vii. (No change.)

3. Barbering license, which shall authorize the holder to provide the following services:

i. (No change.)

ii. Shampooing, cutting, arranging, relaxing, styling of the hair, and all services included in hair braiding, as set forth at (a)6 below, with the exception of weaving;

iii.-vi. (No change.)

4. Skin care specialty license, which shall authorize the holder to provide the following services:

i.-ii. (No change.)

iii. Removing superfluous hair from the face, neck, arms, legs, or abdomen by the use of depilatories, waxing, or tweezers, but not by the use of electrolysis;

5. Manicuring license, which shall authorize the holder to provide the following services:

i.-iii. (No change.)

iv. Removing superfluous hair from the face, neck, arms, legs, or abdomen by the use of depilatories, waxing, or tweezers, but not by the use of electrolysis; and

6. Hair braiding license, which shall authorize the holder to provide the following services:

i. Twisting, wrapping, weaving, extending, locking, or braiding of hair by hand or with mechanical devices;

(1) Hair braiding services may include:

(A) The use of natural or synthetic hair extensions or fibers, decorative beads, and other hair accessories;

(B) Minor trimming of natural hair or hair extensions incidental to any twisting, wrapping, weaving, extending, locking, or braiding of hair;

(C) Making wigs from natural hair, natural or synthetic fibers, and hair extensions; and

(D) The use of topical agents in conjunction with performing hair braiding, including conditioners, gels, moisturizers, oils, pomades, and shampoos.

(b) Applications for examination and initial licensure may be procured from the office of the Board or online at <https://www.njconsumeraffairs.gov/cos/Pages/default.aspx>.

(c)-(d) (No change.)

(e) Applicants for licensure shall have completed an educational program in cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding, as appropriate for the practicing license the applicant seeks, consistent with the following:

[page=1803] 1. Applicants for licensure who have obtained training at a cosmetology and hairstyling school licensed in New Jersey shall submit an official transcript substantiating that the applicant meets the following requirements:

i.-v. (No change.)

vi. An applicant for licensure as a hair braiding specialist who demonstrates at least three years of experience as a hair braider shall have completed a 40-hour course of instruction in hair braiding, consistent with the requirements of N.J.A.C. 13:28-6.35.

(1) To demonstrate three years of experience, an applicant shall submit documents, such as, but not limited to, a Form W-2 from previously or currently held employment where the applicant performed hair braiding services, or a notarized attestation from previous or

current employers under whom the applicant performed hair braiding services.

vii. An applicant for licensure as a hair braiding specialist who cannot demonstrate at least three years of experience as a hair braider shall have completed a 50-hour course of instruction in hair braiding, consistent with the requirements of N.J.A.C. 13:28-6.36.

viii. An individual employed to perform only hair braiding services, delineated at (a)6 above, as of October 30, 2019, shall have until *[(three months after the publication date of the notice of adoption of the proposed readoption of the specially adopted new rules and amendments)]* ***January 18, 2022***, to obtain licensure as a hair braider.

2. Applicants for licensure who have obtained training in a cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding program in a public school approved by the State Board of Education to offer such vocational programs, or in other cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding programs approved by the State Board of Education, shall submit an official transcript verifying completion of such program.

3. Applicants who have obtained training in another state or country shall demonstrate, by way of certification from the licensing authority in the state or country that such training is substantially equivalent to the training offered at cosmetology and hairstyling schools licensed in New Jersey. Applicants holding a license from another state or country who have engaged in the practice of cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding for at least three years in that state or country, may submit, in lieu of the documentation of training required in this paragraph, a notarized affidavit of work experience and a letter of certification of licensure from the licensing authority in that state or country.

(f)-(i) (No change.)

(j) A licensee who continues to render services with a suspended license shall be deemed to be engaging in the unauthorized practice of cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding, as appropriate, and shall be subject to the penalties set forth at N.J.S.A. 45:1-25.

(k) (No change.)

(1) A licensee may, upon application to the Board, choose inactive status. A licensee electing inactive status shall not render cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring services, or hair braiding, as appropriate, for the entire biennial registration period. A licensee on inactive status may resume active practice upon payment of the renewal fee for the current biennial registration period set forth at N.J.A.C. 13:28-5.1.

13:28-1.1A Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces

(a) (No change.)

(b) The Board shall issue a license to the applicant, if the applicant presents evidence to the Board that:

1. (No change.)

2. The relevant training, experience, and education the applicant received in the military, together with any training, experience, and education obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure under N.J.A.C. 13:28-1.1(e) or (f);

i. (No change.)

ii. An applicant seeking credit for education courses and/or training completed while in the military shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the program as required for licensure under N.J.A.C. 13:28-1.1(e)1 or 2. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding, as applicable, that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. (No change.)

(c)-(e) (No change.)

13:28-1.2 Examination and reexaminations

(a) Applicants shall be subject to testing in all areas of cosmetology and hairstyling appropriate for the license sought, and such examination shall be in two parts: practical and theory. An

applicant shall submit to the Board the examination fee set forth at N.J.A.C. 13:28-5.1 with the application.

1. Applicants shall have the option of taking a computer-based test in lieu of the written theory portion of the examination. The computer-based test shall be administered by a Board-approved third-party vendor and the fee for such test shall be paid by the applicant directly to the vendor. In addition to the fee for the computer-based test, applicants for examination shall submit the examination fee set forth at N.J.A.C. 13:28-5.1 to the Board.

i. Testing for the written theory portion of the examination for hair braiding will be paper-based and administered by the Board, unless before, on, or after *[(the publication date of the notice of adoption of the proposed readoption of the specially adopted new rules and amendments)]* ***October 18, 2021***, a Board-approved third-party vendor is able to administer the examination to applicants. The Board shall keep information on this matter updated online.

(b)-(d) (No change.)

13:28-1.3 Temporary permits and student permits

(a) (No change.)

(b) Upon application, the Board shall issue a student permit, consistent with the student's course work, to any student registered at a licensed New Jersey cosmetology and hairstyling school or enrolled in a State-approved high school or vocational program, in a cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding course of study, as appropriate.

1. (No change.)

13:28-1.7 Teaching license; qualifications; application requirements

(a)-(c) (No change.)

(d) The holder of a teaching license issued by the Board pursuant to this section shall be authorized to teach cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, and hair braiding.

SUBCHAPTER 1A. DEFINITIONS

13:28-1A.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

. . .

"Cosmetology and hairstyling school" or "school of cosmetology and hairstyling" means licensed schools offering cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, and/or hair braiding courses.

"Hair braider/hair braiding specialist" means a person who holds a limited license to perform only the hair braiding services set forth at N.J.A.C. 13:28-1.1(a)6.

"Hair braiding" means those services delineated at N.J.A.C. 13:28-1.1(a)6.

. . .

[page=1804] "Mechanical device" means, but is not limited to, items, such as clips and hairpins, used to assist in performing a service included in the definition of "hair braiding."

"Practicing licensee" means any person who holds a license to practice cosmetology or hairstyling, barbering, beauty culture, manicuring, skin care specialty, or hair braiding.

"Registered student" means a person who is engaged in learning and acquiring a knowledge of any of the practices in the definition of cosmetology and hairstyling, including beauty culture, barbering, manicuring, skin care specialty, and hair braiding, under the direction and supervision of a person duly authorized under N.J.S.A. 45:5B-1 et seq., and this chapter to teach cosmetology and hairstyling and who is enrolled in a program of instruction at a licensed school of cosmetology and hairstyling, completion of which may render the person eligible for licensure pursuant to N.J.S.A. 45:5B-1 et seq., and this chapter, but does not mean a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education.

"Senior student" means a registered student who has successfully completed one-half of the total hours of instruction required for licensure as a cosmetologist-hairstylist, beautician, barber, manicurist, skin care specialist, or hair braider in a licensed school of cosmetology and hairstyling, as determined by the Board pursuant to this chapter, or in any public school vocational program approved by the State Department of Education.

"Shop" means any fixed establishment or place where one or more persons engage in one or more of the practices of cosmetology or hairstyling, barbering, beauty culture, manicuring, skin care

specialty, or hair braiding, wherein licensees are authorized to perform the services set forth at N.J.A.C. 13:28-1.1(a).

. . .

"Student permit" means a permit issued to a senior student that enables him or her to practice cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding, as appropriate, based on the course of instruction in which the student is enrolled, in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational training program.

"Teacher of cosmetology and hairstyling" means a teacher licensed by the Board to give instruction or training in the theory or practice at a licensed school of cosmetology and hairstyling in any of the following subject areas: cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding.

SUBCHAPTER 2. SHOP LICENSES

13:28-2.1 Applications for initial shop license; changes to existing shops

(a) The following shop licenses shall be available from the Board:

1. Cosmetology and hairstyling shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)1;

2. Beauty culture shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)2;

3. Barbering shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)3;

4. Skin care specialty shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)4;

5. Manicuring shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)5; and

6. Hair braiding shop license, which shall authorize the holder to provide the services delineated at N.J.A.C. 13:28-1.1(a)6.

(b) Applications for a shop license may be procured at the office of the Board or online at <https://www.njconsumeraffairs.gov/cos/Pages/default.aspx>.

(c)-(h) (No change.)

(i) Hair braiding shops operating prior to January 2, 2019, shall have until February 27, 2020, to comply with N.J.A.C. 13:28-2.5(a) and (b) and to submit a shop license application, or request a waiver pursuant to N.J.A.C. 13:28-2.5(c), to the Board.

13:28-2.2 Removal of a shop

(a) Prior to the removal of a shop to another address, the holder of a shop license shall apply to the Board for a new shop license and shall comply with the application requirements set forth at N.J.A.C. 13:28-2.1.

1. (No change.)

2. The practice of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding, as appropriate, shall not be performed on the premises of the new shop until a shop license has been issued.

13:28-2.3 Transfer of ownership

(a) Upon any transfer of ownership, the holder of a shop license shall, by letter, notify the Board of the transfer, by providing the name and address of the new owner. The shop license shall be surrendered to the Board as soon as the transfer of ownership is complete.

(b) Prior to the completion of a transfer of ownership, the intended new owner shall apply for a new shop license pursuant to N.J.A.C. 13:28-2.1, except as provided at (b)1 below. The practice of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding, as appropriate, shall not be performed on the premises of the shop until a new shop license has been issued.

1. (No change.)

13:28-2.5 Physical requirements for cosmetology and hairstyling, beauty culture, barbering, and hair braiding shops applying for initial shop license

(a) All licensed cosmetology and hairstyling, beauty culture, barbering, and hair braiding shops shall contain at least 350 square feet of floor space. An additional 50 square feet of floor space shall be provided for every work station in excess of two.

1.-2. (No change.)

(b) Cosmetology and hairstyling, beauty culture, barbering, and hair braiding shops shall display a permanent sign indicating the name of

the shop, which shall be clearly visible to the general public from the exterior of the shop.

(c) Where application is made to issue a new shop license for premises that had been licensed by the former Board of Barber Examiners or the former Board of Beauty Culture Control, or for premises that operated as hair braiding shops prior to January 2, 2019, and the shop premises do not meet the minimum requirements of this section, the Board may, in its discretion, waive one or more of the requirements of this section for good cause shown. Such waiver will not be granted where the failure to meet minimum requirements may result in the inability of the shop owner to provide authorized services in a safe and sanitary manner.

(d) All cosmetology and hairstyling, beauty culture, barbering, and hair braiding shops shall display the following notice, as applicable, to the services offered in the shop, in a location clearly visible to all patrons:

NOTICE

This shop and the operators herein are licensed to engage in the practice of ***cosmetology and hairstyling, beauty culture,*** barbering, or hair braiding ***[]*** by the State Board of Cosmetology and Hairstyling, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted may notify the State Board of Cosmetology and Hairstyling or the New Jersey Division of Consumer Affairs, PO Box 45003, Newark, New Jersey 07101, www.njconsumeraffairs.gov/complaint/cosmocom.pdf.

13:28-2.7 Shops within residential premises

(a)-(b) (No change.)

(c) No cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services shall be rendered or offered to be rendered upon residential premises that are not licensed pursuant to N.J.S.A. 45:5B-9 and this chapter.

13:28-2.7A Limitation of business activities within shops

(a)-(c) (No change.)

(d) The holder of a hair braiding shop license shall not engage in any business activities within the licensed premises except for the offering of hair braiding services as defined at N.J.S.A. 45:5B-3.bb and set forth at [page=1805] N.J.A.C. 13:28-1.1(a)6, and the sale of merchandise pursuant to N.J.S.A. 45:5B-40 and N.J.A.C. 13:28-2.9, and

the offering of ancillary beautification services pursuant to N.J.S.A. 45:5B-40 and N.J.A.C. 13:28-2.10.

13:28-2.8 Leasing space prohibited

No holder of a shop license shall lease or sublease space or provide space on the licensed premises to a non-employee for the purpose of providing cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, hair braiding, or ancillary services as part of a separate business to be conducted by the non-employee. Practices commonly known as chair rentals or booth rentals are prohibited by this section.

13:28-2.9 Sale of merchandise

The holder of a cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding shop license may permit the sale of merchandise within licensed premises, provided that space allocated for such sales is in addition to the space required by N.J.A.C. 13:28-2.5, 2.6, or 2.6A.

13:28-2.10 Ancillary services in licensed cosmetology and hairstyling, beauty culture, barbering, skin care specialty, and hair braiding shops

(a) The holder of a cosmetology and hairstyling, beauty culture, barbering, skin care specialty, or hair braiding shop license, may offer ancillary services related to the beautification of the body or the enhancement of personal appearance, but not included in the definition of cosmetology and hairstyling, as set forth at N.J.S.A. 45:5B-3.j, or the offering set forth at N.J.A.C. 13:28-1.1(a), on the licensed premises, consistent with the provisions of this section, provided that these services are performed in a safe and sanitary manner by personnel who are adequately trained to render such services, and that the space allocated for such services is in addition to the space required pursuant to N.J.A.C. 13:28-2.5 and 2.6A.

(b)-(d) (No change.)

13:28-2.13 Supervision of shops; experienced practicing licensee

(a) Except as provided at (c) below, all shops shall ensure that there is at least one experienced practicing licensee present to generally oversee the management of the shop, consistent with the following requirements:

1.-5. (No change.)

6. For a hair braiding shop, the practicing licensee shall hold a cosmetology and hairstyling, beauty culture, or hair braiding license and have three years of experience as a cosmetologist-hairstylist, beautician, or hair braider.

i. Upon receiving his or her initial license, a licensed hair braider shall be deemed to have met the three years of experience required to act as an experienced practicing licensee if the licensee completed a 40-hour hair braiding program.

(b) A shop that satisfies the requirements *[of]* ***at*** (a) above by employing a practicing licensee who holds a beauty culture, barbering, skin care specialty, manicuring, or hair braiding license shall not employ senior students who have been issued a student permit pursuant to N.J.A.C. 13:28-1.3, other than those being trained in the practice for which the practicing licensee holds a license, unless the shop also employs a practicing licensee who holds a cosmetology and hairstyling license and has at least three years of experience as a cosmetologist-hairstylist.

(c)-(g) (No change.)

13:28-2.14 Unlicensed personnel

(a) The holder of a shop license shall not aid, abet, or permit a person not licensed by the Board to render any services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, skin care specialty, manicuring, or hair braiding pursuant to N.J.S.A. 45:5B-1 et seq.

(b) (No change.)

13:28-2.15 Prohibited practices

(a) (No change.)

(b) A practicing licensee shall not:

1.-7. (No change.)

8. Utilize any medical device to perform services within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding, other than Class I medical devices approved by the Federal Food and Drug Administration. A practitioner shall comply with manufacturers' instructions for use, cleaning, and maintenance of Class I medical devices;

9.-12. (No change.)

SUBCHAPTER 3. SAFETY AND SANITATION

13:28-3.3 Personnel

(a)-(b) (No change.)

(c) No practitioner shall serve a patron if the practitioner has a communicable, contagious, or infectious disease that could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services.

(d) No practitioner shall serve a patron whom the practitioner knows, or has reasonable grounds to believe, has a communicable, contagious, or infectious disease that could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services.

(e) All practitioners shall utilize safe practice techniques and follow manufacturers' instructions when utilizing any chemical preparations in the rendering of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services. The holder of a shop license shall ensure that:

1. (No change.)

2. A copy of the most current Safety Data Sheets (SDS) for each hazardous chemical is stored in a binder and available to all shop staff and to the Board or its authorized representative;

3. (No change.)

4. Disposal of liquid waste is performed in accordance with the instructions on the product label or the SDS.

SUBCHAPTER 4. ENFORCEMENT

13:28-4.1 Inspection of premises

(a) Any premises where it appears that cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services have been, or are being, rendered shall be subject to inspection by the Board or its representative.

(b)-(d) (No change.)

13:28-4.2 Compliance with laws and rules

Any individual rendering cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services shall comply with all laws and rules relating to the provision of such

services, including the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.; the Uniform Enforcement Act, N.J.S.A. 45:1-7.1, 7.2, 7.3, and 14 et seq.; the uniform rules of the Division of Consumer Affairs, N.J.A.C. 13:45C; and this chapter.

13:28-4.3 Responsibility for compliance with laws and rules

The holder of a shop license, as well as the shop's designated experienced practicing licensee, shall be responsible for compliance with all laws and rules relating to the operation of the premises at which cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services are rendered and all laws and rules relating to the practice of such services, including the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.; the Uniform Enforcement Act, N.J.S.A. 45:1-7.1, 7.2, 7.3, and 14 et seq.; the uniform rules of the Division of Consumer Affairs, N.J.A.C. 13:45C; and this chapter.

13:28-4.4 Verification of license

(a) The holder of a shop license and the designated experienced practicing licensee shall verify that each practitioner rendering cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services in the shop holds a valid license or permit issued pursuant to this subchapter at all times. The holder of a [page=1806] shop license and the designated experienced practicing licensee shall review each practitioner's license or permit, as well as two additional forms of identification, at least one of which must bear a photograph of the practitioner.

(b)-(e) (No change.)

SUBCHAPTER 6. SCHOOLS OF COSMETOLOGY AND HAIRSTYLING

13:28-6.1 Compliance with laws and rules

Licensed schools shall comply with all laws and rules relating to the practice of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding, including the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.; the Uniform Enforcement Act, N.J.S.A. 45:1-7.1, 7.2, 7.3, and 14 et seq.; the Uniform Regulations of the Division of Consumer Affairs, N.J.A.C. 13:45C; and this chapter. Any school violating any provision of this chapter shall be subject to disciplinary action by the Board. A notice of proposed suspension or revocation of a license shall inform the licensee of the right to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:28-6.7 Size of schools; number of students

(a) Each school shall have at least 2,750 square feet of floor space, consisting of at least 500 square feet for offices, reception area, and locker space separate and apart from the lavatories, and at least 2,250 square feet for working space.

1. (No change.)

2. For every student thereafter, there shall be 20 square feet of floor space per cosmetology and hairstyling, beauty culture, barbering, manicuring, or hair braiding student, but there shall be 25 square feet of floor space per skin care specialty student.

(b)-(c) (No change.)

13:28-6.8 Student registration cards

(a) A request shall be submitted by the school to the Board for a student registration card.

1.-2. (No change.)

3. When submitting a request for a registration card for a student in a hair braiding program of 40 hours, the school shall include in the request the documentation used by the student to demonstrate that he or she has three years of hair braiding experience.

(b)-(c) (No change.)

13:28-6.10 Commencement of classes

(a) School classes shall commence on the first Monday of each month, provided; however, that if a holiday falls on the first Monday, school classes shall commence on the first working day following the holiday. The Board may, at its discretion, approve a date for the commencement of school classes other than the first Monday of each month provided the licensed school obtains Board approval at least 60 days prior to the commencement of classes.

1. The Board shall waive the 60-day period required **[in]** ***at*** (a) above for schools seeking to provide instruction in hair braiding prior to **[(the publication date of the notice of adoption of the proposed readoption of the specially adopted new rules and amendments)]** ***October 18, 2021***.

13:28-6.13 School schedules

(a) (No change.)

(b) The Board shall be advised one month in advance of any proposed change in the schedule of classes.

1. The Board shall waive the one-month notice required of schools seeking to add hair braiding classes to the schedule of classes prior to *[(the publication date of the notice of adoption of the proposed readoption of the specially adopted new rules and amendments)]* ***October 18, 2021***.

13:28-6.15 School records

(a)-(d) (No change.)

(e) School rules and regulations and copies of current cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding laws and rules of the State of New Jersey shall be maintained by each school in a location readily accessible to the students and management.

13:28-6.16 Other trades; demonstrations

(a) Trades or professions, other than the teaching of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, and hair braiding, shall not be practiced on the premises of a licensed school.

(b) (No change.)

13:28-6.20 Minimum equipment

(a)-(g) (No change.)

(h) Each school shall supply each hair braiding student with a kit having brushes, including at least one boar bristle brush, one paddle, and one vent brush, combs, including at least one locking/twisting comb, wide tooth comb, hair pick, and tail comb, braiding hair packages consisting of human and synthetic hair, a hair weaving kit including weft hair, needles, and thread, stocking caps, hair bond and hair bond remover, clips, cape, shears, spray bottle, styptic powder or liquid, mannequin and mannequin stand, lab type jacket or smock uniform, a textbook, and a full copy of this chapter.

Recodify existing (h)-(n) as (i)-(o) (No change in text.)

13:28-6.21 Student standards and requirements

(a)-(c) (No change.)

(d) Junior and senior students shall be distinguished as follows:

1.-8. (No change.)

9. Junior skin care specialty students are those students who have completed less than 300 hours of their courses in skin care;

10. Senior skin care specialty students are those students who have completed 300 hours or more of their courses in skin care;

11. Junior hair braiding students are those students who have completed less than 20 hours of their courses if enrolled in a 40-hour hair braiding program; or less than 25 hours of their courses if enrolled in a 50-hour hair braiding program; and

12. Senior hair braiding students are those students who have completed 20 hours or more of their courses if enrolled in a 40-hour hair braiding program; or 25 hours or more of their courses if enrolled in a 50-hour hair braiding program.

(e)-(k) (No change.)

(1) A student who desires to transfer to another school shall notify the Board of his or her intention at least two weeks in advance of the proposed transfer.

1. (No change.)

2. Credit hours for cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding training in out-of-State schools will be granted if such schools are approved by the Board.

(m)-(q) (No change.)

13:28-6.22 Application submission by schools

The school shall submit applications to the Board for each student for examination within 30 days after the student's completion of the course of study. Each application must be accompanied by two recent photographs, a copy of a high school or equivalency diploma, and the appropriate fees pursuant to N.J.A.C. 13:28-5.1.

13:28-6.23 Number of teachers employed; teacher restrictions

(a) The number of teachers a school shall employ shall be determined in the following manner:

1. A minimum of one licensed teacher for every clinic area attended by up to 25 senior students (whether cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding students);

2.-5. (No change.)

6. A minimum of one licensed teacher for every classroom attended by up to 25 junior manicuring students;

7. A minimum of one licensed teacher for every classroom attended by up to 25 junior skin care specialty students; and

8. A minimum of one licensed teacher for every classroom attended by up to 25 junior hair braiding students.

[page=1807] (b) Teachers shall devote their entire time during school hours to the proper instruction of students and shall not engage in private or public practice of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding during school hours. Teachers licensed by the Board shall be in constant attendance at all classes conducted by licensed schools.

(c)-(e) (No change.)

13:28-6.27 Clinical work prerequisites and limitations

(a) (No change.)

(b) A school shall not permit its students to practice cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding on the public under any circumstances, except by way of clinical work performed upon persons willing to submit themselves to such practice.

(c) Before clinical work may be performed, the person to receive cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services shall be advised by the teacher in charge that the operator is a senior student.

(d) (No change.)

(e) Clinical services may be performed upon the general public during the hours of school training daily from Monday to Saturday, inclusive, by senior cosmetology and hairstyling, senior beauty culture, senior barber, senior manicuring, senior skin care specialty, and senior hair braiding students only.

(f)-(h) (No change.)

(i) Truthful, non-deceptive school advertisements for clinic patrons upon whom cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding services may be performed are permitted, provided; however, that all such advertisements must clearly inform the prospective clinic client that the advertised services are to be performed by senior students under the supervision of licensed teachers.

(j) (No change.)

(k) The school shall keep records or slips showing the number of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding treatments provided by senior students. These records or slips shall be maintained and kept by the school on its premises as part of its official records.

(l) (No change.)

13:28-6.29 Curriculum for 1,200-hour cosmetology and hairstyling course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
. . .			
Hairstyling-- including Pin Curls, Finger- waving, Blow Waving, & Weaving	25	135	160
. . .			

13:28-6.31 Curriculum for 500-hour teacher-training course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
. . .			
Hairstyling-- including Pin Curls, Fingerwaving, Blow Waving, & Weaving	10	30	40
. . .			

13:28-6.35 Curriculum for 40-hour hair braiding course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE:

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
State Laws, Rules, & Regulations for Cosmetology &	10		10

Hairstyling & Administrative Shop Operations			
Professional Image, Hygiene, & Related Practices	2		2
Decontamination & Infection Control	15	2	17
Cleansing, Hair, and Scalp Analysis	2	6	8
Hair Growth & Loss, Diseases & Disorders, Fungal, & Parasitic Infection	3		3
TOTAL HOURS	32	8	40

[page=1808] 13:28-6.36 Curriculum for 50-hour hair braiding course

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE:

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	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
State Laws, Rules, & Regulations for Cosmetology & Hairstyling & Administrative Shop Operations	10		10
Professional Image, Hygiene, & Related Practices	2		2
Decontamination & Infection Control	15	2	17
Cleansing, Hair, and Scalp Analysis	2	6	8
Hair Growth & Loss, Diseases & Disorders, Fungal, & Parasitic Infection	3		3
Braiding:	3	7	10
-Consultation			
-Classifying Texture			
-Types of Braids			
-Weaving; Wig and Wig Construction			
-Extensions, Synthetic & Human Hair			
-Braid Styling			
-Implements, Tools, & Materials			
TOTAL HOURS	35	15	50

13:28-6.37 (No change in text.)

13:28-6.38 Annex classrooms

(a) An application for approval of a school of cosmetology and hairstyling to conduct an annex classroom separate and apart from the licensed main facility for specific training activities shall be submitted on an application form prescribed and provided by the Board. The application shall specify the location of the annex classroom and the type of instruction to be conducted in the annex classroom, whether cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, or hair braiding.

1.-4. (No change.)

(b) The minimum requirements for an annex classroom are as follows:

1. The minimum floor space in any annex classroom shall be at least 500 square feet, excluding offices, reception, locker, and lavatory space, for the first 25 students.

i. For every student thereafter, there shall be 20 square feet of floor space per cosmetology and hairstyling, beauty culture, barbering, manicuring, and hair braiding student and 25 square feet of floor space per skin care specialty student.

ii. (No change.)

2. Each annex classroom shall possess and operate equipment adequate and sufficient for the courses of instruction administered. This equipment shall be modern, installed in accordance with standard building codes or safety regulations, and operated in conformity with standard safety regulations. The minimum equipment required for all annex classrooms shall include: an ultrasonic unit, a chalk board, one locker per student, separate lavatory facilities for men and women with toilets and sinks having hot and cold running water, a library of texts and reference books and such other necessary equipment in accordance with the approved curriculum. In addition, annex classrooms shall conform to the following equipment standards:

i. An annex classroom approved for instruction in cosmetology and hairstyling, beauty culture, and hair braiding shall include: work stations for at least 25 students or for the actual number of students in attendance, whichever is greater, two shampoo bowls and chairs, two dryers, two styling chairs, a manicure station, a utility table with disposable sanitary covering, a make-up stool, a facial steamer, a suction machine, a magnifying lamp, an electric brushing machine, an

electric heating mask, a waxing unit, a spray machine, a Wood's lamp, and a high frequency instrument.

ii.-iv. (No change.)

3.-7. (No change.)

(c)-(d) (No change.)

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