

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

August 11, 2023

HONORABLE THERESE M. TERLAJE, *Speaker*

I Mina'trentai Siette Na Liheslaturan Guåhan

37th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Re: **Bill No. 92-37 (COR) - AN ACT TO REPEAL AND REENACT ARTICLE 9 OF CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE ADOPTION OF RULES AND REGULATIONS GOVERNING BARBER AND BEAUTY SHOPS, COSMETOLOGY SCHOOLS, AND NAIL SALONS, ATTACHED HERETO AS "EXHIBIT A"**

Bill No. 93-37 (COR) - AN ACT TO ADD A NEW ARTICLE 26 TO CHAPTER 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS AND TO AMEND, § 426026 OF THE RULES AND REGULATIONS, DIVISION 1, CHAPTER 4, RELATIVE TO ADOPTING THE RULES AND REGULATIONS GOVERNING INSTITUTIONAL PLAYGROUNDS, ATTACHED HERETO AS "EXHIBIT A"

Håfa Adai Madame Speaker,

Bill No. 92-37 (COR) adopts rules and regulations promulgating sanitation regulations for barber and beauty shops, cosmetology schools and nail salons, and Bill No. 93-37 (COR) adopts rules and regulations for institutional playgrounds. The Department of Public Health and Social Services ("DPHSS") properly promulgated these rules and regulations through the Administrative Adjudication Law ("AAL"). Notably, though Bill Nos. 92 and 93 approve the regulations, the default approval provisions of the AAL provide that rules are effective ninety (90) days from the date they were filed with the Speaker if a public hearing has been held. Both sets of regulations at issue were filed with the Speaker on March 27, 2023, and a public hearing was held on April 18, 2023, so the Legislature approved these rules by default effective June 25, 2023 pursuant to the AAL.

Our Administration fully endorses the regulation and sanitation of barber and beauty shops, cosmetology schools and nail salons. As heavily trafficked establishments, the community relies

To: Therese M. Terlaje, *Speaker*, 37th Guam Legislature
Fr: Lourdes A. Leon Guerrero, *Governor of Guam*
Date: August 11, 2023
Re: Bill No. 92-37 (COR) & Bill No. 93-37 (COR)

Page 2 of 2

on us to ensure these businesses are kept hygienic and safe. Our Administration also wholeheartedly supports the regulation of institutional playgrounds to ensure our children are in safe outdoor spaces conducive to learning and engagement.

As we look ahead to the implementation of the regulations for institutional playgrounds, which are not effective for another few years, it may be necessary to engage with agency and community stakeholders now to ensure we build capacity to meet these new regulatory standards. In light of recent events that highlight the practical reality of maintenance services on our island and capacity challenges at DPHSS, we should take the opportunity now to study the interplay between these regulations, which are developed based on national standards, and the unique factors that may impact the maintenance of our island's institutional playgrounds, in advance of the implementation date of these regulations. To this end, Lt. Governor Josh Tenorio and I will meet with DPHSS to discuss these issues and prepare for potential challenges our island may face when these rules come into effect.

Noting these practical considerations, our Administration supports these rules and regulations as promulgated by DPHSS, and since no further action is required, Bill No. 92-37 (COR) and Bill No. 93-37 (COR) will lapse into law as *Public Law No. 37-38* and *Public Law No. 37-39*, respectively.

Senseramente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 92-37 (COR) nka P.L. 37-38 (LAPSE)
Bill No. 93-37 (COR) nka P.L. 37-39 (LAPSE)

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN

This is to certify that **Bill No. 92-37 (COR)**, "AN ACT TO *REPEAL AND REENACT* ARTICLE 9 OF CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO THE ADOPTION OF RULES AND REGULATIONS GOVERNING BARBER AND BEAUTY SHOPS, COSMETOLOGY SCHOOLS, AND NAIL SALONS, ATTACHED HERETO AS "EXHIBIT A," was on the 28th day of July 2023, duly and regularly passed.


Therese M. Terlaje
Speaker

Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 31st day of JULY,
2023, at 1:09 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 8/11/2023

Public Law No. 37-38

2023-19653
OFFICE OF THE GOVERNOR
CENTRAL FILES
Elaine Tajalle
RECEIVED BY
TIME 1:09 pm

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 92-37 (COR)

Introduced by:

Therese M. Terlaje
Chris Barnett
Frank Blas, Jr.
Joanne Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Tina Rose Muña Barnes
William A. Parkinson
Sabina Flores Perez
Roy A. B. Quinata
Joe S. San Agustin
Dwayne T.D. San Nicolas
Amanda L. Shelton
Telo T. Taitague

**AN ACT TO REPEAL AND REENACT ARTICLE 9 OF
CHAPTER 4, DIVISION 1, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS,
RELATIVE TO THE ADOPTION OF RULES AND
REGULATIONS GOVERNING BARBER AND BEAUTY
SHOPS, COSMETOLOGY SCHOOLS, AND NAIL
SALONS, ATTACHED HERETO AS “EXHIBIT A.”**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the proposed rules and regulations governing barber and beauty shops,
4 cosmetology schools, and nail salons were submitted by the Department of Public
5 Health and Social Services (DPHSS) to *I Liheslaturan Guåhan* pursuant to the

1 Administrative Adjudication Law on March 27, 2023. Chapter 21 of Title 10, Guam
2 Code Annotated, mandates the DPHSS to regulate the sanitary operations of
3 cosmetic establishments; and § 20105 of Chapter 20, Title 10, Guam Code
4 Annotated, authorizes the Director of the DPHSS to adopt and promulgate rules and
5 regulations, as necessary, to carry out the provisions of the mandate. The Division
6 of Environmental Health (DEH) of the DPHSS held a public hearing to receive
7 comments from the community on August 30, 2022. According to DPHSS, twenty-
8 eight (28) members of the public attended the hearing. As part of the Administrative
9 Adjudication Law procedures, the Division of Environmental Health conducted a
10 preliminary survey and anticipates that the economic impact of the proposed rules
11 and regulations would be less than Five Hundred Thousand Dollars (\$500,000); thus,
12 an economic impact statement will not be required pursuant to § 9301(i) of Article
13 3, Chapter 9, Title 5, Guam Code Annotated. Also pursuant to the Administrative
14 Adjudication Law, the proposed rules and regulations were reviewed by the Office
15 of the Attorney General and approved by the Governor of Guam to be consistent
16 with § 9303 of Article 3, Chapter 9, Title 5, Guam Code Annotated.

17 It is, therefore, the intent of *I Liheslaturan Guåhan* to adopt the rules and
18 regulations governing barber and beauty shops, cosmetology schools, and nail
19 salons, subject to revisions based on public feedback and recommendations during
20 the Guam Legislature’s public hearing process.

21 **Section 2.** *I Liheslaturan Guåhan* hereby *repeals* and *reenacts* Article 9 of
22 Chapter 4, Division 1, Title 26, Guam Administrative Rules and Regulations,
23 attached hereto as “Exhibit A,” entitled: “Rules And Regulations Governing Barber
24 and Beauty Shops, Cosmetology Schools, and Nail Salons.”

EXHIBIT A

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RULES AND REGULATIONS GOVERNING BARBER AND BEAUTY SHOPS, COSMETOLOGY SCHOOLS, AND NAIL SALONS

**Article 9
26 Guam Administrative Rules and Regulations
Division 1
Chapter 4**

**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH
155 Hesler Place
Hagatna, Guam 96910
(671) 922-2533**

EXEMPTION FROM ECONOMIC IMPACT STATEMENT

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The implementation of the following proposed rules and regulations will not have an economic impact to the public of more than Five Hundred Thousand Dollars (\$500,000) annually. As provided in § 9301(i) of Title 5 GCA, Chapter 9, Article 3, an economic impact statement is not required for these proposed rules and regulations.

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1 **§4901. Purpose.**

2 The purpose of these rules and regulations is to protect the public's health through the
3 implementation of sanitation standards for cosmetic establishments and cosmetology schools.
4 These rules and regulations shall be liberally construed and applied by the Department of Public
5 Health and Social Services to ensure regulated cosmetic establishments and cosmetology schools
6 comply with the adopted sanitary requirements.

7 **§4902. Title.**

8 These rules and regulations shall be known and cited as the *Rules and Regulations*
9 *Governing Barber and Beauty Shops, Cosmetology Schools, and Nail Salons.*

10 **§4903. Authority.**

11 Title 10 GCA, Chapter 20, Section 20105, and Title 10 GCA, Chapter 21, Section
12 21102(a)(5) authorize the Director of the Department of Public Health and Social Services to
13 adopt rules and regulations to carry out the provisions of its environmental health mandates.

14 **§4904. Definitions.**

15 As used in these rules and regulations, the following definitions shall apply:

16 (a) *Barber's Paper* shall mean any durable, smooth, single-use, and preferably white
17 colored length of paper large enough to cover the headrest of any chair or shampoo bowl on
18 which a client's head or neck rests. It shall serve as a protective layer between a client and bare
19 upholstery.

20 (b) *Cosmetic Establishment* shall mean any premises or portions thereof, wherein any
21 of the following is practiced for compensation:

22 (1) shaving, clipping, trimming, or cutting human hair; or

1 (2) singeing, shampooing, arranging, adorning, dressing, curling, waving,
2 permanent waving, tinting, contouring, shaping, laminating, perming, lifting, applying tonic to,
3 or dyeing human hair, which includes eyelashes and eyebrows; or

4 (3) giving facial, scalp, neck or body massages or treatments with oils, creams,
5 lotions, or other preparations either by hand or mechanical appliances; or

6 (4) applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or
7 other preparations to the human scalp, face, neck or hands; or

8 (5) manicuring or pedicuring.

9 (c) *Cosmetology* shall mean the art or practice of embellishment, cleansing,
10 beautification, and styling of hair, wigs, postiches, face, body, eyelashes, eyebrows or nails at a
11 cosmetic establishment, such as a barber shop, beauty shop, beauty salon, beauty parlor, hair
12 styling salon, brow bar, eyelash studio, and other establishments where cosmetology is practiced
13 for reimbursement.

14 (d) *Cosmetology School* shall mean any establishment or facility where the practice of
15 cosmetology is taught for fee or charge, and it is not limited to barber colleges, schools of
16 cosmetology, or other closely related institutions or establishments teaching cosmetology for
17 reimbursement.

18 (e) *Department* shall mean the Department of Public Health and Social Services.

19 (f) *Director* shall mean the Director of the Department, or his/her authorized
20 representative.

21 (g) *Disinfect* shall mean the application of U.S. Environmental Protection Agency
22 registered commercial products, which enable the destruction or inactivation of most fungi,
23 bacteria, and viruses on any inanimate surface.

1 (h) *Employee* shall mean any person, whether compensated or volunteering, who works
2 in a cosmetic establishment.

3 (i) *Hair* shall mean any of the fine threadlike strands growing from the skin including
4 eyelashes and eyebrows.

5 (j) *Manicure* shall mean the practice of cutting, shaping, trimming, or applying polish
6 or other enhancement or embellishment to the nails of an individual; or the massaging of the
7 hands and lower arms up to the elbow of an individual; or the application of lotions or softeners
8 on the hands of an individual; or any combination of these types of services.

9 (k) *Medical Procedure* shall mean the practice of any activity intended for the
10 diagnosis, correction, and treatment in any manner or by any means, methods, devices or
11 instrumentalities of any disease, illness, pain, wound, fracture, infirmity, deformity, defect or
12 abnormal physical and mental conditions.

13 (l) *Multi-Use Instrument* shall mean implements that are made to be easily cleanable
14 and disinfected after each use.

15 (m) *Nail Salon* shall mean any premises, building, or part of a building in which a
16 person engages in the practice of manicure or pedicure.

17 (n) *Neck Strip* shall mean any soft, highly absorbent tissue that is able to catch loose
18 hair and absorb perspiration and drips from cosmetic preparations used on a client. It should be
19 allowed to stretch and comfortably fit around the customer's neck keeping it clean and protected.

20 (o) *Owner (operator or manager)* shall mean any person having control of an
21 establishment, a facility, or the employees therein where cosmetology is practiced.

22 (p) *Pedicure* shall mean the practice of cutting, shaping, trimming, or applying polish
23 or other enhancement or embellishment to the toenails of an individual; or the massaging of the

1 feet and lower legs up to the knee of an individual; or the application of lotions or softeners on
2 the feet of an individual; or any combination of these types of services.

3 (q) *Person* shall mean an individual, partnership, corporation, association, or other
4 legal entity.

5 (r) *Sanitary Permit* shall mean a written document issued by the Department giving a
6 designated person, association, or corporation permission to operate a cosmetic establishment.

7 (s) *Sterilize* shall mean the complete destruction of all microorganisms (pathogenic and
8 non-pathogenic spores, fungi, and viruses) on the surface of an object to prevent disease
9 transmission associated with the use of that item, which is commonly achieved through physical
10 means, chemical means, or a combination of both.

11 (t) *Source capture ventilation system* shall mean a mechanical exhaust system designed
12 and constructed to capture air contaminants at their source and to exhaust such contaminants to
13 the outdoor atmosphere.

14 (u) *Universal Precautions* shall mean the practice of infection control by avoiding
15 contact through the use of personal protective equipment and treating all blood and bodily fluids
16 as if they were known to be infectious for HIV, HBV, and other bloodborne pathogens.

17 (v) *Ventilation* shall mean the introduction and distribution of outdoor air into a
18 building or room, while exhausting indoor air to the outside.

19 **§4905. Sanitary Permits.**

20 (a) No person, association, or corporation shall directly or indirectly in any manner
21 conduct, control, manage, maintain, or operate a cosmetic establishment unless a valid Sanitary
22 Permit, issued by the Department to operate such an establishment, has been obtained and
23 properly posted.

1 (b) The owner of the cosmetic establishment must comply with the applicable
2 requirements in Title 10 GCA, Chapters 20 (General Provisions), 21 (Sanitary Permit), 22 (Health
3 Certificates), 27 (Cosmetic Establishment), 32 (Hazardous Substances), and 40 (Guam Food, Drug,
4 and Cosmetic Act) and applicable rules and regulations.

5 (c) An application for a Sanitary Permit to operate a new cosmetic establishment shall
6 be made in writing on a form prescribed by the Director, signed by the applicant or his/her
7 authorized agent at least 30 calendar days before the date planned for opening the establishment.
8 The Director may accept an application for a Sanitary Permit that is less than the minimum 30
9 calendar days before the date planned for the opening a cosmetic establishment, provided the
10 necessary fees and other requirements established by the Department are met by the applicant.
11 All applications shall be accompanied with supporting documents required by the Department.

12 (d) If the Director determines that the Sanitary Permit application of a new or renewal
13 cosmetic establishment does not meet the minimum requirements and standards of these rules
14 and regulations, and/or (f) below, the Sanitary Permit application shall be denied until such time
15 all the requirements are satisfactorily met.

16 (e) A Sanitary Permit application for a renewal shall be filed at least 15 days before the
17 current Sanitary Permit expires.

18 (f) Failure to comply with any requirements of these rules and regulations shall be a
19 reason to deny the issuance of a Sanitary Permit.

20 (g) The following reasons shall be sufficient for the Department to pursue the
21 suspension or revocation of a Sanitary Permit:

- 22 (1) Employee working with a contagious disease;
- 23 (2) Employee working without a valid Health Certificate;

- 1 (3) Unapproved or inadequate water supply or plumbing;
- 2 (4) Denying access for Department inspection;
- 3 (5) Receiving a demerit score of more than 40; or
- 4 (6) Repeat of a violation.

5 (h) The Sanitary Permit, grade placard, and copy of the most recent inspection report
6 shall be posted in a conspicuous place designated by the Director, and clearly visible to the
7 public. No person other than the Director shall remove, deface, conceal, or destroy such Sanitary
8 Permit, grade placard, or inspection report.

9 **§4906. Health Certificates.**

10 (a) No person shall work at a cosmetic establishment without a valid Health Certificate
11 issued by the Department.

12 (b) The Health Certificates of all persons employed in a cosmetic establishment shall
13 be posted in a conspicuous place designated by the Director.

14 **§4907. Inspections.**

15 (a) The Department will conduct an inspection of a cosmetic establishment as often as
16 it deems necessary for the enforcement of these rules and regulations.

17 (b) An employee or representative of the Department shall, after proper presentation of
18 credentials, have access to any cosmetic establishment during the establishment's regular
19 business hours, or when service is being performed, for the purpose of making inspections to
20 determine compliance with these rules and regulations. Denial of access shall be reason for
21 suspension of the Sanitary Permit.

22 (c) Whenever an inspection of a cosmetic establishment is made, the findings shall be
23 recorded on a report form authorized by the Director, including the demerit score(s) and its

1 accompanying letter grade. The owner, manager, or operator shall read and sign the inspection
2 report.

3 (d) The grading of a cosmetic establishment shall be as follows:

4 (1) Grade A: An establishment having a demerit score of not more than 10;

5 (2) Grade B: An establishment having a demerit score of more than 10, but not
6 more than 20;

7 (3) Grade C: An establishment having a demerit score of more than 20, but not
8 more than 40;

9 (4) Grade D: An establishment having a demerit score of more than 40.

10 (5) Notwithstanding the grade criteria established above, whenever a second
11 consecutive violation of the same item of 2, 4, or 6 demerit points is discovered, the Sanitary
12 Permit may be suspended, or the establishment shall be downgraded to the next lower grade.

13 **§4908. Personnel and Patrons.**

14 (a) All cosmetologists shall complete training in bloodborne pathogens in accordance
15 with the Guam Board of Barbering and Cosmetology continuing education and license renewal
16 requirements. Records of training completion shall be made available upon the request of the
17 Director for inspection.

18 (b) All employees and operators shall wear appropriate protective clothing and
19 footwear to prevent occupational exposure to potential infectious material. Such outer garments
20 shall be clean and maintained. Employees shall maintain a high degree of personal cleanliness
21 and conform to good hygienic practices while on duty.

22 (c) Employees' hands, arms and other body surfaces which will normally come into
23 contact with the client shall be thoroughly washed with soap and properly dried before and after

1 attending each customer, after smoking, after drinking, after eating, after handling product, and
2 after using the restroom. Employees must also ensure that customers wash their hands and feet
3 before manicure and pedicure services, respectively.

4 (d) Employees shall not consume food or beverage while performing services or in any
5 area of the establishment where patrons are attended to. A designated employee lounge or dining
6 area shall be provided if foods are consumed on the premises. If such a designated employee
7 lounge or dining area exists in an establishment, there shall be no use of a stove, electrical
8 element, or portable gas stove. Food shall never be stored in refrigerators used to store salon
9 products.

10 (e) No employee or other person shall commit an unsanitary act in any cosmetic
11 establishment. Such prohibited acts include, but are not limited to, chewing tobacco or betel nut,
12 touching genital areas, brushing teeth, expectorating, and gargling.

13 (f) Employees shall only perform services for which they hold a current license from
14 the Guam Board of Barbering and Cosmetology, or its successor. In addition, all employees are
15 prohibited from performing the following procedures within a cosmetic establishment:

16 (1) Medical procedures;

17 (2) The removal or attempted removal of any wart, mole, pimple, ingrown hair
18 and/or foot callus;

19 (3) The application of electricity for the sole purpose of contracting a muscle;

20 (4) The application of a topical lotion, cream or other substance which affects
21 anything other than the uppermost layers of the skin;

22 (5) The penetration of the skin by metal needles; this includes but is not limited to
23 microneedling, using a microneedling pen and dermarolling;

1 (6) The abrasion of the skin below the uppermost layers of the skin;

2 (7) Botox, chemical peels, collagen injections, colonics, CoolSculpting,
3 liposuction and microdermabrasion. Exceptions to microdermabrasion include superficial of
4 light microdermabrasion intended to only remove dead skin cells, oil, and other debris from the
5 surface of the skin; and

6 (8) Cleaning of the inner ears.

7 (g) A sign with the following notice shall be posted within the pedicure service area in
8 all establishments providing pedicure services in a manner that is clear of any obstruction,
9 legible, easily visible, and made with font size no less than one inch (1") in height:

10 *"Customers should not use the foot spa if the customer has open sores, skin*
11 *wounds, or if he/she has shaved the submerged area within the last 24 hours to*
12 *reduce the risk of infection."*

13 (h) Notice shall be sent to the Department immediately by the owner of any cosmetic
14 establishment when any case of infectious, contagious, or communicable disease occurs, or is
15 suspected of occurring.

16 (i) Employees afflicted with a contagious or infectious disease shall not be allowed to
17 work until the Department receives a written statement from the employee's physician stating
18 that the employee is free of any contagious or infectious disease.

19 (j) Any material used to stop the flow of blood must be used only in powder or liquid
20 form and applied only with sterile absorbent cotton. The used cotton shall be properly disposed
21 of immediately after each use.

22 (k) No employee shall serve any customer if the area associated with the service (i.e.,
23 skin of the customer's neck, face, scalp, hands, lower arms, or feet) appears to be in an unhealthy

1 condition. Such unhealthy-looking conditions may include, but are not limited to, a
2 communicable disease; contagious condition; inflamed, infected, broken, raised, or swollen skin
3 or nail tissue; and/or an open wound or sore. An employee may serve a customer afflicted with
4 an unhealthy-looking condition if the client provides written authorization from a licensed
5 physician stating that the area of concern is not contagious.

6 (l) The service of any food to customers is prohibited. Drink service to customers is
7 allowable, provided that drinks services are restricted to water, tea or coffee, and all drinks are
8 provided to the customer in single-use disposable cups.

9 (m) Live animals, including birds, shall be excluded from all areas of the establishment.
10 This exclusion shall not apply to patrol dogs accompanying security guards, nor to service
11 animals accompanying their handlers, nor to fish in aquariums for decorative purposes only.

12 **§4909. Articles Used in Service.**

13 (a) The following items are prohibited in permitted cosmetology establishments and
14 shall not be used:

- 15 (1) Common dusters including but not limited to, neck dusters and nail dusters;
- 16 (2) Hair brushes made of wood and bristle;
- 17 (3) Shaving brushes and shaving mugs;
- 18 (4) Callus removing metal scrapers and metal graters;
- 19 (5) Razor edge blades, callus shaver blades, and credo blades; and
- 20 (6) Lump astringent and styptic pencils.

21 (b) Articles used in service that cannot be disinfected shall be disposed of in a waste
22 receptacle immediately after use and the re-use of such entities is prohibited. No porous tools

1 may be re-used, even if identified by the manufacturer or wholesaler as "reusable." Such items
2 include:

- 3 (1) Cotton pads, cotton balls, absorbent cotton, cotton strips or swabs;
- 4 (2) Permanent wave pads;
- 5 (3) Papers;
- 6 (4) Nail files, nail buffers, emery boards, sleeves and sanders for electric files;
- 7 (5) Orangewood/birch-wood sticks;
- 8 (6) Wooden applicator sticks or spatulas;
- 9 (7) Porous foot files;
- 10 (8) Pedicure slippers and toe separators;
- 11 (9) Disposable gloves;
- 12 (10) Paraffin liners;
- 13 (11) Neck strips and muslin strips; and
- 14 (12) Or any item that cannot be disinfected.

15 (c) No permitted establishment shall have on the premises cosmetic products
16 containing unsafe ingredients which have been prohibited or restricted by the U.S. Food and
17 Drug Administration for use in cosmetic products. These substances include, but are not limited
18 to:

- 19 (1) The use of 100% liquid methyl methacrylate monomer;
- 20 (2) Methylene chloride;
- 21 (3) Bithionol;
- 22 (4) Chlorofluorocarbon propellants;
- 23 (5) Chloroform;

- 1 (6) Halogenated salicylanilides;
- 2 (7) Vinyl chloride;
- 3 (8) Zirconium-containing complexes; and
- 4 (9) Prohibited cattle materials.

5 (d) No product may be used in a manner that is disapproved by the Director or the U.S.
6 Food and Drug Administration.

7 (e) Prior to serving any customer, the headrest of any chair or shampoo bowl which a
8 client's neck rests shall be covered with a clean, disinfected towel, or a new sheet of barber's
9 paper.

10 (f) When a hair cape or shampoo cape is used in serving a customer, a new sanitary
11 neck strip, a clean towel, or other suitable, sanitary protection shall be placed between the hair
12 cape or shampoo cape and the neck of the patron.

13 (g) Lotions, powders, fluid creams and other liquid preparations shall be dispensed
14 from shaker type, squeeze type, pump type, or aerosol type containers; be poured into a
15 disinfected container and applied to the client using cotton or another type of disposable
16 applicator; and prohibited from removing with the fingers.

17 (h) For creams and similar preparations:

18 (1) It must be dispensed: with single-use spatulas that are disposed of after each
19 use; with easily cleanable multi-use spoons or spatulas that are cleaned and disinfected after each
20 use; by removing and placing the product into a smaller container for use on the client and then
21 disposing of the product remaining in the smaller container after the service, with a clean
22 applicator bottle to apply the product; or another method approved by the Department.

23 (2) Its jars, or other containers, shall be kept covered when not in use.

1 (3) Its removal from its container with the fingers is prohibited.

2 (i) Cosmetics used in the form of a pencil must be sharpened before each use.

3 (j) Every bottle and container shall be labeled according to its contents and include any
4 health or safety hazard warning, if it is not in its original packaging.

5 (k) Work stations shall be kept clean, free from hair particles and nail dust, and cleaned
6 after every customer.

7 **§4910. Cleaning and Disinfecting Practices.**

8 (a) All multi-use items, such as combs, brushes, hair pins, hair rollers, manicure
9 instruments, plates, jars, glass, metallic containers, and metallic instruments shall be made so as
10 to be easily cleanable and disinfected after each use according to the following procedure:

11 (1) Visible debris shall be removed from the item(s) and discarded; then,

12 (2) The item(s) shall be thoroughly cleaned by washing or scrubbing with hot
13 water and detergent or antiseptic; and then,

14 (3) The item(s) shall be disinfected by immersion, or sprayed until moist, for at
15 least ten minutes, or as specified by the manufacturer's instructions with the following solutions:

16 (A) A U.S. Environmental Protection Agency registered disinfectant that is
17 bactericidal, viricidal, and germicidal, or

18 (B) 5.25% - 6.15% (sodium hypochlorite) bleach solution.

19 (4) After disinfecting the item(s), it shall be removed from the disinfecting
20 solution and air dried.

21 (5) If not immediately in use, store disinfected items in a designated, clean and
22 labeled closed container.

1 (6) In addition to the disinfection of these implements, curling irons and heaters
2 shall be kept free of corrosion.

3 (b) Electrical and other non-immersible multiple-use equipment shall be cleaned in the
4 following manner after each client:

5 (1) Brush or wipe the equipment to remove all visible debris; and then.

6 (2) Spray the equipment with an EPA-registered hospital grade disinfectant or a
7 10% bleach solution, which must remain wet on the surface for ten minutes or the time stated on
8 the label.

9 (3) Equipment that shall be cleaned according to this process include, but are not
10 limited to, electrical clippers, oiled shears, electrical trimmers, electrical files, wax pots, and
11 heated styling equipment.

12 (c) After each client, the sanding band of an electric nail filer shall be disposed, the
13 headpiece of the electric nail filer shall be wiped with a disinfectant, and the used bit shall be
14 replaced with a new or disinfected bit.

15 (d) When electrolysis equipment is utilized in the establishment, it shall be cleaned and
16 sterilized according to the following procedure:

17 (1) Remove all foreign matter and visible debris from the instrument; then,

18 (2) Wash the instrument in soap and hot water; then,

19 (3) Rinse the instrument in warm water; and then,

20 (4) Sterilize the instrument by steam sterilization or the use of a dry sterilizer
21 registered and listed with the U.S. Food and Drug Administration; both to be used in accordance
22 to manufacturer's instructions

1 (e) Sterilization equipment used in (d)(4) above shall be checked weekly to ensure
2 proper temperature, according to the manufacturer's instructions, is being reached. A record of
3 this procedure shall be maintained in the establishment.

4 (f) The disinfectant solution used for multi-use implements shall be prepared according
5 to the manufacturer's instructions, available at each work station, and changed daily.

6 (g) Pedicure equipment must be properly cleaned and disinfected and recorded.

7 (1) After each client, the following procedure shall be followed:

8 (A) Drain water and remove any visible debris; then,

9 (B) Clean surface of foot spa with soap or detergent; then,

10 (C) Disinfect the surfaces, which must remain wet for ten minutes or in
11 accordance to manufacturer's direction, with an EPA-registered, hospital grade disinfectant; and,

12 (D) When disinfecting circulation spas, turn on the unit to circulate for the
13 entire contact time.

14 (E) Drain and rinse the equipment with clean water.

15 (2) After the end of each business day, the following procedures shall be
16 followed:

17 (A) For Circulating Spas:

18 (i) Remove filter screen, inlet jets, and all other removable parts from
19 the basin and clean out any debris trapped behind or in them; then,

20 (ii) Scrub these implements with soap or disinfectant; then,

21 (iii) Rinse the removed implements with clean water and properly
22 return them to the foot basin; then,

1 (iv) Fill the basin with clean water, add an EPA-registered hospital-
2 grade disinfectant following manufacturer's instructions, turn on the unit and circulate the
3 system with the liquid for ten minutes, or as instructed; and then,

4 (v) Drain the foot spa, rinse with clean water, and allow the basin to
5 air dry.

6 (B) For Basin Spas:

7 (i) Drain the basin and remove any visible debris; then,

8 (ii) Scrub the bowl with a clean brush with soap or disinfectant; then,

9 (iii) Rinse with clean water and drain; then.

10 (iv) Disinfect the surfaces, which must remain wet for ten minutes or in
11 accordance to manufacturer's direction, with an EPA-registered, hospital-grade disinfectant; and
12 then,

13 (v) Drain the foot spa, rinse with clean water, and allow the basin to
14 air dry.

15 (3) Once Per Week, for Circulating Spas:

16 (A) After nightly cleaning procedure detailed in (2)(A)(i) through (iv) above,
17 do not drain the disinfectant solution, and do not turn off the unit; then,

18 (B) Leave the disinfectant solution in the unit for at least six hours; then,

19 (C) Drain and rinse with clean water; and then,

20 (D) Refill the basin with clean water and flush the system.

21 (4) A record log of each step in the cleaning and disinfection of the pedicure
22 equipment shall be maintained in the establishment for a period of three months.

23 (g) Fabrics and linens must be properly cleaned and disinfected.

1 (1) Methods of cleaning all fabrics and linens shall include:

2 (A) Washing on a cycle no shorter than 45 minutes with hot water;

3 (B) A cleaning product that is at least 10% bleach solution; and

4 (C) Drying on high heat until completely dry.

5 (2) The requirements for properly cleaning and disinfecting fabrics and linens

6 shall be met by the following methods:

7 (A) At a laundry and dry-cleaning establishment with a valid Sanitary
8 Permit, or

9 (B) At a coin-operated Laundromat with a valid Sanitary Permit by use of
10 automatic washers and dryers, or

11 (C) At a cosmetic establishment with a valid Sanitary Permit by the use of
12 automatic washers and dryers that are used exclusively for cleaning fabric and linens of the said
13 cosmetic establishment, or

14 (D) A method approved by the Director.

15 (3) Receipts from items (A) and (B) above shall be kept to document the proper
16 method of cleaning for a period of three months.

17 (h) All hair and shampoo capes made of linen, and are porous, or otherwise made of
18 washable material, shall be cleaned at the end of each day. All hair or shampoo capes made of
19 plastic, or otherwise non-porous material, shall be sprayed or wiped at the end of each day on all
20 sides with the disinfectant solution consisting of at least 10% bleach.

21 (i) All towels, washcloths and other fabrics, except for hair or shampoo capes, which
22 come in contact with the hair and skin of a customer, shall be thoroughly cleaned after use on
23 each customer, and before being used on the next customer.

1 (j) Wigs and hairpieces shall be cleaned with a disinfecting agent approved by the
2 Department and placed on a covered block when restyling.

3 (k) After contact with blood or body fluid, the following items shall be disinfected
4 according to this manner, while utilizing Universal Precautions:

5 (1) For surface areas, an EPA-registered disinfectant or 10% bleach solution shall
6 be used per manufacturer's instructions to clean up all visible blood or bodily fluid.

7 (2) For multi-use instruments, the item shall be immediately cleaned and
8 disinfected using an EPA-registered disinfectant in accordance with manufacturer's instructions,
9 or totally immersed in a 10% bleach solution for 10 minutes.

10 (3) For single-use instruments, the item shall be immediately double-bagged and
11 discarded in a closed trash container or biohazard container.

12 **§4911. Storage of Articles and Garbage.**

13 (a) Cleaned and disinfected instruments and utensils shall be stored in a clean, covered,
14 dry container, or other sanitary method approved by the Director, that is labeled and separate
15 from soiled implements and materials. Disinfected utensils and equipment shall not be stored or
16 carried in, or on, an employee garment or pocket, at any time.

17 (b) The EPA-registered disinfectant or 10% bleach solution used in the cosmetic
18 establishment or cosmetology school shall be changed at least once a day or when the solution is
19 visibly cloudy or dirty. Only articles necessary for the operation and maintenance of cosmetic
20 establishment shall be stored on the premises.

21 (c) Storage lockers, closets, or rooms shall be provided for the storage of cleaning,
22 maintenance, and cosmetology supplies. Chemicals must be stored in accordance with the

1 manufacturer's directions. Cosmetology supplies shall be stored separately from cleaning and
2 maintenance supplies. All storage facilities shall be kept clean and orderly.

3 (d) Lancets, disposable razors, and other sharp objects shall be disposed in a puncture
4 resistant container marked with a biohazard symbol immediately after each client. Such
5 containers shall be disposed of properly.

6 (e) Garbage and refuse shall be kept in durable, easily cleanable, insect proof, and
7 rodent proof containers that do not leak or absorb liquids.

8 (f) All garbage and refuse containers shall be provided with tight-fitting covers which
9 shall be kept closed when not in use.

10 (g) There shall be a sufficient number of containers to hold all garbage and refuse.
11 Garbage and refuse shall be disposed of from the inside premises at least once per day and shall
12 not be left in the establishment overnight for the prevention of foul odors, and the attraction of
13 unwanted pests. An outdoor storage surface for garbage and refuse shall be constructed of
14 nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to
15 drain. Areas around outside storage containers shall be kept clean and free of vegetation and
16 litter.

17 (h) Adequate and separate storage facilities and/or containers shall be provided for the
18 storage of cleaned and soiled fabrics and linen. Storage hampers for soiled fabrics and linen
19 shall be provided with covers, easily cleanable, kept clean, and emptied at regular intervals when
20 used, and shall be kept covered at all times. Cleaned linen shall be stored in a closed container
21 or cabinet to prevent contamination before use.

1 (i) Enough lockers or other suitable facilities shall be provided and used for the orderly
2 storage of employee clothing and other belongings. Lockers may be located in either storage
3 rooms, employee lounge areas, or in any other area approved by the Director.

4 **§4912. Sinks, Toilet Facilities, and Water Supply.**

5 (a) Enough hot and cold potable water at the correct pressure for the needs of the
6 cosmetic establishment shall be provided.

7 (b) The water supply shall be from an approved source.

8 (c) The water supply plumbing shall be sized, installed, and maintained according to
9 the latest edition of the International Plumbing Code at the time of construction, alteration, or
10 required change. There shall be no cross-connections between potable water supply and any
11 non-potable system, nor shall there be any conditions which would allow backflow or back
12 siphonage at any fixtures or equipment in the potable water supply system. Backflow prevention
13 devices or measures shall be provided where necessary to protect the potable water supply.

14 (d) A minimum of one hand washing sink shall be provided in or adjacent to each toilet
15 facility. In addition, at least one hand washing sink shall be provided for every three
16 workstations. The Director reserves the right to increase the number of sinks as he or she deems
17 necessary.

18 (e) A utility sink, which is separate from the hand washing sinks required in §4912(d)
19 above, used for cleaning of implements and equipment, and a separate mop sink shall be
20 provided in the establishment.

21 (f) Sinks shall be accessible to employees at all times.

22 (g) Lavatories shall also be located in or immediately adjacent to toilet rooms or
23 vestibules.

1 (h) Each sink shall be provided with hot and cold water tempered by means of mixing
2 valve or combination faucet.

3 (i) A supply of hand cleansing soap or detergent shall be available at each sink. A
4 supply of sanitary, disposable towels that are dispensed via an enclosed dispenser, or an electric
5 hand dryer, shall be conveniently located near each sink. The presence and use of common or
6 roll towels is prohibited. Where disposable towels are used, easily cleanable waste containers
7 shall be conveniently located near sinks.

8 (j) Sinks, soap, and paper towel dispensers, electric hand dryers, and all related fixtures
9 shall be kept clean and in good repair.

10 (k) If the cosmetic establishment is no more than 1,500 square feet total in floor space
11 or anticipates a total occupant load of 15 or less, it is not required to have a separate male and
12 female restroom within its facility, provided a common toilet facility for both genders is made
13 available no more than 200 feet from the establishment. If the cosmetic establishment is more
14 than 1,500 square feet in total floor space or anticipates a total occupant load of more than 15, at
15 least one toilet is required within the facility for a specific gender, so long as another toilet
16 facility for the opposite sex is available elsewhere that is not more than 300 feet from the
17 establishment.

18 (l) Toilet rooms shall be completely enclosed and shall have self-closing doors. Toilet
19 rooms shall be kept closed at all times when the establishment is open for business. Where
20 necessary, doors shall be fitted with properly louvered ventilators to aid in providing proper
21 ventilation.

22 (m) Toilet fixtures and rooms shall be designed to be easily cleanable, kept clean, and in
23 good repair. Easily cleanable, covered waste containers shall be provided. Toilet tissue and its

1 dispenser shall be provided at each toilet at all times. Toilet facilities shall not be used to store
2 unnecessary articles, such as personal items and cleaning supplies.

3 (n) All sewage, including liquid waste of any kind, shall be disposed of by a public
4 sewerage system or by a sewage disposal system constructed and operated according to law.

5 **§4913. General Facility.**

6 (a) The Sanitary Permit holder shall keep, maintain, and operate the cosmetic
7 establishment or cosmetology school in such manner that the health of customers, the health of
8 employees, and public's health are not endangered in any way.

9 (b) The Safety Data Sheet of all qualifying chemicals/substances shall be kept on file
10 within the establishment.

11 (c) All parts of the premises used in connection with the operations of a cosmetic
12 establishment shall be kept clean and free of litter.

13 (d) All areas of cosmetic establishment shall be kept free of insect and rodent harborage
14 and feeding areas and effective measures must be taken to minimize their presence.

15 (e) All openings to the outside used for ventilation shall be provided with #16 mesh
16 screen. Doors to the outside shall be tight-fitting, self-closing, and shall remain closed. All other
17 routes of insect or rodent ingress shall be sealed.

18 (f) Laundry facilities on the premises shall be provided in a separate room away from
19 other operations of the cosmetic establishment.

20 (g) No person shall operate a cosmetic establishment in connection with any other
21 business or dwelling unless the other business or dwelling is separated from the cosmetic
22 establishment by a permanent wall from the floor to the ceiling that provides complete physical
23 separation of the establishment from such other business or dwelling. Any cosmetic

1 establishment that has applied for a permit after the adoption of this regulation shall have a
2 separate entrance from any other business or dwelling. The use of the cosmetic establishment for
3 sleeping, dining, living, or any other domestic purpose is prohibited.

4 (h) All floor, walls, ceilings, fixtures, and furnishings shall be constructed so as to be
5 easily cleanable, shall be kept clean, and shall be kept in good repair. Carpeting is prohibited in
6 areas where hair is cut, shampooed or styled, where pedicures are given, and where foot spas are
7 used. Carpet in permissible areas of the establishment shall be of light color, a commercial
8 grade, and kept clean and free from hair.

9 (i) Lighting shall be provided so that at least 50 foot-candles of light shall be available
10 30 inches from the floor in all operational areas. At least 50 foot-candles of light shall be
11 available, 30 inches from the floor in utility, storage, lavatory, toilet, and employee lounge areas.

12 (j) The ventilation system shall support a rate of 25 cubic feet of fresh air per occupant
13 per minute and the establishment shall be kept free of excessive obnoxious odors, smoke, and
14 moisture.

15 (k) Nail salons shall install downdraft ventilated nail tables, portable nail salon source
16 capture ventilation systems, or an approved ventilation system that exhausts airborne
17 contaminants to the outdoor atmosphere. Such ventilation systems must be capable of
18 exhausting contaminants not less than 50 cubic feet per minute, or as is current to comply with
19 the International Building Code. This ventilation system shall operate continuously during
20 occupancy. Any existing nail salon, or salon that has applied for a permit under this regulation,
21 shall have until three years from the date of adoption to achieve compliance with the ventilation
22 requirements as outlined in this subsection (k).

1 (l) When employees routinely change clothes within the cosmetic establishment, a
2 separate area, approved by the Director, shall be provided.

3 **§4914. Existing Facilities.**

4 Cosmetic establishments that are in existence at the time these rules and regulations is
5 adopted shall have three years from the date of such adoption to come into full compliance. In
6 the interim, the Department's current *Rules and Regulations Pertaining to Barber and Beauty*
7 *Shops, Schools, and the Practice of Barbering and Cosmetology* shall remain in effect for these
8 existing facilities.

9 **§4915. Variance.**

10 (a) A cosmetic establishment seeking a waiver or modification of one or more
11 requirements of these regulations shall seek a variance from the Department in the manner
12 prescribed by the Director, which shall at a minimum include a written purpose of the request,
13 citation of the relevant section number of the rules and regulations, and what alternative action
14 will be implemented, if any.

15 (b) Only the Director, not his or her representative, shall be delegated the authority to
16 approve a request for a variance from a cosmetic establishment.

17 (c) Before approving a request for variance from a cosmetic establishment, the
18 following criteria shall be met:

19 (1) There is no negligence or malfeasance on part of the cosmetic establishment
20 as a reason for seeking the variance; and

21 (2) In the opinion of the Department, a health hazard or nuisance will not result
22 from the approval of the variance.

23 **§4916. Severability.**

1 If any provision or the application of any provision of these rules and regulations are held
2 invalid, such invalidity shall not affect the other provisions or applications of these rules and
3 regulations.