

# **BOSTON PUBLIC HEALTH COMMISSION**

## **Nail Salon Regulation**

As Amended October 17, 2013

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### **1. Purpose and Scope**

These regulations are promulgated to standardize the practice of professional nail enhancement in order to protect the health of nail technicians, clients, and visitors of nail salons from the risk of injury or infection due to unsanitary conditions and exposure to hazardous chemicals. These regulations are intended to ensure that establishments that provide professional nail enhancement services to the public meet and maintain minimum standards of cleanliness, safety, and sanitation.

### **2. Definitions**

- 2.1 Autoclave means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.
- 2.2 Chemical means a product used in the salon for the provision of salon services and/or cleaning or disinfection. This includes, but is not limited to, polishes, glues, liquid monomers, acrylic powders, cleaners, sanitizers, alcohol, acetone, lacquer, nail polish remover, acrylic primer, nail hardener, cosmetics, and lotions.
- 2.3 Clean means to wash with water and liquid soap, detergent, antiseptic, or other adequate means to remove all visible debris or residue.

- 2.4 Client means a customer, patron or other individual who receives or will receive salon services.
- 2.5 Commission means the Boston Public Health Commission, the Board of Health of the Boston Public Health Commission, and/or any authorized agent thereof.
- 2.6 Disinfectant means a chemical or physical agent used in the disinfection process. The following categories of chemicals and/or processes qualify as disinfectants under this definition:
- a. an EPA-registered bactericidal, fungicidal, and virucidal disinfectant (with the exception of formalin) used in accordance with manufacturer instructions;
  - b. a 10% solution of chlorine bleach mixed with water (and no other chemicals);
  - c. isopropyl alcohol used at 100% concentration (for wiping surfaces) or immersion in 70% isopropyl alcohol for a minimum of 10 minutes (for tools);
  - d. a properly functioning and verified autoclave or FDA listed dry heat sterilizer used according to manufacturer instructions.
- 2.7 Disinfection means a process that prevents infection by killing bacteria on metal implements and non-porous surfaces using one or more of the defined disinfectants. Porous materials (pumice stones, sponges, wooden tools, etc.) cannot be disinfected.
- 2.8 Dry Heat Sterilizer means an apparatus for sterilization utilizing dry heat listed with the United States Food and Drug Administration.
- 2.9 Foot Bath means any basin (self-contained unit or connected to the nail salon's plumbing) that holds water, circulating or not, for the purposes of soaking the client's foot.
- 2.10 Guidelines mean the Commission's Guidelines for Implementation and Enforcement of Nail Salon Regulations.
- 2.11 Implement means an instrument or tool, either disposable or reusable, used to provide nail salon services.
- 2.12 License means a license issued by the Massachusetts Board of Cosmetology to operate a nail salon.

- 2.13 Nail Salon and Salon means any establishment, facility, room, group of rooms, place of business, or premises licensed by the MA Board of Cosmetology, where salon services are performed on the person of another, with or without monetary compensation.
- 2.14 Manicuring Station means the workstation where a manicurist performs salon services on individual clients, including such devices, chairs, tables, counters and other equipment as may be necessary to provide such services.
- 2.15 Manicurist or Nail Technician means any person providing salon services upon the person of another, with or without monetary compensation.
- 2.16 Material Safety Data Sheet (MSDS) means a document that is supplied by the product manufacturer which explains the risks, precautions, and response actions related to exposure to a particular product or chemical used as an ingredient in a product.
- 2.17 Multi-Use Tool means an item constructed of hard materials with smooth non-porous surfaces such as metal, glass, or plastic that can be used on more than one client. The term includes but is not limited to such items as clippers, scissors, combs, nippers, manicure bowls, and some nail files.
- 2.18 Permit means a written document as prescribed and issued by the Commission granting approval to a nail salon to operate.
- 2.19 Salon Service means any practice carried out in a salon that includes, but is not limited to, cutting, shaping, polishing, or otherwise enhancing the appearance of the nails of the hands or feet, manicuring, pedicuring, callus removal and other skin treatment, waxing, and eyebrow threading.
- 2.20 Single Use Tool means a non-metal and/or porous item that is made or constructed of cloth, wood, or other absorbent materials having rough surfaces which cannot be disinfected or sanitized. Single use items include, but are not limited to, gloves, flip flops, toe separators, pumice stones, non-metal nail files, non-metal emery boards, buffers, buffing discs on electric files, wood and/or non-metal cuticle pushers, cotton balls, and tissues.

### **3. Application and Permit**

- 3.1 No person shall operate a nail salon without a valid permit issued by the Commission.

- 3.2 An application for a permit shall be submitted on a form prescribed by the Commission and under such terms and conditions as set forth in the Guidelines.
- 3.3 A permit may be issued pursuant to this section solely for the operation of a salon in the City of Boston. Said permit is exclusive of the salon's obligation to comply with all other local, state, and/or federal permitting and/or licensing requirements.
- 3.4 A permit issued pursuant to this section shall be valid for a maximum period of one year and shall expire annually on the anniversary of the permit's initial date of issuance.

#### **4. Facility Requirements and Procedures**

- 4.1 All chemicals used in the salon shall be properly stored and labeled, including chemicals that have been removed from their original containers. A Material Safety Data Sheet (MSDS) must be kept on site for every chemical used in the salon and be readily available for review by the Commission and salon employees. All chemical containers shall be closed when not in use, including between uses. All flammable chemicals shall be kept away from heat and shall be stored in a flammable storage cabinet in compliance with applicable law and approved fire reference standards when not in use. Applicants must secure all necessary permits from Boston Fire Department as soon as possible. Whenever possible, small-mouthed dispensers or pump dispensers shall be used.
- 4.2 A lidded waste receptacle shall be provided at every manicuring station and emptied at least once per day.
- 4.3 At least one eyewash station and/or two personal eyewash bottles must be readily available in the salon and must be located within ten (10) seconds or 100 feet of any manicure station. The eyewash station and/or bottles must be visible and in good working order. The eyewash station or bottles shall be separate from any such station or equipment that may be available in the salon bathroom.
- 4.4 A salon shall have a fully stocked basic first aid kit on the premises and available to all staff at all times.
- 4.5 A salon shall have at least one hand washing sink located in or adjacent to the manicuring area and shall keep it in a sanitary condition.
- 4.6 A salon shall provide hot and cold running water, liquid soap, and disposable towels at every hand washing sink.

- 4.7 Any new salon, or salon that has applied for a permit under this regulation after October 17, 2013 shall, attain compliance with the minimum ventilation rate specifications set forth in the version of the International Mechanical Code incorporated into the State Building Code at 780 CMR 28 and 271 CMR 6, as amended. This ventilation system shall be in operation any time the salon is open for business.

A report from a duly licensed engineer or contractor, and/or proof of inspection from the City of Boston's Inspectional Services Department shall be provided to the Commission showing that the ventilation system to be used in the nail salon meets the minimum ventilation rate requirements and is operable before the salon opens for business. Inspection by Commission and/or its authorized agents shall include a confirmation that these requirements are being met and may include air quality testing.

Any existing nail salon, or salon that has applied for a permit under this regulation before October 18, 2013 shall have until five years from said date of adoption to achieve compliance. In the interim, a nail salon owner who has applied for a permit under this regulation before October 18, 2013, shall, in accordance with guidelines issued to implement this regulation and with guidance and support from the Commission as necessary, develop a written ventilation plan to improve and maintain air quality and to reduce the level of chemical vapors, mist, or dust within the salon in the interim period and document all steps taken to achieve compliance with this section's ventilation system requirements including but not limited to attaining price quotes and drafting financing plans.

- 4.8 A public health informational and safety notice shall be prominently posted and visible to the public in accordance with the Guidelines.
- 4.9 Multi-use tools, including but not limited to, manicuring instruments, implements, and equipment shall be cleaned and disinfected after each client use. Disinfected multi-use tools shall be stored in a clean, dry, closable sanitary storage container and kept separately from implements that have not been disinfected. Single use tools shall be stored in their original packaging and disposed of after each client.
- 4.10 Reuse of any single-use tool and multi-use tool that has not been disinfected between each client use is strictly prohibited. A single-use tool shall be discarded after a single client use.
- 4.11 Towels shall be washed with warm water and detergent through a standard laundry wash cycle between clients. Clean towels and unused single use items must be stored in a clean, dry, closable sanitized storage cabinet or container, separate from unclean towels, tools, and other items.

- 4.12 Manicuring stations and foot baths shall be disinfected after each client.
- 4.13 A properly functioning and verified autoclave meeting the standards set forth in guidelines issued pursuant to this regulation or US FDA registered dry heat sterilizer used according to manufacturer's instructions shall be installed and in use for the sterilization of reusable tools before any salon opens for business. However, a nail salon that has applied for a permit under this regulation before October 17, 2013 shall have until two years from said date of adoption to achieve compliance with this provision. Commission staff shall offer technical assistance to salons regarding sourcing and procurement of acceptable autoclaves. In the interim period before an autoclave is procured, commission staff may conduct further inspections to ensure that existing sanitization and disinfecting methods are being used in compliance with the regulation and established standards.
- 4.14 Any substance that comes in contact with a client, including wax used for the removal of body hair shall be free and clear from contaminants. Measures must be taken to ensure that any substance or implement that comes in contact with a client, including wax, is not contaminated between customers. Any such substance must either be poured into a container that is used only for one individual client and is replaced or sterilized between clients, or, alternatively, if using a common container that is used for more than one client, a single use tool must be used and discarded after each contact with a client's skin.

## **5. Standards of Practice**

- 5.1 A nail technician shall wash his/her hands thoroughly with hot water and liquid soap from a dispenser (1) prior to the start of each work shift; (2) any time they are visibly soiled; (3) immediately after toilet use; (4) prior to and after consumption of any food or drink; and (5) at the end of each work shift. Hand washing shall be done as often as necessary to remove contaminants. A nail technician shall wash his/her hands with hot water and liquid soap or alcohol-based hand sanitizer between each client.
- 5.2 Nail technicians shall use impermeable gloves when handling chemicals that are potentially damaging to the skin as indicated on the product's MSDS or when performing any procedure that has a risk of breaking the client's skin. Gloves are a single use tool and must be disposed of after each client or at a greater frequency as determined by the circumstances.
- 5.3 The skin of the nail technician shall be free of rash or infection. No nail technician affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions, impetigo, pediculosis, fungal infection of

the hands, or acute respiratory infection shall work in any area of a salon in any capacity in which there is a likelihood that the individual could contaminate nail salon equipment, supplies, or working surfaces with body substances or pathogenic organisms.

- 5.4 In the event that a client is bleeding on or around the skin of the nails of the hands or feet, all products used to stop the bleeding or to absorb blood shall be single use, such as powdered alum, adhesive bandages, or gauze pads, and discarded immediately after use in appropriate covered containers. A nail technician must wear gloves while assisting a bleeding client.
- 5.5 In the event that the nail technician is bleeding on or around the skin of the nails of the hands, the nail technician shall not perform nail services. All products used to stop the bleeding or to absorb blood shall be single use, such as powdered alum, adhesive bandages, or gauze pads, and discarded immediately after use in appropriate covered containers.

## **6. Prohibitions**

- 6.1 Salon services shall not be performed on any child under the age of fourteen (14) unless accompanied by a parent or legal guardian.
- 6.2 No manicurist, demonstrator, instructor, or manicuring student shall provide services to persons whose hands, feet, or nails are afflicted with boils, infected wounds, open sores, abrasions, weeping dermatological lesions, impetigo, pediculosis, or fungal infection.
- 6.3 There shall be no burning of incense, candles, or open flames in the salon at any time.
- 6.4 A nail salon shall not engage in the application of permanent makeup unless the salon and its nail technicians or other qualified persons are separately licensed under the Commission's Body Art Regulations.
- 6.5 No salon shall utilize any product containing Methyl Methacrylate (MMA) in the practice of salon services.
- 6.6 No salon shall utilize Formalin as a means of disinfectant.
- 6.7 No salon shall utilize razor-type callus shavers (credo blades) or skin graters intended to cut or scrap calluses, corns, and similar conditions from the skin.

- 6.8 No salon shall utilize alum or other astringents in stick or lump form in the provision of salon services. However, alum or other astringents in powder or liquid form are acceptable.

**7. Grounds for Denial, Revocation, or Refusal to Renew Permit**

- 7.1 The Commission may deny, suspend, revoke or refuse to issue or renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for denial, suspension, revocation or refusal to renew:
- (a) any action that would indicate that the health or safety of the public is at risk;
  - (b) refusal to permit an agent of the Commission or other government agency or official to reasonably inspect the nail salon and any records pertaining to its operation;
  - (c) interference with an agent of the Commission or other government agency or official in the performance of his or her duty, directly or indirectly related to these regulations;
  - (d) fraud, deceit, or misrepresentation in obtaining a permit, or its renewal;
  - (e) criminal conduct that the Commission determines to be of such a nature as to render the applicant unfit to perform salon services as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
  - (f) any present or past violation of this regulation;
  - (g) any action enabling the practice or the practice of salon services while impaired by alcohol or drugs;
  - (h) knowingly permitting, aiding, or abetting an unauthorized person to perform activities requiring a license or permit;
  - (i) continuing to practice while his/her license or permit is lapsed, suspended, or revoked; and having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in the Commission's regulations;



- (j) other just and sufficient cause which the Commission may determine would render the nail salon or applicant unfit to practice;
- (k) failure of the nail salon or other holder of a nail salon permit to submit any required documents within the time specified;
- (l) failure to disinfect manicuring tools, instruments, implements and equipment properly between each client;
- (m) failure to remit the required license/permit fees or assessed fines or penalties; and,
- (n) default of an adjudicatory hearing pursuant to these regulations.

7.2 No provision, clause, or section of these regulations shall be interpreted as prohibiting the Commission from suspending or revoking any license or permit issued by the Commission or a City of Boston department or agency and within the jurisdiction of the Commission or such departments or agency for repeated violations of this regulation.

## **8. Violation**

- 8.1. An owner of a nail salon found to be in violation of any provision of this regulation shall be punished by a fine of not more than:
  - a. one hundred dollars (\$100) for the first violation;
  - b. two hundred dollars (\$200) for the second violation within a twelve (12) month period; and
  - c. three hundred dollars (\$300) for the third and all subsequent violation(s) within a twelve (12) month period.
- 8.2 Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one provision of this regulation is violated, each violation shall constitute a separate offense.
- 8.3 Repeated violations of this regulation shall constitute just cause for suspension or revocation of the salon's permit to operate.

## **9. Injury Reports**

- 9.1 A written report of any injury, infection, complication or disease to a client or nail technician as a result of a nail salon service or procedure or complaint of injury, infection, complication, or disease to a client or nail technician shall be forwarded by the nail salon or permit holder to the Commission with a copy to the injured client or nail technician within five (5) business days of its occurrence or knowledge thereof. The report shall include at least:
- (a) the name of the affected client or nail technician;
  - (b) the name and location of the nail salon involved;
  - (c) the nature of the injury, infection, complication, or disease;
  - (d) the name and address of the affected client or nail technician's health care provider, if any, and;
  - (e) any other information considered relevant to the situation.
- 9.2 If a client or nail technician sustains an injury that requires immediate medical attention, it shall be the responsibility of the nail salon to obtain the necessary medical care, including emergency care, for the client or nail technician.

## **10. Complaints**

- 10.1 The Commission shall investigate a complaint received about a nail salon or nail technician's practices or acts that may violate any provision of this regulation.
- 10.2 If the Commission finds that the alleged act or practice is not in violation of the Commission's regulations, the Commission shall notify the complainant of this finding and the reasons therefore.
- 10.3 If the Commission finds that the alleged act or practice may be in violation of the Commission's regulations, the Commission shall investigate and if a finding is made that the act or practice is in violation of the Commission's regulations, then the Commission shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

## **11. Non-Retaliation**

No employer, nail salon, or other person or entity shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse personnel or other action against any employee, applicant, nail technician, client, or other person because such employee, applicant, nail technician, client or other person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

## **12. Severability**

If any provision of these regulations is found to be invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions shall not be so affected and shall remain in full force and effect.

**13. Conflict with Other Laws, Ordinances or Regulations**

- 13.1 Nothing in this regulation shall be deemed to amend or repeal any applicable law, ordinance, or regulation.
- 13.2 Nothing in this regulation shall be deemed to preempt existing or further regulation of the health and safety of nail salons and the general public in the City of Boston by any local regulatory body within the limits of its authority and jurisdiction.

**14. Administration and Enforcement**

- 14.1 This regulation shall be administered and enforced by the Commission and/or its authorized agents, including but not limited to, the Boston Inspectional Services Department and the Boston Police Department.
- 14.2 The Commission may make criminal complaint in any court of competent jurisdiction or may refer enforcement to the District Attorney, the Attorney General, or other appropriate law enforcement agency any violation of the regulations incidents of unauthorized manicuring/nail salon practice. The Commission may also seek injunctive relief and civil penalties in any court of competent jurisdiction for violation of any regulation.
- 14.3 This regulation may be enforced in the manner provided by M.G.L. c. 111 § 187.

**15. Waivers**

- 15.1 Requests for waivers from this regulation may be made to the Executive Director in the form and manner set forth in guidelines.

**16. Effective Date**

This Regulation shall take effect one hundred and eighty (180) days from the date of passage by the Commission.

Authority: M.G.L. c. 111 § 5; M.G.L. c. 111 § 31; M.G.L. c. 111, App. §§ 2-6(b), 2-7(a)(1), and 2-7(a)(15).