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This information is provided as a public service to enhance public education. It is not intended to take the place of statutory law, regulations, or guidance documents. Such information is subject to change. This information is not legal advice, therefore, if you have additional questions or need clarification, please consult with your own legal counsel for assistance or legal advice.

Fall 2022

KANSAS BOARD OF COSMETOLOGY

FALL

Eye Cosmetic Safety

The following excerpts are published on the FDA's website. Click [here](#) to read the full publication.

Eyelash Tints and Dyes
Permanent eyelash and eyebrow tints and dyes have been known to cause serious eye injuries, including blindness. The FDA has provided for the safe use of silver nitrate as a color additive, in professional-use only cosmetics, to color eyebrows and eyelashes [21 CFR 73.2550]. Use is restricted to up to 4

percent silver nitrate (by weight) in a viscous gel product. These silver nitrate containing cosmetic products are not intended for use on persons under the age of 16 or for application for longer than 1 minute. Furthermore, these products are not for distribution or direct sale to consumers.

False Eyelashes and Eyelash Extensions
The FDA considers false eyelashes, eyelash extensions, and their adhesives

to be cosmetic products, and as such they must adhere to the safety and labeling requirements for cosmetics. False eyelashes and eyelash extensions require adhesives to hold them in place. Remember that the eyelids are delicate, and an allergic reaction, irritation, or other injury in the eye area can be particularly troublesome. Check the ingredients before using these adhesives. Click [here](#) to access a listing of color additives permitted for use in cosmetics.



Color Additives and Cosmetics: Eye Area Use

You may not use a color additive in the area of the eye unless the regulation for that additive specifically permits such use [21 CFR 70.5(a)]. The "area of the eye" includes "the area enclosed within the circumference of the supra-orbital ridge and the infra-orbital ridge, including the eyebrow, the skin below the eyebrow, the eyelids and the eyelashes, and conjunctival sac of the eye, the eyeball, and the soft areolar tissue that lies within the perimeter of the

infra-orbital ridge" [21 CFR 70.3(s)]. Although there are color additives approved for use in products such as mascara and eyebrow pencils, silver nitrate is the only color additive approved for dyeing the eyebrows or eyelashes, but for professional use only. The FDA has provided for the safe use of silver nitrate as a color additive, in professional-use only cosmetics, to color eyebrows and eyelashes [21 CFR 73.2550].

Bad Reaction?

If you have a bad reaction to eye cosmetics, first contact your healthcare provider. The FDA also encourages consumers to report any adverse reactions to cosmetics. See [Bad Reaction to Cosmetics? Tell FDA](#) and [How to Report a Cosmetic Related Complaint](#).



Cosmetology & Esthetics Advocacy



“Major themes in the 2022 legislative cycle for cosmetology and esthetics included attempts to deregulate hairstyling, hair braiding, threading, eyelash extensions, and makeup-application services.” Laura B. Embleton, PAC Government Relations Director

The Government Relations (GR) team serving Associated Skin Care Professionals (ASCP), Associated Hair Professionals (AHP), and Associated Nail Professionals (ANP) supports the cosmetology and esthetics industries on a national level and is the advocate and the voice for our members across all 50 states.

The GR team advocates on behalf of ASCP, AHP, and ANP members for fair licensing laws and rules to minimize undue regulatory burdens on practitioners and to increase public safety. The team writes letters to state legislators and bill sponsors that include topics like license deregulation, school training hours, and scope of practice.

Major themes in the 2022 legislative cycle for cosmetology and esthetics

included attempts to deregulate hairstyling, hair braiding, threading, eyelash extensions, and makeup-application services.

When a bill is introduced that may have a significant impact on the professions of its members, the GR team alerts those members so they know how to take action and who to contact to oppose or support a bill. Receiving commentary from individuals who would be directly impacted by a bill is particularly valuable because it informs lawmakers on relevant and important issues facing the industry. The GR team also provides information to members regarding regulation drafted by regulatory boards. Lawmakers are not the experts on the work you do—those in the profession are. Empowering

members to share their thoughts, experiences, and opinions to influence change is the GR team’s goal.

The GR team representing ASCP, AHP, and ANP has the power to change bills and rules to strengthen and improve the cosmetology and esthetics industries by combining legislative advocacy and member engagement.

Click on the following links to learn more about the associations the GR team supports:

Associated Skin Care Professionals (ASCP) Click [here](#)

Associated Hair Professionals (AHP) Click [here](#)

Associated Nail Professionals (ANP) Click [here](#)

Teeth Whitening

K.S.A. 65-1421 makes it unlawful to practice dentistry in Kansas without a license. Under K.A.R. 71-11-1, a non-licensed person (i.e., anyone without a license to practice dentistry) is only permitted

to perform teeth whitening services under the “direct supervision” of a licensed Kansas dentist.

“Direct supervision” means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the

procedure and before dismissal of the patient evaluates the performance.

If a licensed cosmetologist or licensed esthetician is interested in performing teeth whitening services, they are classified as non-licensed persons under the Kansas dental practices act. Therefore, they are required to perform teeth whitening services under the direct supervision of a licensed Kansas dentist.

Credo Blades Are Prohibited



Using razor-type devices such as credo blades to remove calluses or skin blemishes is prohibited for the cosmetology professions by the Kansas Department of Health and Environment

and the Kansas Board of Cosmetology. First offense is a warning letter. The second offense is a \$500 fine for each prohibited item.

MMA Vs. EMA



MMA

Liquid acrylic monomers with the adhesive ingredient Methyl Methacrylate Monomer (MMA) are prohibited by the Kansas Department of Health and Environment and the Kansas Board of Cosmetology.

MMA liquid acrylic monomers are dangerous and harmful adhesives known to cause significant discomfort, injury or permanent damage to the nails and nail growth.

EMA

Liquid acrylic monomers with the adhesive ingredient Ethyl Methacrylate Monomer (EMA) are permitted for use in acrylic nails services.

Products used should list all ingredients, be sure to check the ingredients list to check whether the product contains Methyl Methacrylate Monomer (MMA) or Ethyl Methacrylate Monomer (EMA).

Many manufacturers have labeled their EMA products as "State Board Approved". Although EMA is not prohibited, the Kansas Board of Cosmetology does not endorse any product nor any manufacturer.

Inspectors have found some MMA products in salons that are not labeled correctly, have been tampered with or missing the manufacturers label completely.

Each product used in a licensed facility must have the original manufacturer's label. Without

the proper manufacturer's label, the product cannot be properly identified.

It is the responsibility of the nail service providers to purchase the acceptable EMA to ensure the safety of the consumer. Please review the product descriptions and ingredients online to confirm you are not using an MMA product at your salon. Use of products with MMA could result in disciplinary action against your license.

One person receiving an injury, temporary or permanent damage to their natural nails due to usage of Methyl Methacrylate Monomer is one person too many.

Click [here](#) to review the nail service safety guide for more tips for providing and receiving safer nail services:

Click [here](#) to learn more about MMA products and how to identify them.

Kathy Samuels
Region I Inspector/Investigator

"One person receiving an injury, temporary or permanent damage to their natural nails due to usage of Methyl Methacrylate Monomer is one person too many."

I AM LICENSED. I AM PROFESSIONAL.

"If you're a licensed beauty professional, you understand the intense hours of study, passion for beauty, and importance of safety. There are many ways to show your dedication and support of the standards that make the beauty industry truly great – and ways that YOU can make a difference!

As important as it is for industry professionals to understand the health and safety requirements that go into successful

services for clients, it's just as important for those clients and peers to see that you stand behind the standards that make this industry truly great!"

Learn more about the I AM LICENSED. I AM PROFESSIONAL movement by clicking [here](#).

This excerpt is published on the PBA (Professional Beauty Association website) Click [here](#) to access the website.



"Join thousands of your beauty colleagues to help inform consumers and legislators on how technically trained, professional and passionate our industry is!"

FICA 2022

Employment-based salons have been subject to unfair disparities in the tax code for decades. The beauty industry is deserving of equitable access to the existing 45B tax tip credit which will create tax parity allowing salons to thrive.

Will end of the year legislation in Congress finally be the vehicle to carry the industry's 45B FICA Tax Tip Credit legislation, H.R.821/S.1233? This federal legislation will provide support to small business salon and barber shop owners by extending the existing 45B FICA tax tip credit to the professional beauty industry.

There are benefits to the 45B tax tip credit legislation — from taxpayer parity, reducing non-compliance, and addressing labor participation rates, to eliminating racial disparities in the tax code, and financial relief for small businesses.

H.R. 821/S.1233 will shrink the tax gap and increase tip reporting compliance while providing relief to small beauty industry businesses.

According to House sponsors and champions Congresswoman Suzan DelBene and Congressman Darin LaHood, "Our bipartisan bill would extend the tax code's Federal Insurance Contributions Act (FICA) tax tip credit — which is currently available only to the foodservice industry — to the tens of thousands of employer-based beauty service establishments. By reducing the tax burdens for these small businesses, as well as improving the reporting process of tip income, the Small Business Tax Fairness and Compliance Simplification Act would provide equitable treatment to the beauty industry and allow these businesses to further support their employees

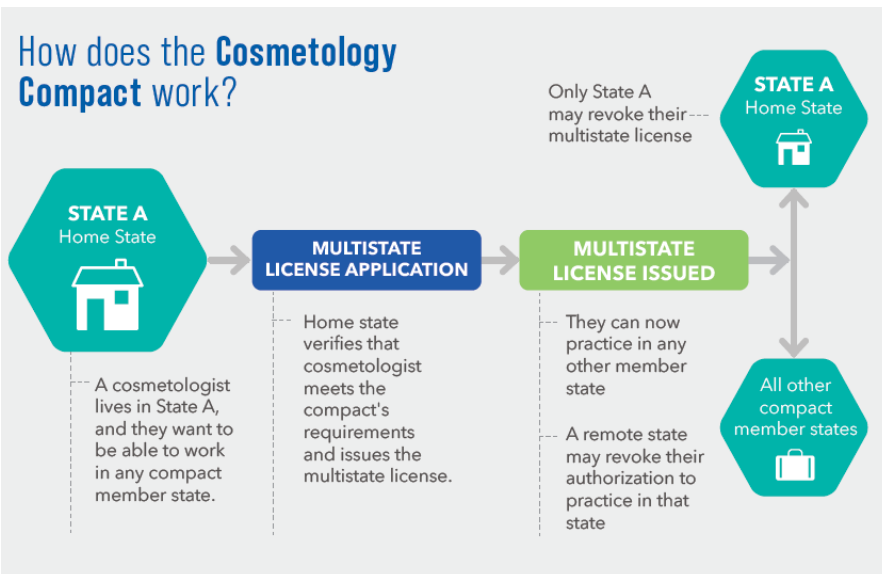
and expand their businesses." (Rep. Darin LaHood (R-Ill.). (2021, July 21). Reducing compliance burdens for the beauty industry. The Hill.

Tax relief extended to the professional beauty industry can provide a lifeline to salon businesses. Salon owners are facing the same rising workforce costs as other small businesses, with the additional burden of unfair taxation on tips. Utilizing the 45B FICA Tax Tip Credit that exists in our tax code will allow salon owners to meet demands and grow their business. The 45B credit will allow salons a fair chance to maintain and expand beauty industry employment.

Learn more about the 45B tax tip credit for salons in year-end legislation, visit <https://www.probeauty.org/advocacy/fica>

"This federal legislation will provide support to small business salon and barbershop owners by extending the existing 45B FICA tax tip credit to the professional beauty industry." Myra Y. Irizarry Reddy, Government Affairs Director | Professional Beauty Association (PBA)

Cosmetology Compact Legislation



The Council of State Governments (CSG) is partnering with the Department of Defense (DoD) and a coalition of state boards of cosmetology to support the mobility of licensed cosmetologists through the development of a new interstate compact. This additional licensing pathway will create reciprocity among participant states and reduce the barriers to license portability and employment.

An initial draft of the Cosmetology Compact has been completed. The draft is now available for review and public comment. To read the Cosmetology Compact draft model language, click [here](#). Find out more about the compact by clicking [here](#).

Questions?
Email: cosmetologycompact@csg.org

2022 NEHA Review: APP



The following article is published in *The Point; Journal of Body Piercing* and used with the permission of the APP (Association of Professional Piercers).

Shortly after the APP's 2022 conference in Las Vegas, APP member John Johnson traveled to Spokane, Washington to represent the association's [Legislative and Regulatory Affairs Committee \(LRAC\)](#) at the annual education conference hosted by the [National Environmental Health Association \(NEHA\)](#).

APP members Matt Bavougian, Steve Joyner, and John Johnson each have positions on NEHA's body art committee which created the [Body Art Model Code](#)

[\(BAMC\)](#). NEHA represents health inspectors around the United States who visit body art studios and enforce local codes.

This [NEHA conference](#) in Spokane featured four days of body art inspector training and the APP's John Johnson was there to speak on behalf of body piercing facilities and discuss the most practical and effective methods for their inspection.

The NEHA conference is similar to our [APP conference](#) in many ways. Lectures and other presentations take place each day with topics related to environmental health. Opportunities to network are everywhere, and of course the exposition hall where vendors display their products and services is a main attraction.

Like piercers who attend the APP's conference, health inspectors and other environ-

mental health officials attend conferences such as NEHA to stay up-to-date with trends, technology, and information relevant to their profession.

Today, these environmental health specialists have great interest in body art, like professional piercing.

Body piercing is now considered mainstream by many and regulators are very interested in effective health codes and their enforcement.

The APP's LRAC works closely with organizations like NEHA who have a need for body piercing health and safety information.

We appreciate everyone at NEHA who supports the APP's mission of safe piercing.

Click [here](#) to read other issues of *The Point Journal of Body Piercing* on the APP website.

“Body piercing is now considered mainstream by many and regulators are very interested in effective health codes and their enforcement.”

Body Art Regulations Update

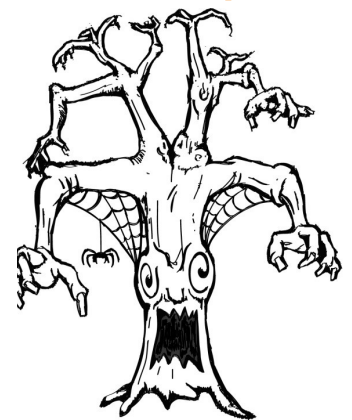
As you may know, the Board has been working on draft updates for the body art profession. Thank you to everyone that took the time to provide feedback and suggestions for updates. The Board is currently holding meetings to review the comments, provide response and finally present final drafts for the full Board's approval. Upon approval of the full board, Board staff will move forward

with working with the KDHE to implement the new regulations. This process requires approval through three different agencies, an official public comment period and appearance before the Joint Committee on Rules and Regulations. The changes include updates to the curriculum and training requirements, reciprocity, examination and infection control. We hope to have the new regulations adopted and

effective by 2024. Use the following links to review the draft updates:

[DRAFT KBOC Body Art Regulations](#)

[DRAFT KDHE Infection Control Body Art Regulations](#)



Spray Tanning - A Growing Beauty Trend



Did you know that DHA (Dihydroxyacetone) was first used as an active ingredient during research for the treatment of diabetes and it was administered orally?

In 1957, a doctor in the study discovered that it also left brown stains on the skin and that is how spray tanning was born! No further study on the ingestion of DHA has been done, so consumption is not recommended.

The spray tan industry has little to no regulation. However, the

FDA recommends to protect yourself and your customers from DHA having contact with mucus membranes. In addition to nose plugs, eye protection and bottoms, you may also want to protect the quality of the spray tan service by providing foot protection to clients to avoid stepping in the overspray solution.

The extraction of the spray tan from the air also has a huge impact on the amount of solution that can be potentially inhaled by the consumer and the artist in the case of a handheld spray tan. One way to tell if your extraction is sufficient is to pay attention to the feet of your customer, if they appear dark although you have not sprayed that area yet, likely you need to invest in better ventilation to remove the solution from the air, so it doesn't

settle on their feet.

In closing I would like to remind all unlicensed spray tan artists that only those licensed to perform beauty services can physically touch the client. The application of barrier crème, exfoliating mitts and drying powder must be done by the consumer or utilizing a technique that allows the product to be sprayed.

Kelly Robbins, Board Member Owner of Sunsatations Tanning Salon, Salon Specialist and Academy Trainer for Norvell University.

“The spray tan industry has little to no regulation. However, the FDA recommends to protect yourself and your customers from DHA having contact with mucus membranes.”

Dirty Disinfectant Does Not Work

A disinfectant or bleach solution must be prepared, available for use and covered whenever the salon is open. If a salon does not use a common disinfectant container then each practitioner must have their disinfectant or bleach solution prepared when they are working.

The solution must be made daily and may not be reused day after day. A new solution must be made more often if it becomes visibly cloudy or dirty.

All instruments must be scrubbed with soap and water or detergent and water and rinsed prior to disinfecting.

Failure to clean first will prevent the disinfectant from working and will result in debris in your disinfectant. This could result in disciplinary action against your license.

Containers of disinfectant must be large enough to allow for full immersion of instruments and remain closed when not in use.



V Spot Magn Det WD | 1µm
kV 2.0 -20000x SE 8.1 staph 97-11-52

MRSA Bacteria Photo I
Photo credit: [Public Health Image Library \(PHIL\)](#)

2022 Licensing Statistics



The overall five-year increase for licensure from FY 2018 to FY 2022 is 7.2%, an increase of 2,293 licenses. As of June 30, 2022, the Board currently has a record number of total licenses at 34,068, a trend that has continued since FY 2018. Tanning establishment licensure continues to decline. The five-year decrease in tanning facilities from FY 2018 to FY 2022 is

14%, a loss of 44 establishments. There is an increase for overall cosmetology practitioner professional licensure. The five-year increase from FY 2018 to FY 2022 is 6%, an increase of 1,555 licenses. Cosmetology profession establishment licensure reflects a similar trend, showing an overall increase of 7%, or 303 establishments.

Body Art Profession practitioner licensure is also increasing. The five-year increase from FY 2018 to FY 2022 is 41%, is an increase of 92 licenses. Likewise, there is a continued increase of overall body art profession establishments. The five-year increase from FY 2018 to FY 2022 is 30%, an increase of 35 licenses. Licensing statistics are posted to the Board's website annually every fiscal year. Click [here](#) to view the information online.

"As of June 30, 2022, the Board currently has a record number of total licenses at 34,068, a trend that has continued since FY 2018."

Medical Spas

The Board of Cosmetology does not regulate medical spas, medical services or services outside the scope of Cosmetology, Body Art or Tanning. According to the Kansas Medical Society (KMS), there is currently no regulation of medical spas in Kansas. The KMS created a task force in 2010 to study the issue and

provide recommendations to the Kansas Legislature. Click [here](#) to read more about this from the KMS website. The Kansas Board of Healing Arts (KSBHA) provides the following information related to medical spas on the agency website FAQ page: *Any business offering medical services can only be owned by a physician, or co-owned by the physician with other specified licensed professionals. A person who is not licensed to practice medicine may not open a business that offers*

medical services. Violation of this prohibition is a felony. See K.S.A. 65-2867. Additionally, Kansas physicians may face disciplinary action for fee-splitting with unlicensed individuals or entities. See K.S.A. 65-2837 (b)(19). Click [here](#) to view the website page. Board staff cannot provide you legal advice, legal research or legal interpretation of the laws. If you need such services, we recommend you speak with a private attorney.

Legislative Session 2023-2024

The Legislature convenes on the second Monday in January for the 2023 annual session. The next session will undoubtedly include legislation that will impact the Board of Cosmetology administratively as well as licensure and training requirements, infection control requirements and enforcement of such. On the horizon, you may see the introduction of the cosmetology compact legisla-

tion. You may also see bills attempting to deregulate high risk services such as eyelash extensions similar to the legislation introduced last year exempting threading services. This exemption language was initially implemented by the legislature in 2009 to exempt natural textured hair services such as braiding, extensions, locking, weaving and wrapping from licensure requirements.

As a professional, it is important that your legislators hear from you regarding your thoughts about any legislation introduced that impacts your profession. Remember to verify who your legislators are after election. You can find your legislator and track legislation on [open-states.org](#).



The Kansas state capitol during late 1800s. Trousset Encyclopedia (1886 - 1891)

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The mission of the Kansas Board of Cosmetology is to protect the health and safety of the consuming public by licensing qualified individuals and enforcing standards of practice.

Licensee Milestones

The Board would like to recognize and congratulate the following licensees on over 50 years of professional licensure!

Joan A Noland 72 years

Lorraine M Crow 64 years

Gladys C Shroeder 63 years

Debra J Bandy 67 years

Sara T Steiner 64 years

Congratulations and thank you for your service to the State of Kansas. You are appreciated.



Staff Changes and Reminders

Staff Changes

The Board would like to recognize our new Licensing Director, Kassiah Martin, Licensing Administrative Assistant, Emily De La Cruz, Lead Inspector, Jesse Adams, and Region 4 Inspector, DiAnn Jones. Thank you for your work with the Board and congratulations on your new positions in the agency.

The Board would also like to recognize the former Licensing Director, Michaela Kesler, and former Lead Inspector Eric Lynch. Thank you for your service to the Board. You will be missed.

School Reminders and Resources

Please make sure you are sending in the apprentice licenses for students that have dropped or graduated each quarter. Please do not let them build up over a year and send them in all at once.

Administrative requirements are provided in the School Administrative Guide available on the Board's website. Please click [here](#) to view the guide.

Sola Salon Establishment Licensing

Please remember to submit a completed establishment application and plan at least 21 days out for any changes you would like to make with your location. Board Inspectors and licensing staff are required to process work in the order received. The Board does not accept requests to expedite one application over another. Please do not contact your inspector or Board staff to request your application be expedited over other applicants.

Disclaimer: The Kansas Board of Cosmetology publishes newsletters as a public service to enhance public access to the Board's information and resources. The newsletters are not intended to take the place of statutory law, regulations, or guidance documents. The newsletters are meant to serve merely as general summary information and, consequently, does not constitute legal advice for your particular question, issue, or concern. Please consult your own legal counsel for assistance with your legal matters.