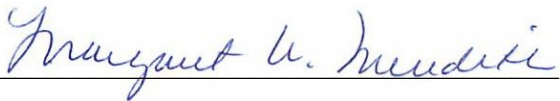


STATEMENT OF EMERGENCY

201 KAR 12:290E

This emergency regulation is being promulgated under KRS 13.190(1)(a)1 to create compliance with SB 113 (R.S. 2022), which was signed into law by the General Assembly and the Governor in April of 2022 and becomes effective July 14, 2022. The implementation of SB 113 is imminent, and a regulatory schematic is necessary for compliance by the Kentucky Board of Cosmetology. This emergency administrative regulation shall be replaced by an identical ordinary administrative regulation.

Andy Beshear, Governor



Margaret Meredith, Board Chair

Kentucky Board of Cosmetology

1 GENERAL GOVERNMENT

2 Kentucky Board of Cosmetology

3 (NEW EMERGENCY ADMINISTRATIVE REGULATION)

4 201 KAR 12:290E. Permits

5 RELATES TO: KRS 317A.020, 317A.050, 317A.060

6 STATUTORY AUTHORITY: KRS 317A.060

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires
8 the board to promulgate administrative regulations governing permits in threading,
9 makeup artistry, eyelash artistry, homebound care, and event services. This
10 administrative regulation establishes procedures for permits.

11 Section 1. Fees. Permit fees are set forth in 201 KAR 12:260.

12 Section 2. Changes. All changes to account information required for licensure
13 shall be submitted to the board within thirty (30) days of occurrence including:

14 (a) Legal name change;

15 (b) Change of address;

16 (c) Change of facility or employer;

17 (d) Change of phone number;

18 (e) Change of email address; and

19 (f) Any other information as required by KRS 317A or 201 KAR Chapter 12 for
20 licensure.

1

2 Section 3. Prior Felony Convictions. An applicant for any permit issued or
3 conducted by the board convicted of a prior felony shall include with his or
4 her application:

5 (1) A signed letter of explanation from the applicant;

6 (2) A certified copy of the judgment and sentence from the issuing court; and

7 (3) A letter of good standing from the applicant's probation or parole officer, if
8 currently on probation or parole.

9 Section 4. All incorporated forms may be replicated in a digital format for
10 online completion.

11 Section 5. Threading and Makeup Artistry Permits. (1) Any person who
12 engages in the practice of threading or makeup artistry shall first obtain a permit
13 from the board by submitting a completed Permit Application and paying the fee
14 established in 201 KAR 12:260.

15 (2) The applicant shall include with the Permit Application:

16 (a) A copy of the applicant's government-issued photo identification;

17 (b) A two (2) by two (2) inch passport photo of the applicant taken within the
18 past six (6) months;

19 (c) Proof of completion of a board approved sanitation course within the six
20 (6) month period preceding the application.

21 Section 6. Eyelash Artistry Permits. (1) Any person who engages in the
22 practice of eyelash artistry shall first obtain a permit from the board by submitting

1 a completed Permit Application and paying the fee established in 201 KAR
2 12:260.

3 (2) The applicant shall include with the Permit Application:

4 (a) A copy of the applicant's government-issued photo identification;

5 (b) A two (2) by two (2) inch passport photo of the applicant taken within the
6 past six (6) months;

7 (c) Proof of completion of a board approved sanitation course within the past
8 six (6) month period preceding the application; and

9 (d) Proof of completion of a board approved eyelash certificate training
10 program taught by a licensed instructor within the preceding six (6) months.

11 Section 6. Homebound Care Permit. (1) Any person engaging in the
12 cosmetic care of a homebound or medically infirm individual shall first obtain a
13 permit from the board by submitting a completed application and paying the fee
14 established in 201 KAR 12:260.

15 (2) The applicant shall include with the Permit Application:

16 (a) A copy of the applicant's government-issued photo identification;

17 (b) A two (2) by two (2) inch passport photo of the applicant taken within the
18 past six (6) months;

19 (c) Proof of ownership, employment, or booth rental agreement with a
20 Kentucky board licensed salon;

21 (d) Medical release document for the homebound or infirm individual from a
22 physician, licensed by the Kentucky Board of Medical Licensure, defining which
23 services can or cannot be safely provided.

1 (e) The address of the location services will be provided.

2 Section 7. Event Services Permit. (1) Any person engaged in providing on
3 site services outside of a board licensed facility for events shall first obtain a
4 permit from the board by submitting a completed application and paying the fee
5 established in 201 KAR 12:260.

6 (3) The applicant shall include with the Permit Application:

7 (a) A copy of the applicant's government-issued photo identification;

8 (b) A two (2) by two (2) inch passport photo of the applicant taken within the
9 past six (6) months;

10 (c) Proof of ownership, employment, or booth rental agreement with a
11 Kentucky board licensed salon;

12 (d) The address of the location services shall be provided to the board two
13 (2) weeks in advance of each event along with the time frame services will
14 be provided.

15 Section 8. Practice before Permit Issuance Prohibited. Any individual
16 found engaging in the practice of threading, makeup artistry, eyelash artistry, or
17 providing homebound care or event services prior to the permit issuance shall
18 be ineligible to receive a permit from the board for a period of one (1) year from
19 the date of the unauthorized practice and be responsible for the payment of any
20 fines ordered by the board.

21 Section 9. Duplicate Permit, Renewal, and Restoration.

22 (1) If a permit is lost, destroyed, or stolen after issuance, a duplicate permit may
23 be issued. The permit holder shall submit a statement verifying the loss of the

1 permit using the Duplicate License Application that includes a copy of a
2 government-issued photo identification and pay the duplicate permit fee listed in
3 201 KAR 12:260. Each duplicate license shall be marked "duplicate".

4 (2) The annual license renewal period is July 1 through July 31. All permits shall:

5 (a) Be renewed using the board's online portal;

6 (b) Include the required copy of a government-issued photo identification;

7 (c) Include payment of the fee set forth 201 KAR 12:260;

8 (d) Include payment of any outstanding fines associated with a prior disciplinary
9 action as described in KRS 317A.145;

10 (e) Disclose to the board the current name and license number of the facility
11 where the permit holder is working; and

12 (f) Upload a current passport style headshot photo.

13 (3) To restore an expired permit, a Restoration Application shall be digitally
14 submitted to the board with payment of the restoration fee as set forth in 201 KAR
15 12:260 for each year the permit has been expired, the total of which shall not
16 exceed \$300 per permit restored, along with a copy of a government-issued
17 photo identification.

18 Section 10. Eyelash Artistry Training Programs. (1) An eyelash training
19 program may be approved by the board upon submission of;

20 (a) A written request for consideration;

21 (b) A copy of the applicant's government-issued photo identification;

22 (c) A two (2) by two (2) inch passport photo of the applicant taken within the
23 past six (6) months;

1 (d) A copy of the Kentucky cosmetology or esthetics instructor license
2 verifying the credentials to teach the course; and

3 (e) A completed training manual with detailed instructions on safety, infection
4 control, eye diseases, contraindications, application and removal procedures,
5 and product knowledge. Manual shall also contain current Kentucky Statutes
6 and Regulations on scope of practices, requirements for facility and personal
7 licensure, and infection control standards.

8 (f) A copy of a training contract that outlines the responsibility of the training
9 company, cost for classes, and completion requirements.

10 (2) Failure to seek approval as required by subsection (1) of this section shall
11 invalidate all certifications issued to trainees and submitted by permit applicant.

12 (3) An apprentice instructor shall be under the immediate supervision and
13 instruction of a licensed instructor while providing any instruction for students.
14 “Immediate supervision” in this instance means a licensed instructor is physically
15 present in the same room and overseeing the activities of the apprentice
16 instructor at all times.

17 (4) A licensed cosmetology or esthetics school may seek course approval by
18 submitting a curriculum packet for review and providing proof instructor has
19 appropriate credentials to train in eyelash artistry.

20 Section 11. Eyelash Training Course Administration. (1) Upon board approval
21 as an eyelash artistry training program the instructor or program director shall
22 ten (10) business days prior:

23 (a) Submit to the board the date and time of the training course;

- 1 (b) Submit a class roster of anticipated attendees;
- 2 (c) Provide a copy of the completed contract for each attendee; and
- 3 (d) Upon completion of the reported course a signed and dated roster of
- 4 attendees shall be submitted.

5 (2) Any student not listed with a signature on the class roster may be

6 considered absent and may not be considered for a permit to practice from the

7 board.

8 Section 12. Demonstration Permits. Professional services performed

9 outside a licensed facility including charity events and hair shows may have

10 approval of the board and display the proper permit. Permits may be obtained

11 by completing the Demonstration Permit Application and paying the applicable

12 fee set forth in 201 KAR 12:260.

13 Section 13. Incorporation by Reference.

14 (1) The following material is incorporated by reference:

15 (a) "Permit Application", July 2022; and

16 (b) "Demonstration Permit Application", July 2022.

17 (2) This material may be inspected, copied, or obtained, subject to applicable

18 copyright law, at the Kentucky Board of Cosmetology, 1049 US Hwy 127 S,

19 Annex #2, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30

20 p.m.

201 KAR 12:290E

READ AND APPROVED:

Margaret Meredith
Chair, Board of Cosmetology

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on August 22, 2022, at 11:30am, at the Kentucky Board of Cosmetology office. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 12:290E

Contact Person: Julie M. Campbell

Phone: (502) 564-4262

Email: julie.campbell@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: Regulation sets up requirements and processes necessary to receive a KBC permit as defined and changed in RS22 SB 113.

(b) The necessity of this administrative regulation: Portions of regulation previously resided in the licensing regulation 201 KAR 12:030 but with the addition of more permit types all permit details were moved to a new regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317A requires the board to promulgate regulations on all areas of cosmetology practice for licensing and permits as defined.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets the parameters for training, program approval, and permit issuance for the board regulated permits.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

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

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

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

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

regulates more than 35,000 licenses and permits. The number of incoming practitioners varies and there is no way to determine the possible applicants. Currently there are less than 1000 permits in the KBC system.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulations already exist to set details and steps to attain a permit with KBC- this regulation expands that information to include the new permit items of homebound care and event services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Fees are set in a separate regulation and many items already exist. The fee associated is \$100 or less for each type of permit needed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include increased safety to the public and flexibility to work in situations where a licensed facility is not readily available to the parties. It assists in the care of medically infirm homebound individuals inside their home

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

(a) Initially: No additional cost to implement

(b) On a continuing basis: No additional cost to maintain at this time

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency operates strictly on restricted funds provided by licensing fees. This would be cohesive with that model.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No adjustment in fees outside the addition of a fee for the actual permit would be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established and increased with this regulation. Items already in 201 KAR 12:030 had a fee schedule indicated for them previously and new items have similar fees per KRS 317A authority.

(9) TIERING: Is tiering applied? **Tiering is not used in this agency.**

FISCAL NOTE

201 KAR 12:290E

Contact Person: Julie M. Campbell

Phone: (502) 564-4262

Email: julie.campbell@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Cosmetology is the only agency affected. No other areas of state or local government are affected by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317A is the only statute that authorizes this action.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There are no expenditures needed or required by other agencies.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There is a possibility of local occupational or income taxes to be collected as more individuals are placed in the workforce with these permits.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There is a possibility of income taxes to be collected as more individuals are placed in the workforce with these permits

(c) How much will it cost to administer this program for the first year? It will not cost any additional revenue for state or local governments.

(d) How much will it cost to administer this program for subsequent years? It will not cost any additional revenue for state or local governments.

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect. There will be a balanced cost to expenditures to the regulating agency to oversee the items in this regulation at this time.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There will be a balanced cost to expenditures to the regulating agency to oversee the items in this regulation at this time.

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

(c) How much will it cost the regulated entities for the first year? There will be a balanced cost to expenditures to the regulating agency to oversee the items in this regulation at this time.

(d) How much will it cost the regulated entities for subsequent years? There will be a balanced cost to expenditures to the regulating agency to oversee the items in this regulation at this time.

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

Cost Savings (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]* There will not be any major economic impact for any entities.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

“Permit Application” is a 3-page form required for issuance of the specialty permits and will serve as posting notice for the public. It has been updated for SB 113 requirements and information transferred from 201 KAR 12:030 where it previously was referenced.

“Demonstration Permit Applications” is a 1-page form required to issue a permit for charity events and demonstrations outside of licensed facilities. It has been updated for SB 113 requirements and information transferred from 201 KAR 12:030 where it previously was referenced.