

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Chapter 37 (Barber and Cosmetology) of Title 17 of the District of Columbia Municipal Regulations.

This rulemaking action will reconfigure the current Esthetician license into a two-tiered license: a Basic Esthetician license and a Master Esthetician Manager's license. Current licensees that can demonstrate to the Board of Barber and Cosmetology that they have sufficient experience will have two years to obtain a Master Esthetician Manager's license by waiver. In addition, esthetician applicants for an instructor license will now be required to possess a Master Esthetician Manager's license prior to becoming eligible to sit for the instructor examination.

Title 17 DCMR Chapter 37 is amended as follows:

**Section 3702.1(c) is amended to read as follows:**

- (c) Specialty cosmetology operators, which include:
  - (1) Braider;
  - (2) Electrologist;
  - (3) Esthetician Operator, Master Esthetician Manager, and Master Esthetician Instructor (only a Master Esthetician Manager may become an instructor of esthetics); and
  - (4) Manicurist;

**Section 3703.17 is amended to read as follows:**

3703.17 Applicants for an Esthetician Operator license by examination shall furnish proof, satisfactory to the Board, that the applicant has completed six hundred (600) hours of instruction in the following:

- (a) Infection control;
- (b) Physiology and anatomy;
- (c) Skin histology;
- (d) Skin diseases and disorders;
- (e) Hair and its growth cycle;

- (f) Basic chemistry and cosmetic ingredients;
- (g) Basic facials;
- (h) Facial massage;
- (i) Electricity and facial machines;
- (j) Methods of hair removal;
- (k) Make-up;
- (l) Advanced topics and treatments; and
- (m) Scope of practice and regulatory rules.

**Section 3703.21 is amended to read as follows:**

- 3703.21 Braider, Electrologist, and Manicurist applicants for a license by examination as a manager of a specialty cosmetology salon in the applicant's specialty shall furnish proof, satisfactory to the Board, that the applicant:
- (a) Possesses at least two (2) years experience as a licensed operator within the applicant's limited specialty in a licensed cosmetology or specialty salon; or
  - (b) Served as a licensed operator within the applicant's specialty in a licensed cosmetology or specialty salon for six (6) months or more, completed five hundred (500) hours of training in a manager's course in a licensed school, and completed all of the hours of study necessary to become a specialty cosmetologist. The manager's course shall include:
    - (1) Shop management: 300 hours;
    - (2) Ethics and salesmanship: 50 hours; and
    - (3) Courtesy, conduct, and D.C. law: 150 hours.
  - (c) Subject to the exception in paragraph (e), possesses a master esthetician manager license in addition to a specialty cosmetology manager license also if they intend to manage a shop or salon that provides services requiring a licensed master esthetician manager.
  - (d) Possesses a master esthetician manager's license pursuant to the requirements of section 3703.24, if the esthetician is licensed as a specialty cosmetology manager on the date that this paragraph becomes effective, and manages a shop that provides services that must be provided by a master esthetician manager.
  - (e) If a esthetician operator who has an application pending for a specialty cosmetology manager's license, on the date that this paragraph becomes effective, and who obtains the license under the rules that existed on the date that the application was made, has obtained a master esthetician

manager's license pursuant to section 3703.24 prior to managing a shop that provides services requiring a licensed master esthetician manager.

**Section 3703.22 is amended to read as follows:**

- 3703.22 Applicants for a license as an instructor of individual specialties shall furnish proof, satisfactory to the Board, that the applicant qualifies for the examination under either (a) or (b) of this section:
- (a) Applicants for licensure by examination shall demonstrate to the Board that they have served as a licensed barber, cosmetology operator, master esthetician manager, braider, electrologist, or manicurist, in a licensed salon or barbershop for at least six (6) months, and have completed one thousand (1,000) hours of training in an instructor's course as set forth in the following paragraphs:
- (1) Barbering or Cosmetology Instructor:
- (A) Barbering or cosmetology practical procedures and theory: 255 hours;
  - (B) Basic teaching methods and principles of preparing lesson plans: 70 hours;
  - (C) Shop management: 50 hours;
  - (D) Ethics and salesmanship: 30 hours;
  - (E) Oral, written, and performance testing: 140 hours;
  - (F) Safety measures: 30 hours;
  - (G) D.C. law and regulations: 10 hours;
  - (H) Supervision and training of students in a laboratory setting: 50 hours;
  - (I) Practice teaching: 300 hours; and
  - (J) Using computers in cosmetology and barbering: 65 hours.
- (2) Braiding, Electrology, or Manicuring Instructor:
- (A) Specialty cosmetology practical procedures and theory (electrology, braiding, and manicuring): 255 hours;
  - (B) Basic teaching methods and principles of preparing lesson plans: 70 hours;
  - (C) Shop management: 50 hours;
  - (D) Ethics and salesmanship: 30 hours;
  - (E) Oral, written, and performance testing: 140 hours;
  - (F) Safety measures: 30 hours;

- (G) D.C. law and regulations: 10 hours;
  - (H) Supervision and training of students in a laboratory setting: 50 hours;
  - (I) Practice teaching: 300 hours; and
  - (J) Using computers in electrology, braiding, or manicuring: 65 hours.
- (3) Master Esthetician Instructor:
- (A) Esthetics practical procedures and theory: 255 hours;
  - (B) Basic teaching methods and principles of preparing lesson plans: 70 hours;
  - (C) Facility management: 50 hours;
  - (D) Ethics and salesmanship: 30 hours;
  - (E) Oral, written, and performance testing: 140 hours;
  - (F) Safety measures: 30 hours;
  - (G) D.C. law and regulations: 10 hours;
  - (H) Supervision and training of students in a laboratory setting: 50 hours;
  - (I) Practice teaching: 300 hours; and
  - (J) Using computers in esthetics: 65 hours.
- (b) Applicants for licensure as an instructor without examination shall demonstrate to the Board that they hold a current, master esthetician manager, braider, electrologist, or manicurist, barber manager, cosmetology manager, or specialty cosmetology manager's license and have completed a course of study in teaching techniques at the post-secondary educational level.
- (1) Notwithstanding the foregoing, unless qualifying under the grace period set forth in section 3703.24, an esthetics instructor candidate must hold a current master esthetician manager license.
  - (2) An esthetician instructor who has taught esthetics at a school for at least two (2) of the past five (5) years and who obtains a master esthetician manager license within the grace period set forth in section 3703.24 shall qualify for an instructor's license without examination.

**A new Section 3703.23 is added to read as follows:**

3703.23 Applicants for a Master Esthetician Manager license may apply for licensure by examination pursuant to the requirements set forth in paragraph (a) or without

examination by meeting the requirements set forth in paragraph (b).

- (a) Applicants for licensure by examination shall furnish proof, satisfactory to the Board, that the applicant has the training necessary to sit for the Master Esthetician Manager's Examination. Applicants shall furnish such proof by completing the application provided by the Board and providing all information requested by the Board. Proof shall include documentation that the applicant has completed the Basic Esthetician training set forth in section 3703.17, passed the basic esthetics examination, and completed six hundred (600) hours of Master Esthetician Manager training in the following subjects:
  - (1) Advanced sciences:
    - (A) Skin histology;
    - (B) Anatomy and physiology;
    - (C) Chemistry and biochemistry;
    - (D) Skin analysis (classification systems);
    - (E) Cosmetic ingredients (health, lifestyle, and nutrition);
    - (F) Physics (advanced modalities);
  - (2) Esthetics:
    - (A) Advanced facials;
    - (B) Advanced facial massage;
    - (C) Advanced body treatments;
    - (D) Advanced make-up;
    - (E) Advanced facial machines;
  - (3) Medical:
    - (A) Surgical procedures
      - (i) Plastic surgery procedures; and
      - (ii) Pre- and post-operation care;
    - (B) Non-surgical procedures;
    - (C) Medical terminology and intervention;
  - (4) Business:
    - (A) Business plan;
    - (B) Marketing;
    - (C) Business operations;
    - (D) Industry relations; and
    - (E) Compliance and safety.

- (b) The training and examination requirement for a master esthetician license may be waived by the Board if the applicant holds either a current District of Columbia Esthetician Operator license or a Cosmetology Operator license and is NCEA-certified.

**A new section 3703.24 is added to read as follows:**

- 3703.24 Esthetician Operators, Cosmetology Operators, and Specialty Cosmetology Managers who have been providing services or managing a shop that provides services which must now be provided by and supervised by individuals who possess a master esthetician license must obtain a master esthetician manager license no later than two (2) years from the date that this section is published in the *D.C. Register* as a final rulemaking. Individuals will qualify for licensure as a master esthetician manager if they provide the Board with documentary proof that they have at least two (2) years of experience in providing master level esthetician services.

**A new section 3729 is added to read as follows:**

**3729 FACIAL PROCEDURES, DEVICES, AND EQUIPMENT**

- 3729.1 Cosmetic exfoliating substances may include alpha hydroxy acids, glycolic and lactic acids, beta hydroxy acids, salicylic acid, Jessner's Solutions, resorcinol, and other substances intended to exfoliate the stratum corneum.
- 3729.2 Licensees are prohibited from performing procedures using cosmetic exfoliating substances or devices that affect more than the top layer of the epidermis or outermost layer of dead cells. A cosmetic exfoliation substance or device is not intended to remove viable (living) skin below the stratum corneum. Use of such substances and devices are deemed beyond the scope of practice of persons and establishments licensed by the board.
- 3729.3 Licensees shall be permitted to use devices registered or approved by the U.S. Food and Drug Administration that are intended to be used for cosmetic skin care purposes, including, but not limited to, beautifying and improving the appearance of the skin.

**Section 3799 is amended by adding or amending the following definitions:**

**Cosmetologist** – any licensed person who engages in hair styling or the cosmetic arts, such as hair styling and skin care, and any other practice of cosmetology, including the practice of esthetics and other specialty cosmetology practices regulated by the Board, whether as an owner, manager, operator, instructor, demonstrator, manicurist, or student. A cosmetologist does not include shaving or

trimming the beard or moustache of an individual or engaging in the practice of master-level esthetics without obtaining the

**Course of study in teaching techniques** – A single course that spans one (1) semester at the college level and requires students to pass an examination in order to receive credit.

**Esthetician operator** – a person who engages in the practice of basic esthetics for compensation.

**Practice of basic esthetics** – any one of the following skin care procedures done on the head, torso, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

- (a) Cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, and tweezing;
- (b) Chemical exfoliation;
- (c) Removing superfluous hair by means other than electrolysis, laser procedures, or intense pulsed light; or
- (d) Other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments.

**Esthetics instructor** – means a licensed master esthetician that has completed an approved instructor license curriculum and who meets the competency standards of the Board as an instructor of esthetics.

**Instructor** – any person who is authorized to teach barbering, cosmetology, or any specialty cosmetology operator as a profession as provided for in this chapter.

**Master esthetician manager** – an individual who is licensed under this chapter to engage in the practice of master-level esthetics and authorized to manage an esthetics establishment.

**NCEA** – means the National Coalition of Estheticians, Manufacturers/Distributors & Associations.

**NCEA-certified** – the professional status awarded to a skin care professional that has met the competency standards as set forth by NCEA's 1200 Hour Esthetician Job Task Analysis. It represents the highest skin care credential available in the United States and adherence to the code of ethics of the profession.

**Noncosmetic purposes** – medically necessary.

**Practice of master-level esthetics** – means:

- (a) Any of the following when done for cosmetic purposes on the head, face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or

eyelashes and not for the treatment of medical, physical, or mental ailments:

- (1) Body wraps;
  - (2) Hydrotherapy;
  - (3) Chemical exfoliation;
  - (4) Sanding, including microdermabrasion;
  - (5) Advanced extraction with lancet; or
  - (6) Other esthetic preparations or procedures with the use of:
    - (A) The hands; or
    - (B) A mechanical or electrical apparatus which is approved by the Board for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; and
    - (C) Lymphatic massage by manual or other means.
- (b) Notwithstanding the foregoing, a master-level esthetician may perform procedures listed in subparagraph (a) for non-cosmetic purposes if the procedures are performed under the supervision of a licensed health care practitioner acting within the scope of his or her license.
- (c) The term “practice of master-level esthetics” includes the practice of basic esthetics.

**Salon** – a place, facility, shop, or establishment in which cosmetology, barbering, esthetics, electrology, manicuring, or braiding is practiced.

All persons desiring to comment on these proposed regulations should submit comments in writing, not later than thirty (30) calendar days after publication of this notice in the *D.C. Register*, to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002. Comments may also be sent electronically to [helder.gil@dc.gov](mailto:helder.gil@dc.gov). Copies of the proposed rules can be obtained, for a fee, from the address listed above and are also available, at no cost, on the Department of Consumer and Regulatory Affairs’ website at [dcra.dc.gov](http://dcra.dc.gov).

**DISTRICT OF COLUMBIA PUBLIC LIBRARY****NOTICE OF PROPOSED RULEMAKING**

The Chief Librarian of the District of Columbia Public Library (“DCPL”) on September 16, 2009 approved a DCPL policy to discontinue public parking in the underground parking garage at the Martin Luther King Jr. Memorial Library (“MLK”), located at 901 ‘G’ Street, N.W., Washington, D.C. 20001. This policy will become effective November 15, 2009. In light of the policy, the DCPL request to repeal the below sub-sections to Chapter 8, Title 19 of the D.C. Municipal Regulations that permit public parking at MLK when reserving meeting rooms.

The Board of Library Trustees through D.C. Official Code §39-105 (2001 Ed.) designated the Chief Librarian to establish rules and manage the day-to-day operations of the library. The District of Columbia Public Library Board of Trustees, pursuant to the authority set forth in An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, 29 Stat. 244, ch. 315, § 5; April 1, 1926, 44 Stat. 230, ch. 98, §5; Mar. 3, 1979, D.C. Law 2-139, § 3205 (jjj), 25 DCR 5740; Sept. 5, 1985, D.C. Law 6 – 17, § 2, 32 DCR 3582; Apr. 12, 1997, D.C. Law 11-259, § 316, 44 DCR 1423; Oct. 21, 1998, 112 Stat. 2681 – 146, Pub. L. 105 – 277, § 156 (codified at D.C. Official Code § 39-105, 2001 Ed.); 27 DCRR §2.1, 24 DCR 11011, 11014 (June 30, 1978); as amended by Final Rulemaking published at 38 DCR 1011 (February 8, 1991), hereby gives notice of its intent to repeal the following sub-sections to Chapter 8, § 805, Title 19 of the D.C. Municipal Regulations.

Repeal Subsections 805.16, 805.17, and 805.18 of 19 DCMR Chapter 8:

**805.16** Repealed

**805.17** Repealed

**805.18** Repealed

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the D.C. Register. Comments should be submitted to Grace Perry-Gaiter, DCPL, General Counsel, Martin Luther King Jr. Memorial Library, 901 ‘G’ Street, N.W., 4<sup>th</sup> Floor, Washington, D.C. 20001. Copies of the proposed rulemaking may be obtained by writing to the address stated above.

**DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLES**

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Motor Vehicles (DMV), pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); §§ 6 and 7(a)(1) of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; DC Official Code §§ 50-2201.03 and 50-1401.01(a)(1)); and Mayor's Order 07-168, effective July 10, 2007, hereby gives notice of the intent to amend Title 18, Sections 3 (VEHICLES AND TRAFFIC) and 9900 (DEFINITIONS) of the District of Columbia Municipal Regulations. The proposed rule to § 310 would disallow the issuance of a limited occupational license to a holder of a commercial driver's license whose commercial or regular license has been suspended or revoked or who has been disqualified from operating a commercial motor vehicle. This prohibition is mandated by 49 USC § 31311(a)(10)(B) in order for the Department to receive federal grant money. The proposed rule to § 9901 would add several provisions to the definition of commercial vehicle to conform to 18 DCMR §§403.4 and 413.13. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

A. Chapter 3, CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES, Section 310, LIMITED OCCUPATIONAL LICENSES, is amended as follows:

1. By amending the first sentence of § 310.1 to read as follows:

Except as provided in § 310.7, a person whose regular driver's license, as described in § 1312.1 (a), is revoked, suspended or canceled may request, in writing, that the order be modified to allow the issuance or retention of a driver's license or privilege on a limited basis.

2. By adding new paragraphs (f) and (g) § 310.7 to read as follows:

310.7 No occupational license shall be issued to the following:

...

(f) A person who holds a commercial driver's license, or

(g) A person who has been disqualified from operating a commercial vehicle pursuant to § 1306.

B. Chapter 99, DEFINITIONS, section 9901, is amended by adding new paragraphs (c) and (d) the definition for the term "Commercial vehicle":

Commercial Vehicle - any vehicle with more than three (3) wheels and:

...

- (c) Described as a “commercial” vehicle on its certificate of title in accordance with 18 DCMR § 403.4; or
- (d) Considered a commercial vehicle by the Director pursuant to 18 DCMR §413.13 because it has an irremovable commercial advertisement or insignia.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.