

**THE MISSISSIPPI STATE BOARD OF
COSMETOLOGY AND BARBERING
RULES AND REGULATIONS**

**Title 30 Professions and Occupations
Part 2101**

Chapter 11 Health and Safety

Rule 11.1 Compliance with All Applicable Regulations The licensee listed as the establishment owner is liable for the implementation and maintenance of the sanitary conditions of the establishment. A licensed practitioner is individually liable for the implementation and maintenance of the sanitary conditions of their primary work area and equipment.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.2 Water Supply Requirements and Standards Within the licensed establishment each water source must supply an adequate supply of hot and cold potable running water, under pressure, from an approved source.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.3 Restroom/Toilets and Water Disposal Each establishment must have at least one (1) restroom facility wherein all sewage disposal systems meet the requirements of the Mississippi State Department of Health and/or the Mississippi Public Utilities. Each restroom must be equipped with hot and cold running water and soap.

A licensed practitioner shall wash hands with soap and water before providing services to each client. An alcohol-based hand sanitizer may be used only when running water is temporally unavailable and the practitioner's hands are not visibly soiled.

For all manicuring services, the client shall wash hands with soap and water before providing services to each client. An alcohol-based hand sanitizer may be used only when running water is temporally unavailable and the practitioner's hands are not visibly soiled.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.4 Refuse and Waste Materials All refuse and waste material must be kept in a lidded container(s) of solid construction and removed from the premises as frequently as necessary to prevent nuisance. Hair and nail clippings must be removed from the floor and surface area following each client.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.5 Towels or Linens Clean linens or towels must be stored in a clean, closed cabinet or container. Only freshly laundered or new disposable linens or towels can be used on

each client. After linens and towels have been used, they must be deposited in covered container with ventilation and cannot be used again until properly laundered and disinfected.

Used linens and towels must be laundered either by regular commercial laundering or by a non-commercial laundering process which includes the following treatment: immersion in hot water and with detergent and thoroughly dried.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.6 Articles in Contact with a Client All implements, tools, and supplies which have been used in direct contact with a client or which have become soiled must be removed from primary work area, placed in a receptacle provided for that purpose, and cannot be used on another client until properly cleaned and disinfected.

A sanitary neck strip or towel must be used to keep all protective coverings from coming in direct contact with a client unless such protective covering is single use.

Supplies that cannot be disinfected according to either Rule 11.12 or Rule 11.13 are considered single client use only and must be disposed of after use. Such supplies include, but are not limited to, cotton gauzes, cotton pads, cotton strips, ear pads, neck strips, spa liners, toe separators, flip flops, non-metal nail files, e-file sanding bands, make up applicators, and nail buffers.

During any manicure or pedicure, all multi use implements and tools used on a client must be placed in a solution of 70% alcohol when such implement or tool is not in current use. After the service, all implements and tools must be removed from the workstation and shall not be used again until disinfected according to Rule 11.12 and Rule 11.13. After the service, the 70% alcohol must be disposed after use on each client.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.7 Whirlpool Foot Spa A whirlpool foot spa may be piped or pipeless. A whirlpool foot spa is any basin using circulating water, either in a self-contained unit or in the unit that is connected to other plumbing in an establishment or school.

A. After use upon each client, each whirlpool foot spa must be cleaned and disinfected in the following manner:

1. All water shall be drained, and all debris shall be removed from the basin. Remove all removable parts (i.e. footplate, impeller, screen);
2. Scrub and clean all removable parts and the inside walls of the bowl with a clean and disinfected brush and soap and water;
3. Rinse all removable parts and the inside walls of the bowl with clean water;
4. Refill the bowl with clean water, and add the manufacturer's recommended amount of an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, pseudomonacidal properties and follow the manufacturer's instructions for required contact time;
5. Clean and disinfect any additional parts and/or surface;

6. Drain, rinse, and wipe the basin dry using a single use paper towel or clean towel.
- B. At the end of each day, each basin must be disinfected in the following manner:
1. All water shall be drained, and all debris shall be removed from the basin. Remove all removable parts (i.e. footplate, impeller, screen);
 2. Scrub and clean all removable parts and the inside walls of the bowl with a clean and disinfected brush and soap and water;
 3. Rinse all removable parts and the inside walls of the bowl with clean water;
 4. Fill basin with chelating detergent and circulate through the spa system for approximately 5-10 minutes or as directed by the manufacturer;
 5. Drain the bowl and rinse with warm water;
 6. Refill the bowl with clean water, and add the manufacturer's recommended amount of an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, pseudomonacidal properties and follow the manufacturer's instructions for required contact time;
 7. Clean and disinfect any additional parts and/or surface;
 8. Drain, rinse, and wipe the basin dry using a single use paper towel or clean towel.
- C. Weekly, each whirlpool foot spa shall be cleaned and disinfected in the following manner:
1. All water shall be drained, and all debris shall be removed from the basin. Remove all removable parts (i.e. footplate, impeller, screen);
 2. Scrub and clean all removable parts and the inside walls of the bowl with a clean and disinfected brush and soap and water;
 3. Rinse all removable parts and the inside walls of the bowl with clean water;
 4. Fill basin with chelating detergent and circulate through the spa system for approximately 5-10 minutes or as directed by the manufacturer;
 5. Drain the bowl and rinse with warm water;
 6. Refill the bowl with clean water, and add the manufacturer's recommended amount of an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, pseudomonacidal properties and follow the manufacturer's instructions for required contact time;
 7. Do not drain the solution but leave the solution in the basin overnight;
 8. Drain the bowl and rinse with warm water;
 9. Refill the basin and run clean water through the spa pedicure system;
 10. Drain, rinse, and wipe the basin dry using a single use paper towel or clean towel.

A record shall be made of the date and time of each daily and weekly cleaning and disinfecting of each whirlpool foot spa as required by this Rule. This record must be made at or near the time of cleaning and disinfecting of each whirlpool foot spa and must indicate if a whirlpool foot spa was not used during an individual workday. These records must be retained for a period of six (6) months.

A sonic vibration spa should be cleaned according to the manufacturer's instructions. A cleaning log, as described in this rule, should be maintained for sonic vibration spas.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.8 Shampoo Bowl/Chair

When the head rest is in use, the head rest must be provided with a clean towel or paper sheet for each client.

Shampoo bowls must be cleaned with soap and water or other detergent and disinfected after each client and/or use. Shampoo bowls and chairs must be kept in good, sanitary condition at all times.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.9 Materials in Contact with a Client All products must be clearly labeled and stored in a clean, closed container. Creams, lotions, powders, and/or other cosmetics must be removed from the container by means of cotton, gauze, pledget, soft absorbent paper, spatula, or other sanitary applicator. Any excess remaining after application can neither be returned to the original container nor applied to another client but must be discarded.

All powder used on clients must be kept in a clean shaker or may be applied by means of cotton or other sanitary applicator. Non-disposable applicators must be disinfected after each client. Disposable applicators must be discarded immediately after use. Alternatively, powder used upon clients may be placed in a disposable or suitable dappen dish wherein the client dips. All unused powder along with the disposable dappen dish must be discarded after use upon each client.

Lotions or liquids must be poured into a sanitary, appropriate container and must be applied to the client by means of a sanitary applicator. Any excess remaining after application can neither be returned to the original container nor applied to another client but must be discarded.

Cosmetic pencils must be sharpened before and after being used on a client. A sharpener must be properly disinfected before each use.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.10 Paraffin Wax Paraffin wax may be used only once and then must be discarded. It cannot be returned to the wax heater. Applicators cannot be re-dipped. Paraffin wax used for services requires the following:

1. The skin must be thoroughly cleansed.
2. The skin must be completely dried with a clean towel prior to immersion.
3. Wax must be discarded when cloudy or when it contains debris.
4. The product removed from the body must be discarded.

Appropriate, single use paraffin wax liners designed for such use are recommended, though not required, for paraffin wax treatments.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.11 Hair Removal Gloves shall be donned before beginning a waxing service.

Follow manufacturers' guidelines for pre- and post- service instructions on wax use.

Wax and sugar mixtures used for epilation must be discarded when the wax or sugar mixture becomes cloudy or when it contains debris. The product removed from the body must be discarded. Applicators cannot be re-dipped.

Do not wax over skin tags and/or moles.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.12 Disinfecting Non-Electrical Tools and Implements Work surfaces must be cleaned and disinfected after each client. All non-disposable implements, tools, materials, and/or supplies used in direct contact with a client must be thoroughly cleansed with soap and water and disinfected after each client.

Each establishment and school must have and use for disinfection a Wet Disinfectant Container that is covered at all times, properly labeled, and made of plastic/glass/stainless-steel/the type recommended by the manufacturer of the product it contains. The Wet Disinfectant Container must be large enough for total immersion of the implement(s) or tools and must contain the appropriate amount of solution for total immersion. Implements or tools must be removed from the disinfectant in such a manner as not to contaminate the disinfectant solution, rinsed, and placed on a clean dry towel to air dry.

The disinfectant must be EPA registered and demonstrate bactericidal, fungicidal, virucidal, pseudomonacidal properties. The licensee must follow the manufacturer's instructions for disinfectant mixing and immersion time and replacement intervals. Disinfectant must be discarded when contaminated. Disinfectant cannot be used for storage of implements, tools, materials, or other supplies.

Ultraviolet ray cabinets and/or glass bead sterilizers are not Board approved disinfecting devices.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.13 Disinfecting Electrical Implements and Tools Non-disposable implements or tools that cannot be disinfected by the procedures in Rule 11.12 must be disinfected by:

1. Thoroughly cleansing the working parts of the implement after each use and prior to disinfection and
2. Contact points of non-immersible equipment shall be wiped or sprayed with disinfectants that are EPA registered and demonstrate bactericidal, fungicidal, virucidal, pseudomonacidal properties.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.14 Disease Control No licensee shall perform any service upon the skin or scalp where such skin is inflamed, broke, sunburned, or otherwise compromised or where a skin infection or eruption is present. A licensee shall not have contact with a client who has a

communicable disease or parasitic infection that is transmittable.

A licensee with a communicable disease or parasitic infection that is transmittable shall not have contact with clients or other licensees in any establishment or school until their condition is no longer communicable.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.15 Blood Exposure

- A. Practitioner Injury. If a practitioner/licensee sustains a cut, or other blood exposure injury, the client service must be immediately stopped, and the following steps employed:
1. Thoroughly clean the injured area with soap and water. Apply antiseptic and/or liquid styptic or spray styptic as necessary. The use of styptic pencil is prohibited. Containers, brushes or nozzles of liquid styptic are not allowed to touch the skin or contact the wound. A clean applicator, such as a piece of gauze, cotton ball, or cotton swab must be used.
 2. Cover the injury with an adhesive dressing or band aid.
 3. Put on appropriately sized disposable gloves (e.g., plastic, vinyl, nitrile)
 4. Any tissue, gauze, cotton used to collect blood, or clean injury must be disposed of in a sealed plastic bag. The plastic bag must be put into another plastic bag (double bagged) and appropriately discarded.
 5. Clean and disinfect work area and remove or disinfect any contaminated implements as provided in Rule 11.12 and 11.13.
 6. Remove and discard disposable gloves and double bag before discarding. Wash and scrub hands with soap and water. Follow with antibacterial scrub on hands. Replace any adhesive dressing or band aid as needed and double bag before discarding. If wound is on hand or finger, put on properly sized disposable glove or finger cot (e.g., plastic, vinyl, nitrile) on the wound or injury, if continuing to work.
 7. If necessary, clean client with soap and water.
 8. In the event of a blood-to-blood contact, contact a private physician.
- B. Client Injury: If a client sustains a cut, or other blood exposure injury, the client service must be immediately stopped, and the following procedure employed:
1. Put on appropriately sized disposable gloves (e.g., plastic, vinyl, nitrile).
 2. Thoroughly clean the injured area with soap and water. Apply antiseptic and/or liquid styptic or spray styptic as necessary. The use of styptic pencil is prohibited. Containers, brushes or nozzles of liquid styptic are not allowed to touch the skin or contact the wound. A clean applicator, such as a piece of gauze, cotton ball, or cotton swab must be used.
 3. If necessary/appropriate cover area with an adhesive dressing or band aid.
 4. Any tissue, gauze, cotton used to collect blood, or clean injury must be disposed of in a sealed plastic bag. The plastic bag must be put into another plastic bag (double bagged) and appropriately discarded.

5. Clean and disinfect work area and remove or disinfect any contaminated implements as provided in Rule 11.12 and 11.13.
 6. Remove and discard disposable gloves and double bag before discarding. Wash and scrub hands with soap and water. Replace any adhesive dressing or band aid as needed and double bag before discarding. If wound is on hand or finger, put on properly sized disposable glove or finger cot (e.g., plastic, vinyl, nitrile) on the wound or injury, if the service continues.
 7. In the event of a blood-to-blood contact, contact a private physician.
- C. In the case of blood or bodily fluid contact on any solid surface area, an EPA-registered disinfectant, or a blood and body fluid cleanup and disinfection with chlorine bleach solution must be used per manufacturer's instructions immediately to clean up all visible blood and/or bodily fluids.

If any non-porous implement is contacted with blood or bodily fluid, it must be immediately cleaned and disinfected using an EPA-registered disinfectant in accordance with the manufacturer's instructions or totally immersed in a blood and body fluid cleanup and disinfection with chlorine bleach solution for five (5) minutes. Disposal of blades that were in contact with blood must be in a red sharps biohazard container.

If any porous implement contacts blood or bodily fluid, it must be immediately double bagged and discarded in a closed trash container or biohazard box.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.16 Storage of Implements and Tools Disinfected implements or tools must be stored in a clean, disinfected, closed receptacle when not in use.

Carrying implements in or on garments or uniforms is prohibited.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.17 Chemical Use and Storage All bottles and containers of professional grade supplies to be used on clients must be clearly labeled and must be stored apart from other substances including, but not limited to, cleaning supplies. When not in use, all bottles and containers must remain closed.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.18 Products All products must be used according to the manufacturer's instructions. A material safety data sheet for all products used must be available for reference and produced upon request.

Possession or storage on licensed premises of any item banned or deemed to be poisonous or unsafe by the FDA or other governmental agency will be considered evidence of its use.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.19 Animals A licensee is prohibited from using animals in any procedure or service. Animals, apart from service animals as defined by the Americans with Disabilities Act (“ADA”), are prohibited from being inside of a licensed school or establishment.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.20 Floor Surface Floors in any area where services are performed must be covered in a non-porous material.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Rule 11.21 Equipment/Tool/Service/Procedure Guidelines A licensee may not use the following in any procedure or service:

1. razor-type callus shavers designed and intended to cut growth of skin such as corns and calluses (e.g. credo blade),
2. surgical scalpel,
3. non-solid surface foot file (e.g. “cheese grater” style foot file),
4. products containing methyl methacrylate liquid monomers (MMA),
5. electric file not designed for use on the human nail, and/or
6. any tool/equipment/product classified as either FDA class 2 or class 3.

A cosmetology or esthetics licensee may perform dermaplaning services with only a disposable, non-surgical 10R rounded edge butterblade. Disposal of blades including, but not limited to, razor blades, lancets, and dermaplaning blades, must be in a red sharps biohazard container.

Only a polymer or plastic bristle neck duster is permitted.

An establishment or school may not possess, either in storage or in use, more than two (2) gallons of acetone. Acetone must be properly labeled and stored according to the manufacturer’s instructions.

Possession or storage on licensed premises of any item prohibited by this Rule will be considered evidence of its use. For licensees working within the physical practice location of a physician, physician’s assistant, or advance practice registered nurse, possession or storage within the licensee’s primary work area of any item prohibited by this Rule will be considered evidence of its use.

A licensee may not perform any service or procedure that is otherwise prohibited by law or rule. A licensee may not perform services that are not within the scope of their license.

Excision of moles, skintags, or any tissue destruction is prohibited. Hair removal by means of epilation and/or depilation shall not be performed on the legs, feet, arms, or hands prior to or during any manicure or any pedicure service. For all professions licensed by this Board, any service

provided, or tool/equipment/product used may not penetrate the skin surface below the epidermis layer. A licensee may not practice medicine or surgery. Nothing in this Chapter shall be interpreted to grant any privileges or services reserved for physicians and/or nurses as governed by the Board of Medical Licensure or Board of Nursing.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-33.

Chapter 12 Hearings and Discipline

Rule 12.1 Violations Resulting from Inspection or Audit When the Board or its agent(s) find a violation(s) resulting from inspection (for Establishments) or inspection and/or audit (for Schools), a citation for violation shall be provided to the licensee on the Board's form which also includes the monetary penalty, if any, assessed for the violation. Notice shall be issued by certified mail or by personal service.

Within thirty (30) days from the date of receipt of the Notice required under this rule, the licensee who received a citation for violation may invoke their right to a hearing under this Chapter. To do so, the licensee must submit by email, hand delivery, or mail to the address of record of the Board the document entitled "Application for Administrative Hearing" that is available on the Board's website or otherwise made available by the Board. Any person who makes the application for a hearing shall be entitled to a hearing.

If no hearing is requested, monetary penalty(s) shall be paid within thirty (30) days and must be paid prior to the renewal of any license issued by the Board.

If an establishment with any unpaid monetary penalty is sold, such unpaid monetary penalty will be assessed to the new establishment owner and must be paid before an establishment license is issued to the new owner. An establishment with any unpaid monetary penalty that moves locations or changes names will have any unpaid monetary penalty due and owing by the owner on file with the Board at the time of the location or name change.

Source: Miss. Code Ann. §§ 73-7-7 & 73-7-27.

Rule 12.2 Complaint Members of the public or the Board may make a complaint against a licensee for an alleged violation of the Law or the Rules and Regulations by completing the document entitled "complaint" that is available on the Board's website or otherwise ~~may be~~ made available by the Board. All complaints must be signed and notarized. A complaint must be submitted by email, hand delivery, or mail to the address of record ~~of~~ for the Board.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.3 Investigation Once a complaint is received, the executive director shall enter the complaint into the Complaint Database and assign a number to the complaint. The executive director shall confer with the Board attorney to determine if the Board has jurisdiction to hear the complaint. After jurisdiction is confirmed, a Board member or agent of the Board will investigate the complaint to determine whether there is substantial justification to believe the licensee has committed any of the alleged offenses. The investigating Board member or agent of the Board,

after consultation with the executive director and the Board's attorney, will make a recommendation to the Board to proceed with a dismissal, consent order, informal conference, or formal disciplinary hearing.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.4 Complaint, Summons, and Notice of Hearing For the purposes of this rule, "Complaint" refers to the formal documents issued by the Board to initiate a disciplinary hearing. The Complaint is based on prior investigation of charges or information and shall set forth a statement of the charges against the licensee. The Complaint shall be signed by the executive director and shall instruct the respondent to personally appear at the disciplinary hearing, inform of the respondent's right to counsel, and inform of the respondent's right to produce witnesses and evidence on his behalf as well as the right to cross-examine adverse witnesses and challenge adverse evidence.

"Summons and Notice of Hearing" refers to the document(s) accompanying the Complaint which compels the respondent to appear and sets forth the date, time, and place of the hearing.

The Complaint, Summons and Notice of Hearing shall be mailed by certified mail, postage prepaid to the last known residence or business address of the licensee on file with the Board no less than twenty (20) days prior to the scheduled date of the disciplinary hearing.

Applicants for an administrative hearing as contemplated in Rule 12.1 will receive no less than twenty (20) days prior to the scheduled date of the hearing a "Notice of Hearing" that compels the respondent to appear and set forth the date, time and place of the hearing. The Notice of Hearing shall be signed by the executive director and shall instruct the respondent to personally appear at the administrative hearing, inform of the respondent's right to counsel, and inform of the respondent's right to produce witnesses and evidence on his behalf as well as the right to cross-examine adverse witnesses and challenge adverse evidence.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.5 Consent Orders If, after receipt of a Complaint and prior to the disciplinary hearing, a licensee desires to admit to a violation, a consent order may be entered into with the licensee without the necessity of a disciplinary hearing. This opportunity for settlement shall be at the sole discretion of the investigative committee.

If, after submitting the request for an administrative hearing contemplated in Rule 12.1 and prior to the hearing, a licensee desires to admit citation(s) for violation and/or the Board attorney concludes that certain elements, findings or evidence related to the inspection or audit are not sufficient to withstand scrutiny by the Board, a consent order may be entered into with the licensee without the necessity of a hearing.

Any consent order shall be subject to the approval of the Board and shall not be subject to appeal. The Board may reject a proposed consent order and vote to proceed with the scheduled hearing.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.6 Informal Conferences The respondent or the Board may request an informal conference at the Board office with the investigative committee for the purpose of showing that the allegation(s) contained in the complaint is (are) not true. The investigative committee will be composed of the designated Board member, the executive director, the Board attorney, and appropriate staff personnel; however, the absence of any member of the investigative committee shall not invalidate the formation of the committee or the conclusions of the conference. The respondent may have an attorney present only in an advisory capacity. If the respondent desires a conference and the complaint cannot thereafter be dismissed on the evidence, an effort will then be made to reach an informal settlement and consent order as provided in Rule 12.5.

The informal conference or settlement negotiation shall be completed no less than ten (10) days before the scheduled date of the disciplinary hearing; provided, however, the Board's investigative committee, at its sole discretion, may continue the disciplinary hearing at the request of the respondent for the purpose of completing said proceedings.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.7 Summary Suspension The Board may summarily suspend a license without a hearing, simultaneously with the filing of a Complaint, Summons, and notice of hearing according to Rule 12.4, if the Board determines that the health, safety, or welfare of the public is in immediate danger. If the Board summarily suspends a license, a hearing must be held within twenty (20) days after such suspension begins, unless continued at the request of the licensee.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.8 Right to Counsel All applicants and licensees have a right to counsel at their own expense.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.9 Recusal A Board member shall not participate in any disciplinary action if the Board determines that such a Board member is personally biased in favor of or against the licensee.

Any licensee in a disciplinary proceeding may assert conflict or bias by filing with the executive director at least three (3) days before the scheduled disciplinary hearing an affidavit asserting the disqualification together with specific details of the underlying factual bias for the assertion.

The recusal or disqualification of Board members shall be considered on the record as a preliminary matter at the hearing before any other questions are decided. In the event that after consideration there does not remain a quorum, substitute panel members shall be selected from the most recent slates of Board appointment candidates established by the Mississippi State Board of Cosmetology and Barbering to the extent necessary to achieve a quorum. These substitute members shall receive compensation as provided for Board members in Mississippi Code

Annotated section 73-7-1.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.10 Hearings Disciplinary hearings and hearings conducted pursuant to Rule 12.1 are held before the Board and presided by the Board President or designee of the Board. For disciplinary hearings, the investigative Board member shall not sit as a member of the Board in any disciplinary hearing resulting from that investigation.

The Board shall have the power to compel the attendance of witnesses and the production of books, documents, records, and other papers by subpoena. Upon the request of the respondent, the Board likewise may also compel the attendance of witnesses and the production of books, documents, records, and other papers by subpoena for and on behalf of respondent.

All hearings shall be recorded and/or transcribed by a court reporter.

The Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence are inapplicable to the conduct of all hearings. There shall be no discovery.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.11 Order The Board shall issue an order within sixty (60) days after the close of the hearing, which shall include findings of fact and conclusions of law, stated separately. The licensee shall be forwarded a copy of the order by certified mail and a copy shall be forwarded to each attorney of record.

All orders issued by the Board shall be reflected in the Board minutes and shall be matters of public record and preserved pursuant to state law.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.12 Discipline Upon a finding that the licensee has violated any law or rule and regulation adopted by the Board, the Board may fine the accused; suspend/limit/restrict the accused's license to practice; refuse to issue or renew the accused's license to practice; and/or revoke the accused's license to practice.

The Board may, in its discretion, stay the execution of its order conditioned upon any provision the Board deems just and proper under all the circumstances of each case.

In determining whether a license should be revoked or suspended or limited, and whether execution of the order should be stayed, and upon what conditions, the Board may consider all relevant factors, including, but not limited to, the following:

1. the severity of the violation(s);
2. the actual or possible danger to the public resulting from the licensee's past and present violation(s);

3. the actual damage resulting from the licensee's past and present violation(s);
4. the number of past repetitions of the licensee's present violation(s);
5. the length of time since the occurrence of the licensee's present violation(s);
6. the number and seriousness of previous violations;
7. the length of time the licensee has practiced;
8. the deterrent effect of the penalty imposed;
9. the effect of the penalty upon the licensee's livelihood;
10. any efforts of rehabilitation; and
11. any other mitigating or aggravating circumstances.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.13 Costs The Board may, in its discretion, assess and tax all actual costs incurred in a disciplinary hearing against any licensee found guilty hereunder, or the charging party, or both. The Board may, in its discretion, assess and tax all actual costs incurred in an administrative hearing contemplated in Rule 12.1, against any licensee who does not prevail. Such costs may include, but are not limited to, costs incurred in the investigation of the Complaint, court reporter fees, and/or costs incurred for service of process.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.14 Fines Any fines assessed to a licensee by an Order of the Board must be paid within thirty (30) days of the Board Order, if no appeal of same is filed.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.

Rule 12.15 Appeal Any person aggrieved by the action of the Board as a result of the proceedings conducted hereunder may appeal therefrom as provided for in Section 73-7-27 Mississippi Code Annotated (1972). The filing of an appeal and appellate bond stays the timeframe required to pay any monetary fee assessed in a Board Order; however, the filing of an appeal does not stay any non-monetary discipline imposed on a licensee by a Board Order.

Source: MISS. CODE ANN. §§ 73-7-7 & 73-7-27.