

Change Chapter Bar 400 heading as follows:

CHAPTER Bar 400 ~~CONTINUED STATUS~~RENEWALS, CONTINUING EDUCATION,
INSPECTIONS AND FORMS

PART Bar 401 RENEWALS

Repeal Bar 401.01, effective 9-13-18 (Document #12619), as follows:

~~Bar 401.01 Renewal Forms.~~

~~(a) The board shall send a renewal notice to each licensee at least 60 days prior to the expiration date of the licensee's license.~~

~~(b) Each licensee wishing to renew their license or apprentice registration shall complete and file with the board as applicable, one of the following renewal forms prior to the expiration date of a license or apprentice registration:~~

~~(1) For apprentices, the "Shop Apprentice Renewal Form", revised July 2018;~~

~~(2) For tanning facilities, the "Application to Renew a Tanning Facility" form, revised July 2018;~~

~~(3) For barbers, cosmetologists, manicurists, or estheticians, the "Renewal of Personal License Form", revised July 2018;~~

~~(4) For booth rentals, the "Renewal Application for Two Year Booth Rental License" form, revised July 2018;~~

~~(5) For shops, the "Renewal Application for Two Year Shop License" form, revised July 2018; and~~

~~(6) For barber, cosmetologist, esthetician, and manicurist schools, the "Renewal Application for Two Year School License" form, revised July 2018.~~

~~(c) The licensee shall submit the following fee in the form of a check, money order, electronic payment, or cash, to the board with the appropriate renewal form listed in (b)(1)-(5) above:~~

~~(1) In the amount of \$150.00 for each barber, cosmetologist, esthetician, and manicurist school;~~

~~(2) In the amount of \$100.00 for each shop;~~

~~(3) In the amount of \$40.00 for a barber, master barber, cosmetologist, esthetician, and manicurist;~~

~~(4) In the amount of \$45.00 for a late barber, master barber, cosmetologist, esthetician or manicurist renewal if within 6 months of expiration;~~

~~(5) In the amount of \$100.00 for a late barber, master barber, cosmetologist, esthetician or manicurist renewal after 6 months of expiration but within 5 years;~~

~~(6) In the amount of \$55.00 for an inactive or active shop or school instructor;~~

~~(7) In the amount of \$30.00 for a shop apprentice; and~~

~~(8) In the amount of \$75.00 for an independent booth renter.~~

~~(d) The licensee shall include the following on each registration or license renewal form submitted pursuant to Bar 401.01(b)(1)-(5):~~

~~(1) The name and address of the licensee or registration;~~

~~(2) The current license or registration number;~~

~~(3) The appropriate type of license or registration:~~

~~a. Barber;~~

~~b. Cosmetology;~~

~~c. Esthetic;~~

~~d. Manicuring;~~

~~e. Apprentice;~~

~~f. Instructor;~~

~~g. Master barber; or~~

~~h. Shop; and~~

~~(4) The same information as required by Bar 301.01 (b) (5) and (b) (6).~~

~~— (e) In addition to complying with Bar 401.01(b) and (c), persons completing shop, school, shop instructor, and apprentice registration renewal forms shall include the name of the school or shop.~~

~~— (f) In addition to complying with the requirements of Bar 401.01(b), (c), and (d), shop instructor license renewal forms shall include the name of the apprentice.~~

~~— (g) If a shop license has expired, the licensee shall pay the renewal fee plus the late fee of \$55.00.~~

~~— (h) If an independent booth renter license has expired, the licensee shall pay the renewal fee plus the late fee of \$55.00.~~

Adopt new Bar 401.01 as follows:

Bar 401.01 Renewal of License.

(a) This section is applicable to renewal of the following license types:

(1) Apprentice;

(2) Instructor;

(a) School instructor;

(b) Shop apprentice sponsor;

(3) Barber;

(4) Cosmetologist;

(5) Esthetician;

(6) Manicurist; and

(7) Master Barber.

(b) Any licensee wishing to renew a license shall submit:

(1) A completed “Universal Application for License Renewal”, as described in Plc 308.05, in which the applicant provides the information required in Plc 308.06, the documentation described in Plc 308.07, and signs the form in accordance with Plc 308.08; and

(2) The fee specified in Plc 1002.07.

(c) Any individual holding a school instructor license or shop apprentice sponsor license shall complete 6 hours of continuing education in subjects relevant to the profession or instructing in the profession in the 24 months preceding renewal.

Repeal Bar 401.02, effective 6-30-17 (Document #12226), as follows:

~~— Bar 401.02 Procedure for Approving or Denying a Renewal Form.~~

~~— (a) The board shall apply the same standards as required by Bar 301.02 for approval or denial of the renewal form.~~

~~— (b) The board shall approve a renewal form and issue a license or apprentice registration if the form is completed in accordance with Bar 401.01 and the licensee or apprentice is deemed to be of good professional character in accordance with the factors in Bar 301.02 (d).~~

~~— (c) If the renewal form is not completed in accordance with Bar 401.01, the board shall deny the renewal and return it with all attachments and a letter. The letter shall be in accordance with Bar 301.02 (g).~~

~~— (d) If a license expires pursuant to RSA 313-A:20, the licensee shall not operate a shop or school, or conduct barbering, cosmetology, esthetics, or manicuring, until the licensee reapplies in accordance with Bar 401.01, pays the fee in accordance RSA 313-A:20, and obtains a license from the board.~~

~~PART Bar 404 INSPECTIONS AND FORMS~~

Repeal Bar 404.01, effective 10-20-23 (Document #13728), as follows:

~~— Bar 404.01 Inspections.~~

~~— (a) Inspections shall be made in accordance with RSA 313-A:21, upon initial application for a independent operating booth, school, or shop license, upon the relocation of shop or school, whenever necessary to investigate a complaint against a licensee, and to follow up on violations previously documented.~~

~~— (b) All schools and shops shall be inspected for compliance with these rules and RSA 313-A.~~

~~— (c) Inspectors shall inspect the school or shop as it was upon entering.~~

~~— (d) Inspections shall be documented by an inspector on an inspection report which includes the following:~~

~~(1) The owner's name, establishment name, location and type, such as school, shop, or independent operating booth;~~

~~(2) Whether the licensee has complied with the requirements for containers and disinfection containers pursuant to Bar 302.05(f) and (g);~~

~~(3) Whether the licensee has complied with the requirements of the entrance pursuant to Bar 302.05(e);~~

~~(4) Whether the licensee has complied with the requirements for lavatory facilities pursuant to Bar 302.05(d);~~

~~(5) Whether the licensee has complied with the requirements for ventilation pursuant to Bar 302.05(e);~~

~~(6) Whether the licensee has complied with the requirements for signs pursuant to Bar 302.01(g)(3) and (j)(2), Bar 302.05, (k) and (l), and Bar 302.06(p);~~

~~(7) Whether the licensee has complied with the requirements for floors pursuant to Bar 302.05(h);~~

~~(8) Whether the licensee has complied with the requirements for water supply pursuant to Bar 302.05(i);~~

~~(9) Whether the licensee has complied with the requirements of proper disinfection pursuant to Bar 302.05(q) (w) and (y) and Bar 302.07(a) (f) and (m);~~

~~(10) Whether the licensee has complied with the requirements for square footage pursuant to Bar 302.03, and Bar 302.04;~~

~~(11) Whether the licensee has the appropriate current licenses;~~

~~(12) Whether the licensee has complied with the requirements for Bar 302.05 (m) (o); and~~

~~(13) Whether the licensee has complied with the requirements for Bar 302.07 (g) (i) and Bar 302.07 (k) and (n) (s).~~

~~— (e) Inspection reports for all schools shall also include the items required by Bar 302.06(a) (ab).~~

~~— (f) Inspection reports for schools instructing barber apprentices shall also include the items required by Bar 302.01(a).~~

- ~~— (g) Inspection reports for schools instructing cosmetology apprentices shall also include the items required by Bar 302.01(b).~~
- ~~— (h) Inspection reports for school instructing esthetic apprentices shall include the items required by Bar 302.01(e).~~
- ~~— (i) Inspection reports for school instructing manicuring apprentices shall also include the items required by Bar 302.01(d).~~
- ~~— (j) Inspection reports for cosmetology school instructing esthetic apprentices shall also include the items required by Bar 302.01(e).~~
- ~~— (k) Inspection reports for shops with an apprentice shall also include the items required by Bar 301.04(a) and (c) (p) and Bar 301.05(a) (c).~~
- ~~— (l) Inspection reports for shops operating as independent operating booths shall also include the items required by Bar 302.04.~~
- ~~— (m) The inspection report shall be completed, dated, and signed by the inspector before leaving the premises. Each shop or school owner, manager, or licensee shall also sign the inspection report, to indicate receipt, and shall be given a copy of the report before the inspector leaves the premises.~~
- ~~— (n) The licensee shall post the most recent inspection report in a conspicuous and unobstructed place in the shop or school following the inspection.~~
- ~~— (o) Violation(s) shall be rectified within 7 working days unless a request for a waiver in accordance with Bar 216 is submitted to the board's office within 3 days.~~
- ~~— (p) Failure to rectify or obtain a waiver in accordance with Bar 216 shall result in disciplinary action by the board in accordance with RSA 313 A:23, Bar 206, and Bar 208.~~

Repeal Bar 404.02 and Bar 404.03, effective 6-30-17 (Document #12226), as follows:

~~Bar 404.02 Initial License Inspection Passage. A school or shop initial license, including initial licenses required due to relocation, shall be issued upon compliance with Bar 404.01 and completion of an inspection showing compliance with all applicable items on the inspection report.~~

~~— Bar 404.03 Initial License Inspection Failure.~~

- ~~— (a) When the inspection report for initial licensure for a school or shop shows any deficiencies a license shall not be issued until a follow-up inspection is held which reveals that the license has rectified all deficiencies.~~
- ~~— (b) Revocation and suspension shall be accomplished in accordance with RSA 313 A:23 and Bar 206 and Bar 208.~~

Repeal Bar 404.04 and Bar 404.05, effective 5-13-21 (Document #13205), as follows:

~~— Bar 404.04 Who May be Fined.~~

- ~~— (a) Fines shall be imposed upon any licensee who violated the provisions of RSA 313 A. Fines pursuant to Bar 404 shall be imposed for each offense upon the licensee who violates the provision of RSA 313 A or the administrative rules of the board. Fines shall be assessed to the shop owner where the violations occur.~~
- ~~— (b) Administrative fines shall be determined by the number of points the licensee has accumulated during that inspection. Points shall be issued as outlined in Bar 404.08, 404.09 and 404.10.~~

~~Bar 404.05 Notice.~~

- ~~— (a) Upon completion of an inspection, the board shall notify any licensee the board is considering imposing a fine upon with an inspection report described in Bar 404.01, which states the following information:~~
- ~~(1) The proposed amount of the fine according to Part Bar 404.08 and Bar 404.09; and~~

- ~~(2) The person's right to a hearing before the board prior to final determination of a fine.~~
- ~~(b) The notice shall state that the person shall have the following options upon receipt of the notice:~~
- ~~(1) To waive the right to a hearing and pay the proposed fine immediately;~~
 - ~~(2) To request a pre-hearing conference in accordance with Bar 404.06; or~~
 - ~~(3) To request in writing a hearing in accordance with Bar 404.07.~~

Repeal Bar 404.06, effective 6-30-17 (Document #12226), as follows:

~~Bar 404.06 Pre Hearing Conference. Prior to a hearing, the person the board is considering imposing a fine upon may request a meeting with a member of the board's staff to discuss the matter. If a meeting is requested, it shall be the responsibility of the person the board is considering imposing a fine upon to contact the board office to schedule a mutually convenient appointment with the appropriate staff member.~~

Repeal Bar 404.08, effective 10-20-23 (Document #13728), as follows:

- ~~Bar 404.08 Violation Points for a School.~~
- ~~(a) For each violation of the following, 6 points shall be issued:~~
- ~~(1) Does not have the containers pursuant to Bar 302.05(f);~~
 - ~~(2) If school closes and the licensee did not notify the board pursuant to Bar 302.05(j);~~
 - ~~(3) If the equipment qualifications described in Bar 302.01(a) (j) are not met;~~
 - ~~(4) If the required provisions described in Bar 302.03 are not met;~~
 - ~~(5) If the licensees did not comply with Bar 302.07(a) (e).~~
- ~~(b) For each violation of the following, 10 points shall be issued:~~
- ~~(1) Failure to keep floors, walls, woodwork, ceilings, furniture, furnishing, and fixtures clean pursuant to Bar 302.05(h);~~
 - ~~(2) If lavatory facilities are not publicly accessible to all patrons and employees pursuant to Bar 302.05(d);~~
 - ~~(3) If the sign was not provided pursuant to Bar 302.05(k);~~
 - ~~(4) Mechanical ventilation is not available and or not being used pursuant to Bar 302.05(e);~~
 - ~~(5) Hot and cold running water are not provided pursuant to Bar 302.05(i);~~
 - ~~(6) Lab coat or uniform is not being worn pursuant to Bar 302.06(e);~~
 - ~~(7) If the school did not display one permanent sign pursuant to Bar 302.06(p);~~
 - ~~(8) If the school does not have a dispensary, clinic area, classroom, and office pursuant to Bar 302.06(o);~~
 - ~~(9) An apprentice kit was not provided pursuant to Bar 302.06(b); and~~
 - ~~(10) If the school rules were not provided to student pursuant to Bar 302.06(n).~~
- ~~(c) For each violation of the following, 50 points shall be issued:~~
- ~~(1) If there was not a proper number of instructors pursuant to Bar 302.06(a);~~
 - ~~(2) The school instructor is not readily accessible pursuant to Bar 302.06(m);~~
 - ~~(3) The apprentice was not properly supervised;~~
 - ~~(4) Licenses and inspection report was not displayed as required;~~
 - ~~(5) Working with an expired license;~~
 - ~~(6) Apprentice graduation and termination notification was not sent pursuant to Bar 302.06(e);~~
 - ~~(7) Operating a business without the appropriate license;~~
 - ~~(8) Employing a person without the appropriate license;~~
 - ~~(9) Did not have or use sanitation and disinfection procedures as defined in Bar 101;~~
 - ~~(10) Failure to track and record the apprentice's progression in an online education course;~~
 - ~~(11) Allowing more than 25% of the course to be done through online education; and~~
 - ~~(12) Failure to administer a test at the mid point and at the end of each online education course in person at the school.~~
- ~~(d) 100 points shall be issued for allowing practical or clinical instruction through online education.~~

Repeal Bar 404.09, effective 9-13-18 (Document #12619), as follows:

- ~~Bar 404.09 Violation Points for a Shop and/or Licensee.~~
- ~~(a) For each violation of the following, 3 points shall be issued:~~
 - ~~(1) Did not have the containers pursuant to Bar 302.05(f);~~
 - ~~(2) Failure to keep floors, walls, woodwork, ceilings, furniture, furnishing, and fixtures cleaned pursuant to Bar 302.05(h);~~
 - ~~(3) If a shop closes and the licensee did not notify the board pursuant to Bar 302.05(j);~~
 - ~~(4) If the licensee did not comply with Bar 302.07 (a) (e); and~~
 - ~~(5) If lavatory facilities are not publicly accessible to all patrons and employees pursuant to Bar 302.05(d).~~
- ~~(b) For each violation of the following, 5 points shall be issued:~~
 - ~~(1) If a sign was not provided pursuant to Bar 302.05(k);~~
 - ~~(2) Mechanical ventilation not obtained or used pursuant to Bar 302.05(e); and~~
 - ~~(3) Hot and cold running water are not provided pursuant to Bar 302.05 (i).~~
- ~~(c) For each violation of the following, 25 points shall be issued:~~
 - ~~(1) Apprentice was not properly supervised;~~
 - ~~(2) Inspection report was not displayed as required;~~
 - ~~(3) Shop instructor did not comply with the requirements of Bar 301.04(d), (e), (f), (g), (h), (k) and (l);~~
 - ~~(4) Apprentice was not wearing a name tag pursuant to Bar 301.04(i);~~
 - ~~(5) Apprentice termination notification was not sent pursuant to Bar 301.05(a);~~
 - ~~(6) If licensee did not comply with Bar 302.07(h), (k), (l), (m); and~~
 - ~~(7) Vaporizer machine not maintained pursuant to Bar 302.05 (v).~~
- ~~(d) For each violation, 50 points shall be issued for unprofessional conduct or if the licensee refuses to sign the inspection report as described in Bar 404.01 (e).~~
- ~~(e) Unprofessional conduct shall include, but not be limited to:~~
 - ~~(1) Yelling, swearing, or using profanity at the inspector;~~
 - ~~(2) Throwing items at the inspector;~~
 - ~~(3) Verbally threatening the inspector; and~~
 - ~~(4) Grabbing, pulling or pushing the inspector.~~
- ~~(f) For each violation, 50 points shall be issued if a licensee, instructor, shop apprentice, or individual with a temporary permit fails to attach a passport photograph to their license or fails to display the license as required.~~
- ~~(g) For each violation, 50 points shall be issued if a licensee, instructor, shop apprentice, or an individual with a temporary permit fails to provide the inspector with government issued photo identification.~~
- ~~(h) For each violation, 100 points shall be issued if the shop did not meet the requirements of Bar 302.05 (m), (q) through (s), and (x), and Bar 302.07(n) (s).~~
- ~~(i) For each violation, 250 points shall be issued if a licensee did not comply with the procedures described in Bar 302.07(f) or if the licensee did not have or use an EPA-registered disinfectant to disinfect implements as defined in Bar 101.11.~~
- ~~(j) For each violation, 50 points for the first offense, 250 points for the second offense, and 500 points for the third offense shall be issued for having an individual provide services with an expired New Hampshire license or work permit.~~
- ~~(k) For each violation, 50 points for the first offense, 250 points for the second offense, and 500 points for the third offense shall be issued for operating a business without the appropriate license.~~
- ~~(l) For each violation, 500 points shall be issued for having an individual provide services without holding a New Hampshire license described by RSA 313 A.~~

~~— (m) For each violation, 400 points for the first offense, and 500 points for the second offense for a shop owner and licensee for violation of Bar 302.07(g) (1) (12).~~

~~— (n) For offenses committed over multiple days, each day shall constitute a separate offense. After the third day the third offense points shall be issued for each day thereafter.~~

Repeal Bar 404.10 through Bar 404.12, effective 6-30-17 (Document #12226), as follows:

~~— Bar 404.10 Administrative Fine Assessment for a School and Shop. Except as provided by Bar 404.12, administrative fines shall be assessed as follows:~~

~~— (a) For 25 or more points, the fine shall be one dollar for each point; and~~

~~(b) For failure to comply with an order of the board, the fine imposed shall be \$500.~~

~~Bar 404.11 Administrative Fine Adjustments.~~

~~— (a) Following a hearing, the board shall increase the amount of a fine provided for in Bar 404.10 when one or more of the following aggravating factors are reflected by specific findings of fact, expressed in the record:~~

~~(1) That the respondent was aware of RSA 313-A and the board's rules;~~

~~(2) Continuing noncompliance with the board statutes, rules, and directives;~~

~~(3) The degree of respondent's willfulness and/or negligence involved in the violation;~~

~~(4) Any history of noncompliance with RSA 313-A, rules, or directives;~~

~~(5) Bad faith or misrepresentation of any material fact; and~~

~~(6) Additional information presented during the hearing which reflects an aggravating factor based on a totality of circumstances.~~

~~— (b) Following a hearing, or a pre-hearing conference the board shall decrease the amount of a fine provided for in Bar 404.10 when there are mitigating factors reflected by specific findings of fact, expressed in the record or good faith efforts to comply with RSA 313-A and the board's rules, and directives.~~

~~— Bar 404.12 Multiple Violations.~~

~~— (a) The board shall assess separate fines against a party for multiple violations of the statutes, rules, or both, provided the board makes a separate finding of fact from the record for each violation.~~

~~— (b) Noncompliance which was carried out over a period of days shall be a separate violation for each such day.~~

~~— (c) Nonpayment of a fine by a licensee in contravention of an order, agreement or promise to pay, shall result in separate discipline by the board and shall result in denying a license until paid.~~

APPENDIX I

Rule	Specific State Statutes Which the Rule Implements
Bar 401.01 (b) & (d) (repeal)	
Bar 401.01 (c), (i), (k), (l), & (m) (repeal)	
Bar 401.01	RSA 310:8; RSA 313-A:8,III; RSA 313-A:20
Bar 401.02 (repeal)	
Bar 404.01(repeal)	
Bar 404.02 (repeal)	
Bar 404.03 (repeal)	
Bar 404.04 (repeal)	
Bar 404.05 (repeal)	
Bar 404.06 - Bar 404.12 (repeal)	