



# Cosmetology Update

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## *Keeping You On The Cutting Edge*

### **IF YOU DO NAILS, AN AUTOCLAVE IS REQUIRED *OAG Opinion Settles Conflict Between Two Laws***

Texas Department of Licensing and Regulation (TDLR) rules, and state law, require sterilization of all reusable instruments by manicurists and pedicurists before they are used on a client. On May 18, the Attorney General Greg Abbott ruled that this sterilization must be done using an autoclave.

Attorney General's Opinion GA-0432, issued May 18, 2006, found that an irreconcilable conflict existed between two laws enacted by the 79<sup>th</sup> Texas Legislature - Senate Bill 411 and House Bill 1304.

Senate Bill 411, which abolished the Texas Cosmetology Commission and moved regulation of the cosmetology industry to TDLR, required all cosmetologists that provide manicure and pedicure services to sterilize reusable instruments in an autoclave.

House Bill 1304, however, while requiring all reusable instruments to be sterilized, also allowed for methods other than an autoclave, such as dry heat or ultraviolet light.

In the opinion, Abbott concluded that because Senate Bill 411 was passed after House Bill 1304, "Senate Bill 411 prevails with the result that a barber or cosmetologist who treats nails, hands or feet must sterilize nondisposable instruments with an autoclave." Opinion No. GA-0432 is available in its entirety on the TDLR website at: <http://www.license.state.tx.us/cosmet/pdf/GA-0432.pdf>.

When TDLR adopted sanitation rules March 1, 2006, the agency included the sterilization options in House Bill 1304.

"When we adopted the rules we wanted to allow licensees to take advantage of all the options available to them," said William Kuntz, TDLR's executive director. "While we made everyone aware of the conflict in the laws, we didn't want to require salon operators to buy an autoclave if it wasn't necessary. We understand that this ruling may pose a hardship for some of our salon operators and nail specialists, particularly in the smaller salons. Our licensees have come to expect our agency to base our decisions and actions on common sense. The implementation of the Attorney General's Opinion will be no different."

Before TDLR begins citing salons that have no autoclave, the agency must first revise its rules to adopt the more stringent sterilization standard required in Senate Bill 411. Rule revisions are not expected to be complete before autumn.

"Nail technicians and salons will still have another option," Kuntz said. "If they don't want to buy an autoclave, they can switch to using only disposable instruments and disposing of those instruments after every client."

***Please post this update in your beauty supply store, salon or school.***