



COSMETOLOGY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
June 22, 2015

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA
9:30 AM

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda**
- B. Approval of Minutes of April 6, 2015 (4-6)**
- C. Administrative Matters**
 - 1. Board and Staff Updates
 - 2. Election of Board Officers and Delegation of Authority **(7-9)**
- D. Public Hearing 9:45 AM**
 - 1. Clearinghouse Rule 1-11 Relating to Cosmetology Schooling, Licensure and Practice Requirements **(10-27)**
 - 2. Review and Respond to Clearinghouse Report and Public Hearing Comments
- E. Legislative and Administrative Rule Matters**
 - 1. COS 5 Relating to Course of Instruction – Update **(28-38)**
 - 2. Legislative Liaison
 - 3. Possible Rule Making Projects
- F. Continuing Education Provider Application Process**
 - 1. Practice Matters
 - a) Eyelash Extensions
- G. Deliberation on Items Added After Preparation of Agenda:**
 - 1. Introductions, Announcements and Recognition
 - 2. Administrative Updates
 - 3. Education and Examination Matters
 - 4. Credentialing Matters
 - 5. Practice Matters
 - 6. Legislation/Administrative Rule Matters
 - 7. Disciplinary Matters
 - 8. Presentations of Petitions for Summary Suspension
 - 9. Presentation of Proposed Stipulations, Final Decisions and Orders
 - 10. Presentation of Proposed Decisions

11. Presentation of Interim Orders
12. Speaking Engagement(s), Travel, or Public Relation Request(s)

H. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

I. Education and Examination Matters

1. Request from M.L. for Extension of Time to Complete CE Requirements for the 2015 License Renewal **(39-40)**

J. Proposed Final Decision and Order in the Matter of the Disciplinary Proceeding against

1. Lamar D. Skinner, Sr. (DHA Case No. SPS-14-0099) (DLSC Case No. 14 BAC 079) **(41-48)**

K. Proposed Stipulation and Final Decision and Order

1. 13 BAC 112 (S.N.S) **(49-54)**

L. Deliberation of Proposed Administrative Warnings

1. 14 BAC 020 (T.T.D.) **(55-56)**

M. Case Closing

1. 13 BAC 160 (A.A.;J.R.K.;B.B.I.;B.B.) **(57-61)**
2. 14 BAC 015 (K.M.S.) **(62-65)**
3. 14 BAC 018 (S.M.F.) **(66-68)**
4. 14 BAC 084 (T.J.H.; T.B.S.; J.M.D.; T.B.S.) **(69-73)**
5. 15 BAC 002 (T.P.; S.Z) **(74-76)**

N. Deliberation of Items Added After Preparation of the Agenda

1. Monitoring Matters
2. Administrative Warnings
3. Review of Administrative Warnings
4. Proposed Stipulations, Final Decision(s) and Order(s)
5. Proposed Final Decisions and Orders
6. Orders Fixing Costs/Matters Related to Costs
7. Petitions for Summary Suspension
8. Petitions for Re-hearings
9. Complaints
10. Case Closings
11. Education and Examination Matters
12. Credentialing Matters
13. Application Issues and/or Reviews
14. Appearances from Requests Received or Renewed
15. Motions
16. Citations

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

**COSMETOLOGY EXAMINING BOARD
MEETING MINUTES
April 6, 2015**

PRESENT: Kristin Allison, Lori Paul, Geraldine Reuter, Gail Sengbusch, Dianna Wachter, Vicky McNally

STAFF: Brittany Lewin, Executive Director; Kelly Williams, Bureau Assistant; and Katie Paff, Rules Coordinator; Gretchen Mrozinski, Legal Counsel; Hannah Whaley; Monitoring

CALL TO ORDER

Geraldine Reuter, Chair, called the meeting to order at 9:37 a.m. A quorum of six (6) members was confirmed.

ADOPTION OF AGENDA

MOTION: Vicky McNally moved, seconded by Gail Sengbusch, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 2, 2015

AMENDMENTS

- **MOTION:** Gail Sengbusch moved, seconded by Dianna Wachter, to note that Gail Sengbusch disagrees with COS 3.01(11) because it is above health care standards. In her research, Gail found that hospitals and nursing homes allow pets in their facilities. Gail believes it should be a business owner's decision to allow or not allow pets in their business during business hours. Motion carried unanimously.
- **MOTION:** Lori Paul moved, seconded by Dianna Wachter, to note that Gail Sengbusch disagrees with the exclusion of emery boards and buffer blocks as single use and believes they are disinfectable, which was discussed at today's meeting and supported by the scientific research of Doug Schoon. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Lori Paul, to approve the minutes of March 2, 2015 as amended. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

**COS 1 TO 11 COSMETOLOGY SCHOOLING LICENSURE AND PRACTICE
REQUIREMENTS**

MOTION: Kristin Allison moved, seconded by Lori Paul, to accept all Clearinghouse comments for Clearing House Rule 15-020 COS 5. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Vicky McNally, to amend COS 5.01 to read that all schools shall offer at a minimum the hours listed in COS 5 for subjects listed in the appropriate syllabus. Motion carried unanimously.

MOTION: Geraldine Reuter moved, seconded by Kristin Allison, to authorize Vicky McNally to approve the Legislative Report and Draft for Clearinghouse Rule 15-020 COS 5 for submission to the Governor's Office and Legislature. Motion carried unanimously.

MOTION: Lori Paul moved, seconded by Gail Sengbusch, to approve the draft relating to COS 1-11 for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Geraldine Reuter moved, seconded by Kristin Allison, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85 (1)(b), Stats.); to consider closing disciplinary investigation with administrative warning (ss.19.85(1)(b), Stats. and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and, to confer with legal counsel (s.19.85(1)(g), Stats.). Kristin Allison read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Kristin Allison – yes; Vicky McNally – yes; Lori Paul – yes; Geraldine Reuter – yes; Gail Sengbusch – yes; Dianna Wachter – yes. Motion carried unanimously.

The Board convened into closed session at 10:22 a.m.

RECONVENE TO OPEN SESSION

MOTION: Kristin Allison moved, seconded by Vicky McNally, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 10:54 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Lori Paul moved, seconded by Vicky McNally, to affirm all motions made in closed session. Motion carried unanimously.

MONITORING

MOTION: Gail Sengbusch moved, seconded by Lori Paul, to grant the request of Shay Benitez to reinstate her license dependent on the new payment plan. The payments are due by the 10th of the month and if a scheduled payment is missed the plan will be voided, the suspension will resume and payment in full is due. Motion carried unanimously.

CASE CLOSINGS

- MOTION:** Kristin Allison moved, seconded by Dianna Wachter, to close the following cases according to the recommendations by the Division Legal Services and Compliance.
- a) 13 BAC 123 against D.P.B.S. for No Violation (NV)
 - b) 13 BAC 153 against M.C.D.B.S; T.E.M for Prosecutorial Discretion (P2)
 - c) 13 BAC 145 against A.F.; B.L.B. for No Violation (NV)

Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Gail Sengbusch moved, seconded by Geraldine Reuter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 085 against C.F.Y. LLC.; P.S. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Vicky McNally, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 085 against D.S. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Geraldine Reuter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 119 against S.C.F. Motion carried unanimously.

MOTION: Geraldine Reuter moved, seconded by Vicky McNally, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 119 against S.C.R. Motion carried unanimously.

ADJOURNMENT

MOTION: Lori Paul moved, seconded by Geraldine Reuter, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:03 a.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kelly Williams		2) Date When Request Submitted: 05/04/2015	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 6/22/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Election of Board Officers	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Due to the Chair Resigning at the last meeting, we will need to conduct an election of the Board Officers.			
11) <p style="text-align: center;">Authorization</p>			
Signature of person making this request			Date
Kelly Williams			05/04/2015
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**COSMETOLOGY EXAMINING BOARD
MEETING MINUTES
February 2, 2015**

PRESENT: Kristin Allison, Vicky McNally, Lori Paul, Geraldine Reuter, Gail Sengbusch,
Dianna Wachter

STAFF: Brittany Lewin, Executive Director; Taylor Thompson, Bureau Assistant; and other
Department staff

CALL TO ORDER

Geraldine Reuter, Chair, called the meeting to order at 9:39 a.m. A quorum of six (6) members was confirmed.

ADOPTION OF AGENDA

MOTION: Vicky McNally moved, seconded by Kristin Allison, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 17, 2014

MOTION: Vicky McNally moved, seconded by Lori Paul, to approve the minutes of November 17, 2014 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

ELECTION OF BOARD OFFICERS

BOARD CHAIR

NOMINATION: Kristin Allison nominated Geraldine Reuter for the Office of Board Chair.
Nomination carried by unanimous consent.

Brittany Lewin called for other nominations three (3) times.

Geraldine Reuter was elected as Board Chair.

VICE CHAIR

NOMINATION: Kristin Allison nominated Vicky McNally for the Office of Vice Chair.
Nomination carried by unanimous consent.

Brittany Lewin called for other nominations three (3) times.

Vicky McNally was elected as Vice Chair.

SECRETARY

NOMINATION: Vicky McNally nominated Kristin Allison for the Office of Secretary.
Nomination carried by unanimous consent.

Brittany Lewin called for other nominations three (3) times.

Kristin Allison was elected as Board Secretary.

2015 OFFICER ELECTION RESULTS	
Board Chair	Geraldine Reuter
Vice Chair	Vicky McNally
Secretary	Kristin Allison

APPOINTMENT OF LIAISONS

2015 LIAISON APPOINTMENTS	
DLSC Monitoring and PAP Liaison(s)	Lori Paul
Credentialing Liaison(s)	Vicky McNally
Education and Exams Liaison(s)	Kristin Allison <i>Alternate: Vicky McNally</i>
2015 SCREENING PANEL APPOINTMENTS	
January-December 2015	Vicky McNally Gail Sengbusch

MOTION: Gail Sengbusch moved, seconded by Dianna Wachter, to recognize the election of Officers and affirm the Chair's appointment of Liaisons and Screening Panel for 2015. Motion carried unanimously.

DELEGATED AUTHORITIES

MOTION: Kristin Allison moved, seconded by Lori Paul, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 5/15/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 6/22/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Cos 1-11 relating to cosmetology schooling, licensure, and practice requirements – Public Hearing and discussion of Clearinghouse comments	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Public hearing to be held at 9:45 AM. The Board will review and discuss public hearing testimony and the Clearinghouse comments.			
11) Authorization			
Katie Paff		5/15/2015	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY EXAMINING
COSMETOLOGY EXAMINING BOARD	:	BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Cosmetology Examining Board to repeal Cos. 1.01 (11e), 1.01 (17), 2.025 (2) (a) 5., (2g), and (2r) (j), 3.02 (3), and 4.01 (3); to amend Cos 1.01 (6m), 2.04 (2), 2.06 (4) and (5), 2.07, 3.01 (6) and (10), 3.02 (1) and (2) (b), 3.04 (2), 3.05 (1), 4.01 (2), 4.02 (3) and (6) (Note), 6.04, 7.03 (2), 7.04, 8.01 (2), 8.02 (intro.), 11.01, 11.03 (5) (b) and (c) 2., 3., and 5.; to repeal and recreate Cos 9.03; to create Cos 1.01 (3e), 1.01 (3m), 2.405 (1m), 3.01 (10) (Note), 4.01 (3), (3g), and (3r), 4.04 (1m), 8.03, 11.04 (1) (e), relating to cosmetology schooling, licensure, and practice requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 454.06 (8m) (d) and 454.08 (1) (a), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), 454.06 (8m) (d), 454.08 (1) (a), Stats., 2011 Wisconsin Act 190

Explanation of agency authority:

Pursuant to ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., the Cosmetology Examining Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and to interpret the statutes it administers. Section 454.06 (8m) (d), Stats., requires the Board to establish, by rule, the limits of minimal cosmetology work for inactive licensees. Section 454.08 (1) (a), Stats., authorizes the Board to promulgate rules providing for cosmetology services outside of licensed cosmetology establishments. The passage of 2011 Wisconsin Act 190 prompted the Board to review all of the regulations concerning cosmetology and undertake a comprehensive update of the rules making them consistent with the new legislation as well as contemporary industry practices.

Related statute or rule:

Wis. Admin. Code Cos. chs. 1 to 11

Plain language analysis:

The Cosmetology Examining Board undertook a comprehensive review of the rules governing cosmetology practice in Wisconsin. This review was prompted by the passage of 2011 Wisconsin Act 190 which separated the Barbering and Cosmetology Examining Board, leaving the regulation of cosmetology practice to the Cosmetology Examining Board and transferring the regulation of the practice of barbering to the Department of Safety and Professional Services. This proposed rule makes the changes necessitated by the passage of 2011 Wisconsin Act 190 to Wisconsin Administrative Code Chapters 1 to 11, which includes redefining the term manager to cosmetology manager and creating an inactive license classification. Other changes in the proposed rule include identifying the settings that are excluded from providing cosmetology services outside of a licensed cosmetology establishment, eliminating the requirement for a separate establishment license for electrologists, eliminating the training programs and continuing education required to perform delegated medical procedures, and clarifying the late renewal and reinstatement processes.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Cosmetology managers are not licensed in Illinois. Licensed cosmetologists, cosmetology teachers, or cosmetology clinic teachers may elect to place their license on inactive status. 225 ILCS410/3-7.1. Once a cosmetologist, cosmetology teacher or cosmetology clinic teacher's license is in an inactive status, the licensee may not practice in Illinois. Unlike the Wisconsin provision which allows a licensee to work if the work is minimal. Wis. Stats. § 454.06 (8m) (d).

Iowa: Iowa does not license cosmetology managers but there are provisions regarding inactive license classification. "A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice cosmetology arts and sciences in Iowa until the license is reactivated." 645 IAC 60.8(6).

Michigan: Michigan does not issue a license for cosmetology managers and does not have an inactive licensure classification.

Minnesota: Similar to Wisconsin, Minnesota regulates salon managers. Minn. Stat. §155A.23. Minnesota also allows for an inactive license for applicants who have ceased all practice of cosmetology. An inactive license does not allow a licensee to engage in the practice of cosmetology. Minn. R. 2105.0200

Summary of factual data and analytical methodologies:

The methodologies used in drafting the proposed rule was reviewing 2011 Wisconsin Act 190, reviewing neighboring states statutes and rules, and receiving input from the Cosmetology Examining Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kathleen Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kathleen Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before the public hearing to be held on June 22, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Cos 1.01 (3e) and (3m) are created to read:

Cos 1.01 (3e) “Cosmetologist” has the meaning given in s. 454.01 (7e), Stats.

(3m) “Cosmetology manager” has the meaning given in s. 454.01 (7s), Stats.

SECTION 2. Cos 1.01 (11e) is repealed.

SECTION 3. Cos 1.01 (6m) is amended to read:

Cos. 1.01 (6m) “Division” means the division of ~~enforcement~~ legal services and compliance in the department of safety and professional services.

SECTION 4. Cos 1.01 (17) is repealed.

SECTION 5. Cos 2.025 (2) (a) (intro.) is amended to read:

Cos 2.025 (2) (a) Laser hair removal services. ~~Prior to providing any laser hair removal procedures, a licensee shall complete advanced training in the use of laser devices in a training program of not less than 6 hours. If the training program is provided in a setting other than a licensed school of cosmetology, the program shall incorporate all of the following:~~

SECTION 6. Cos 2.025 (2) (a) 1. to 5., (2g), and (2r) (h), (i), and (j) are repealed.

SECTION 7. Cos 2.04 (2) is amended to read:

Cos 2.04 (2) Licensees shall report to the board unauthorized or unlicensed practice or other violations of ch. 454, Stats., and chs. ~~Cos 1 to 9~~ Cos 1 to 11.

SECTION 8. Cos 2.045 (1m) is created to read

Cos 2.045 (1m) Licensees shall not perform personal care services in any setting in which a persons is not confined to their home because of illness or disability or an institution. Examples of settings in which personal care services may not take place include on-site wedding parties, adult day care centers, or assisted living facilities.

SECTION 9. Cos 2.06 (4) and (5) are amended to read:

Cos 2.06 (4) Maintain and provide appropriate records for apprentices, temporary permit holders, training permit holders, and practitioners, including employment records, to enable apprentices or practitioners to meet the requirements of s. 454.06 (3) (b), 440.63 (3) (a) 1. or 454.10 (2), Stats., for credentialing as a practitioner, manager or instructor. Owners shall maintain these records for a minimum of 5 years.

(5) In the case of an owner of a cosmetology establishment, employ a cosmetology manager who shall have direct authority over the operations of the establishment. If the cosmetology manager of an establishment leaves employment or becomes otherwise unavailable, an owner may continue to operate the establishment for

no more than 90 days without a cosmetology manager. The owner shall notify the board that the cosmetology manager is no longer employed or has become otherwise unavailable within 10 days following the cosmetology manager's last day of employment.

SECTION 10. Cos 2.07 is amended to read:

Cos 2.07 Responsibilities of the cosmetology manager. (1) The licensed cosmetology manager of a cosmetology establishment shall be responsible for the daily operations of an establishment and ensure that the establishment is in compliance with ch. 454, Stats., and chs. Cos 3 and 4. The cosmetology manager shall maintain supplies and equipment necessary to ensure safe and sanitary establishment conditions.

(1g) A cosmetology manager shall train and supervise any apprentices in accordance with s. Cos 6.04 (1) and shall supervise any temporary permit holders and training permit holders.

(1r) The cosmetology manager shall, for a minimum of 5 years, maintain and provide appropriate records for apprentices, temporary permit holders, training permit holders, and practitioners, including employment records, to enable apprentices or practitioners to meet the requirements of s. 454.06 (3) (b), 440.63 (3) (a) 2., or 454.10 (2), Stats., for credentialing as a practitioner, cosmetology manager or instructor.

(2) The cosmetology manager shall post all required licenses, permits and notices.

SECTION 11. Cos 3.01 (6) and (10) are amended to read:

Cos 3.01 (6) Establishments shall provide safe and secure areas for storing, cleaning and disinfecting equipment. Poisonous substances stored in public areas shall be locked in a cabinet or closet, with the exception of over-the-counter products used for room deodorizing. These products shall be kept in an elevated location out of the reach of children.

(10) ~~Pets~~ Animals shall not be ~~kept~~ in an establishment during business hours, except for service animals.

SECTION 12. Cos 3.01 (10) (Note) is created to read:

Note: Section 106.52 (1) (fm) of the Statutes reads as follows: “ ‘Service animal’ means a guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.”

SECTION 13. Cos 3.02 (1) and (2) (b) are amended to read:

Cos. 3.02 Other establishment requirements. (1) COSMETOLOGY MANAGER REQUIRED. The owner of a cosmetology establishment shall not operate the establishment unless a licensed cosmetology manager has been employed for the establishment, subject to the exception for temporary unavailability of a cosmetology manager in s. Cos 2.06 (5). The cosmetology manager shall be responsible for supervising and managing the operation of the establishment. The owner and the cosmetology manager shall ensure that the establishment operates in compliance with ch. 454, Stats., and rules of the board as follows:

(a) The owner of more than one establishment shall employ a sufficient number of cosmetology managers to satisfy the requirement that a cosmetology manager be present full time in each establishment as defined in s. Cos 1.01 (7).

(b) The owner of a cosmetology establishment may satisfy the requirement in this section by employing a cosmetology manager who also works at an establishment owned by a different person, provided the cosmetology manager works full time as defined in s. Cos 1.01 (7) at each establishment where he or she is employed as a cosmetology manager.

(c) A cosmetology manager is required to be present in an establishment full time, as defined in s. Cos 1.01 (7), but if an establishment is open for more than 30 hours per week, the cosmetology manager is not required to be present in the establishment at all times when the establishment is open for business, and the cosmetology manager may be absent for reasonable brief periods during a day.

(2) (b) The lessee of a chair or booth shall be responsible for ensuring that the leased chair or booth operates in compliance with ch. 454, Stats., and the rules of the board, and the lessee shall hold a cosmetology manager's and an establishment license. ~~Lessees of chairs or booths leased prior to the effective date of this paragraph shall come into compliance with this paragraph by October 1, 2004.~~

SECTION 14. Cos 3.02 (3) is repealed.

SECTION 15. Cos 3.04 (2) is amended to read:

Cos 3.04 (2) The board shall require identification of the owner, business address, cosmetology manager, type of business, and a copy of the floor plan showing dimensions and required equipment, in addition to other information which may be needed to approve the issuance of a license.

SECTION 16. Cos 3.05 (1) is amended to read:

Cos 3.05 Inspections. (1) Inspections by field representatives or agents of the board may be conducted to assure compliance with ch. 454, Stats., and chs. ~~Cos 1 to 6~~ Cos 1 to 11.

SECTION 17. Cos 4.01 (2) is amended to read:

Cos 4.01 (2) Licensees shall wash their hands thoroughly with soap and running water prior to serving each patron and following removal of gloves. Waterless hand washing agents with alcohol as an active ingredient with a concentration of at least ~~70%~~ 60% are an acceptable substitute for washing hands that are not visibly soiled with soap and running water.

SECTION 18. Cos 4.01 (3) is repealed.

SECTION 19. Cos 4.01 (3), (3g), and (3r) are created to read:

Cos 4.01 (3) All tools, implements and items that come in direct contact with a client shall be cleaned and disinfected or disposed of after use on each client.

(3g) All non-disposable manicure tools and implements shall be cleaned and disinfected with a disinfectant as defined in s. Cos 1.01 (6e), after use on each client.

(3r) All items designed to be disposed of after a single use, such as orangewood sticks, cotton, gauze, neck strips, nail wipes, tissues, sponges, paper towels, wooden applicators and spatulas, emery boards or porous nail files, buffer blocks, pumice stones, sanding bands or sleeves and disposable nail bits shall be disposed of after each use.

SECTION 20. Cos 4.02 (3) and (6) (Note) are amended to read:

Cos 4.02 (3) Disinfection for combs, lifts, brushes, rollers and any other contact equipment shall consist of cleaning with soap and water to remove all organic material, ~~spraying with a tuberculocidal~~ treating with a disinfectant as defined in s. Cos 1.01, and air-drying.

(6) (Note) Chlorine bleach and Lysol® (brown bottle) are germicidal compounds.

SECTION 21. Cos 4.04 (1m) is created to read:

Cos 4.04 (1m) All establishments shall supply licensees with at least one antiseptic listed in s. Cos 4.05.

SECTION 22. Cos 6.04 is amended to read:

Cos 6.04 Practical training for apprentices. (1) (a) The establishment owner with whom an apprentice contracts shall employ a cosmetology manager, whose cosmetology manager's license is not an inactive license, to train and supervise the apprentice, except as provided in pars. (b) and (c). An apprentice shall only work under the supervision of a cosmetology manager, except as provided in pars. (b) and (c).

(b) A cosmetology manager may delegate their supervisory duty to a practitioner who has completed at least 2,000 hours of licensed practice.

(c) A cosmetology manager may delegate their supervisory duty to a barber licensed under ch. 454, Stats., who has completed at least 2,000 hours of licensed practice, but only if the apprentice is a barbering apprentice as referenced in s. 454.22 (1) (c), Stats., and if the apprentice engages only in barbering.

SECTION 23. Cos 7.03 (2) is amended to read:

Cos 7.03 (2) COSMETOLOGY MANAGER. An applicant for licensure as a cosmetology manager shall complete a written examination.

SECTION 24. Cos 7.04 is amended to read:

Cos 7.04 Passing scores. The passing score of the examinations for licensure as a cosmetologist, aesthetician, manicurist, electrologist, or cosmetology manager, shall be based on the board's determination of the level of examination performance required for minimum competence in the profession.

SECTION 25. Cos 8.01 (2) is amended to read:

Cos 8.01 (2) An applicant for licensure as a cosmetology manager shall satisfy the requirements in s. 454.06 (1) and (3), Stats.

SECTION 26. Cos 8.02 (intro.) is amended to read:

Cos 8.02 Licensing requirement without examination. The board may grant a license to practice cosmetology, aesthetics, electrology, ~~or manicuring,~~ or to practice as a cosmetology manager without examination to a licensee of another state provided that the following conditions are met:

SECTION 27. Cos 8.03 is created to read:

Cos 8.03 Inactive license. (1) Any person who has been granted an inactive license, under s. 454.06 (8m), Stats., may not receive compensation for personal care services performed by a licensee and may not practice in a licensed establishment.

(2) Activities permitted under this section include purchasing supplies or cutting hair outside of an establishment, without compensation, such as for a resident in a nursing home.

SECTION 28. Cos 9.03 is repealed and recreated to read:

Cos 9.03 Late renewal and reinstatement. (1) LATE RENEWAL. If the application for renewal is 5 years or more after the expiration of the applicant's last license, the board in its discretion may require as a condition of renewal that the applicant successfully pass the examination required in s. Cos 7.03.

(2) REINSTATEMENT. A licensee who has a license with unmet disciplinary requirements which has not been renewed within five years of the renewal date or whose license has been surrendered or revoked may apply to have the license reinstated in accordance with all of the following:

(a) Evidence of completion of the requirements in sub. 1, if the credential has not been active within the last 5 years.

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances warranting reinstatement of the credential.

(3) A licensee may not practice as a cosmetologist, aesthetician, electrologist, manicurist or cosmetology manager prior to being granted reinstatement of their respective license.

SECTION 29. Cos 11.01 is amended to read:

Cos 11.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2), and 454.12, Stats., and govern biennial continuing education for aesthetics and cosmetology practitioner and cosmetology manager, electrology and manicuring licenses.

SECTION 30. Cos 11.03 (5) (b) and (c) 2., 3. and 5. are amended to read:

Cos 11.03 (5) (b) Teaching a continuing education program. A person who teaches may only receive credit for the initial offering or presentation of a course or program during a biennium. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. A maximum of ~~3~~ 4 credit hours may be obtained by teaching in any biennial reporting period. Full-time faculty may not claim continuing education credits for teaching done as part of their regular duties.

(c) 2. The course or program requires assignments that are completed and prepared by the licensee and submitted to the provider for correction, grading, or both. The assignment must be graded or corrected by the continuing education provider and returned to the licensee before the licensee is allowed to take the course examination. The continuing education provider may not provide a licensee with the assignment answers before the licensee has submitted their completed assignment.

(c) 3. The course or program includes a written examination designed to ensure that the licensee actively participated in the presentation of the material and derived a measurable benefit from participation. A score of 75 percent or higher shall be considered a passing examination score. The continuing education provider may not provide a licensee access to the examination answers before the licensee has taken the exam.

(c) 5. The course or program contains a minimum of 50 minutes of actual instruction for each credit hour offered. For purposes of calculating actual instruction time, the time spent for testing and assessment purposes shall not be included. All continuing education courses made available online, including booklets and text based courses, must include a timer that cannot be fast-forwarded by the licensee unless they have already completed that section of the course and are reviewing the material again. The timer shall ensure that there is a minimum of 50 minutes of actual instruction for each credit hour offered. Text based courses that require licensees to read a substantial amount of course material must include a minimum of 5,000 words per continuing education hour of educational material.

SECTION 31. Cos 11.04 (1) (e) is created to read:

Cos 11.04 (1) (e) Private continuing education providers shall refrain from using promotional materials that give the impression that a course they offer was created or delivered by the cosmetology examining board, the department of safety and professional services or any other state entity. The prohibition against such representations shall include all promotional material regarding provider name, course or business name, websites, advertisements, e-mails or mailings. This does not prohibit continuing education providers from disclosing relevant state approvals, licensures, or appointments in promotional materials.

SECTION 32. Cos 11.04 (4) and (5) (b) are amended to read:

Cos 11.04 (4) Each biennium, the board shall approve ~~a curriculum~~ courses for the continuing education credit hours required under s. Cos 11.03 (2) (a) regarding the laws governing the cosmetology professions and establishments. All providers except those approved under s. Cos 11.04 (2) (a) and (b), shall submit the content of their s. Cos 11.03 (2) (a) courses for review and approval by the board or its designee.

(5) (b) Be completed as prescribed by the board or its designee and filed with the board no later than 45 ~~working~~ business days prior to the program or course date.

SECTION 33. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Cosmetology Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Cos 1- 11

3. Subject

Relating to cosmetology schooling, licensure, and practice requirements

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

This proposed rule makes the changes necessitated by the passage of 2011 Wisconsin Act 190 to Wisconsin Administrative Code Chapters 1 to 11, which includes redefining the term manager to cosmetology manager and creating an inactive license classification. Other changes in the proposed rule include identifying the settings that are excluded from providing cosmetology services outside of a licensed cosmetology establishment, eliminating the requirement for a separate establishment license for electrologists, eliminating the training programs and continuing education required to perform delegated medical procedures, and clarifying the late renewal and reinstatement processes.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will have no economic or fiscal impact on specific business, business sectors, public utility rate payers, local go or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The benefit is to bring the administrative code in line with the statutory changes in 2011 WI Act 190 and to provide greater clarity for applicants and credential holders.

14. Long Range Implications of Implementing the Rule

The benefit is to bring the administrative code in line with the statutory changes in 2011 WI Act 190 and to provide greater clarity for applicants and credential holders.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Cosmetology managers are not licensed in Illinois. Licensed cosmetologists, cosmetology teachers, or cosmetology clinic teachers may elect to place their license on inactive status. 225 ILCS410/3-7.1. Once a cosmetologist, cosmetology teacher or cosmetology clinic teacher's license is in an inactive status, the licensee may not practice in Illinois. Unlike the Wisconsin provision which allows a licensee to work if the work is minimal. Wis. Stats. § 454.06 (8m) (d).

Iowa: Iowa does not license cosmetology managers but there are provisions regarding inactive license classification. "A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice cosmetology arts and sciences in Iowa until the license is reactivated." 645 IAC 60.8(6).

Michigan: Michigan does not issue a license for cosmetology managers and does not have an inactive licensure classification.

Minnesota: Similar to Wisconsin, Minnesota regulates salon managers. Minn. Stat. §155A.23. Minnesota also allows for an inactive license for applicants who have ceased all practice of cosmetology. An inactive license does not allow a licensee to engage in the practice of cosmetology. Minn. R. 2105.0200

17. Contact Name

Katie Paff

18. Contact Phone Number

608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 15-035

AN ORDER to repeal Cos 1.01 (11e) and (17), 2.025 (2) (a) 5., (2g), and (2r) (j), 3.02 (3), and 4.01 (3); to amend Cos 1.01 (6m), 2.04 (2), 2.06 (4) and (5), 2.07, 3.01 (6) and (10), 3.02 (1) and (2) (b), 3.04 (2), 3.05 (1), 4.01 (2), 4.02 (3) and (6) (Note), 6.04, 7.03 (2), 7.04, 8.01 (2), 8.02 (intro.), 11.01, and 11.03 (5) (b) and (c) 2., 3., and 5.; to repeal and recreate Cos 9.03; to create Cos 1.01 (3e) and (3m), 2.405 (1m), 3.01 (10) (Note), 4.01 (3), (3g), and (3r), 4.04 (1m), 8.03, and 11.04 (1) (e), relating to cosmetology schooling, licensure, and practice requirements.

Submitted by **COSMETOLOGY EXAMINING BOARD**

04-23-2015 RECEIVED BY LEGISLATIVE COUNCIL.

05-21-2015 REPORT SENT TO AGENCY.

SG:ZR

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-035

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

In the rule summary, the board should describe its authority to prohibit a person who holds an inactive license under s. 454.06 (8m), Stats., from performing any work in the practice for compensation. Section 454.06 (8m) (d), Stats., permits a person to perform work in the practice for which that person holds an inactive license if that work is minimal, as determined by the department. However, s. Cos 8.03 (1) and (2) appears to only permit activities for which compensation is not received.

2. Form, Style and Placement in Administrative Code

a. Section Cos 2.045 (1m) provides examples of settings in which personal care services may not take place. The board should consider moving this content to a note. [s. 1.09 (1), Manual.]

b. The purpose of proposed s. Cos 8.03 (2) appears to be to clarify the proposed s. Cos 8.03 (1) by using examples. The board should consider moving the contents of proposed s. Cos 8.03 (2) to a note. [s. 1.09 (1), Manual.]

c. Proposed s. Cos 9.03 (3) refers to a “licensee”, which is a term defined by s. Cos 1.01 (10). The board should consider replacing this term with the word “person”. Additionally, the board should consider moving the content of proposed s. Cos 9.03 (3) to a note because s. 454.04 (1) (a) to (d), Stats., already prohibit a person from engaging in cosmetology, aesthetics, electrology, or manicuring if the person does not hold a current license for that activity. [s. 1.09 (1), Manual.]

d. Proposed s. Cos 3.01 (10) (Note), the board should cite the statutory reference as "Section 106.52 (1) (fm), Stats.,".

e. Proposed s. Cos 11.04 (1) (e) does not form a complete sentence with the introductory material in s. Cos 11.04 (1). [s. 1.03 (3), Manual.]

f. Proposed s. Cos 11.04 (1) (e) uses the phrase "shall refrain from", but the prohibitions should be expressed either as "No person may..." or "A person may not...". [s. 1.01 (2), Manual.]

3. Conflict With or Duplication of Existing Rules

a. Section Cos 2.045 (1m) appears to duplicate the requirements of s. Cos 2.045 (1).

b. Section Cos 4.04 (1m) requires all establishments to supply licensees with at least one antiseptic, and s. Cos 4.04 (1) requires that all work stations shall be supplied with at least one antiseptic. Does the board consider these requirements to be duplicative?

c. The title of s. Cos 9.03 is "Late renewal and reinstatement", and the title of s. Cos 9.03 (1) is "Late Renewal". This may cause confusion with the existing title of s. Cos 9.02, which is "Late Renewal".

4. Adequacy of References to Related Statutes, Rules and Forms

Section Cos 4.01 (3g) refers to "a disinfectant as defined in s. Cos 1.01 (6e)"; "disinfectant" is defined in s. Cos 1.01 (6).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section Cos 2.045 (1m) uses the plural form "persons"; this should be changed to the singular "person".

b. In s. Cos 4.01 (3r), the board should consider replacing the words "such as" with the word "including".

c. The board should consider clarifying which activities are prohibited by proposed s. Cos 8.03 (1). Proposed s. Cos 8.03 (1) prohibits a person who has been granted an inactive license from receiving compensation for "personal care services performed by a licensee". It is unclear whether compensation may be received for personal care services as long as the services are not performed by a licensee. It is also unclear whether the prohibition applies to compensation received for services performed by the person who has an inactive license, for services performed by another person, or both.

The proposed rule also states that a person with an inactive license "may not practice in a licensed establishment". It is unclear which services are included in "practice". If the rule is intended to prohibit the practice of cosmetology, this would prohibit different activities than prohibiting "personal care services".

d. Proposed s. Cos 9.03 (2) refers to a "licensee", which is a term defined by s. Cos 1.01 (10). The board should consider mirroring the language of s. Cos 9.02 by replacing "licensee" with "applicant".

e. Proposed s. Cos 9.03 (2) states that a licensee may “apply to have the license reinstated in accordance with all of the following:” and then pars. (a) to (c) list types of evidence. It is unclear whether the licensee must submit with the application each type of evidence listed, or if the license is only to be reinstated if the board finds evidence of the factors listed in pars. (a) to (c). Additionally, given the reference to “unmet” disciplinary requirements in the introductory material, under what circumstances would the content of par. (b) not apply?

f. Proposed s. Cos 9.03 (2) (a) applies “if the credential has not been active within the last 5 years”. It is unclear whether this includes instances in which an inactive license has been issued pursuant to s. 454.06 (8m), Stats.

g. In s. Cos 11.04 (5) (b), what distinction does the board intend by replacing “working days” with “business days” with regard to its filing deadline?

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 5/15/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 6/22/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Update on Cos 5 (CR15-020) relating to courses of instruction	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Cos 5 permanent rule was submitted to the Legislature on 5/1/2015.			
11) Authorization			
Kathleen Paff		5/15/2015	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	
PROCEEDINGS BEFORE THE	:	REPORT TO THE LEGISLATURE
COSMETOLOGY EXAMINING	:	CR 15-020
BOARD	:	
	:	
	:	

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

2013 Wisconsin Act 356 changed the licensure requirements for cosmetologist by reducing the number of training hours required to successfully complete a cosmetology course of instruction from 1,800 to 1,550 and by adding the requirement that a school of cosmetology be accredited by an accrediting agency approved by the board. This reduction in training hours puts Wisconsin on par with course of instruction requirements in neighboring states such as Illinois and Michigan. The reduction in training hours will also relieve the burden on in-state applicants seeking a cosmetology practitioner license in neighboring states and will ease the transition of out-of-state applicants seeking to become licensed as a cosmetologist in Wisconsin. 2013 WI Act 356 allows applicants to receive instruction from a school that is not operating in Wisconsin but has been accredited by an accrediting agency that has been approved by the board, by rule. The proposed rule lists the approved accrediting agencies.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Cosmetology Examining Board held a public hearing on April 6, 2015. The following people either testified at the hearing, or submitted written comments: Sue Kolve-Fechan and Lauri Thomas.

The Cosmetology Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

Lauri Thomas testified at the hearing stating that the accreditation requirements in the proposed rule would be extremely burdensome on small schools licensed in Wisconsin and would cause many schools to shut down.

Sue Kolve-Fechan testified at the hearing and submitted written testimony stating that Cos 5.01 should be amended from “shall not deviate from” to “shall offer at a minimum” in relation to subject specific hourly requirements. In her opinion, an 1800 hour program is what is best for the students. Sue Kolve-Fechan believes that the reduction in hours for cosmetology programs will result in more time learning on the job at businesses which imposes substantial costs to business owners.

The Cosmetology Examining Board explains modifications to its rule-making proposal prompted by public comments as follows:

The Cosmetology Examining Board decided to amend Cos 5.01 to read “shall offer at a minimum” instead of “shall not deviate from” in relation to subject specific hourly requirements.

The Cosmetology Examining Board decided to amend the rule to explain that schools that operate in Wisconsin under s. 440.62 (1) (a), Stats., do not need to obtain accreditation. Schools that are not operating in Wisconsin must be accredited by an accrediting agency specified in the rule.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

None.

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY EXAMINING
COSMETOLOGY EXAMINING BOARD	:	BOARD
	:	ADOPTING RULES
	:	CR 15-020

PROPOSED ORDER

An order of the Cosmetology Examining Board to amend Cos 5.01, to repeal and recreate Cos 5.02 (figure), and to create Cos 5.001 relating to courses of instruction.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 454.06 (2) (b), 454.06 (3) (b), 454.06 (4) (b) 1., 454.06 (5) (b) 1., 454.06 (6) (b) 1., and 454.075, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 454.075, Stats.

Explanation of agency authority:

Pursuant to ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., the Cosmetology Examining Board is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and interpret the statutes it administers. 2013 Wisconsin Act 356 required the reduction of the number of training hours for course of instruction in cosmetology. This change impacted the qualifications for cosmetology licensure. The proposed rule seeks to carry out the mandate of this new legislation by amending Wis. Admin Code. ch. Cos 5.

Related statute or rule:

None.

Plain language analysis:

2013 Wisconsin Act 356 changed the licensure requirements for cosmetologist by reducing the number of training hours required to successfully complete a cosmetology course of instruction from 1,800 to 1,550. This reduction in training hours puts Wisconsin on par with course of instruction requirements in neighboring states such as

Illinois and Michigan. The reduction in training hours will also relieve the burden on in-state applicants seeking a cosmetology practitioner license in neighboring states and will ease the transition of out-of-state applicants seeking to become licensed as a cosmetologist in Wisconsin. 2013 WI Act 356 allows applicants to receive instruction from a school that is not operating in Wisconsin but has been accredited by an accrediting agency that has been approved by the board, by rule. The proposed rule lists the approved accrediting agencies.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Illinois requires cosmetology schools to provide 1,500 hours of instruction in cosmetology. 68 Ill. Adm. Code 117.530.

Iowa: Iowa requires 2,100 hours in cosmetology curriculum. 645 IAC 61.14.

Michigan: Michigan cosmetology curriculum consists of 1,500 of theory and practical instruction and 1,160 hours in minimum practical application. Mich. Admin. Code R.338.2161.

Minnesota: The cosmetology training curriculum consists of 1,550 hours in Minnesota. Minn. R. 2110.0510.

Summary of factual data and analytical methodologies:

The methodologies used in developing this rule include reviewing administrative rules from neighboring states and comparing 2013 Wisconsin Act 356 with Wis. Admin. Code ch. Cos 5.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Kathleen Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kathleen Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before April 6, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Cos 5.001 is created to read:

Cos 5.001 Instruction An applicant for licensure as a cosmetologist, cosmetology manager, aesthetician, electrologist, or manicurist may receive instruction in a school of cosmetology licensed under s. 440.62 (3) (ar), Stats., exempted under s. 440.61, Stats., or accredited by any of the following:

- (1) National Accrediting Commission of Career Arts & Sciences (NACCAS)
- (2) Accrediting Commission of Career Schools and Colleges (ACCSC)
- (3) Council on Occupational Education (COE)
- (4) National Interstate Council of State Boards of Cosmetology (NIC)
- (5) Any other accrediting agency relating to cosmetology that is recognized by the U.S. Department of Education

SECTION 2. Cos 5.01 is amended to read:

Cos 5.01 Courses. Schools which provide instruction to students for cosmetology practitioner or cosmetology manager licenses or specialty schools which provide instruction to students for aesthetician, electrologist, or manicurist licenses shall develop curricula for instruction which are based on the applicable syllabus approved by

the board. A school or specialty school shall offer at a minimum the hours listed for subjects in the appropriate syllabus included in this section.

SECTION 3. Cos 5.02 (figure) is repealed and recreated to read:

FIGURE 5.02

	SUBJECTS	THEORY HOURS	PRACTICAL HOURS
I.	Hygiene, grooming and personal development.	10	0
II.	Bacteriology, sterilization and sanitation.	20	20
III.	Haircutting, hair tapering (clipper-cuts), razor cutting, hairstyling, curling, thermal waving, finger-waving, roller setting, pincurl placement, blow-drying, shampoos, scalp and hair treatments, conditioning, reconditioning, hair analysis, and care of hairpieces, wigs and wefts. Tools, equipment and implements (identification and usage).	140	440
IV.	Hair straightening, hair relaxing, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching	185	392

	and chemistry. Tools, equipment and implements (identification and usage).		
V.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, waxing, facials, facial massages, facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrology. Tools, equipment and implements (identification and usage).	35	60
VI.	Manicuring, including nail Enhancement. Tools, equipment and implements (identification and usage).	10	25
VII.	Anatomy and physiology of the hair, skin and nails and disorders of the hair, skin, scalp and nails	50	0
VIII.	Product knowledge, product use and sales, preparing and consulting with customer for services	30	0

IX.	Laws, rules, professional ethics and history of cosmetology	18	0
X.	Individual student needs, industry trends and electives (e.g. recordkeeping, mathematics, communications, human relations, public relations, first aid, etc.) (Hours may include structured visits conducted by the school outside of the classroom at one or more cosmetology establishments.)	40	75
	TOTAL HOURS	538	1012

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

 (END OF TEXT OF RULE)

This Proposed Order of the Cosmetology Examining Board is approved for submission to the Governor and Legislature.

Dated 4/9/15

Agency

Wichay K M McAlley
 Board Member
 Cosmetology Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
 Original Updated Corrected

2. Administrative Rule Chapter, Title and Number
Cos 5

3. Subject
Course of Instruction

4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	5. Chapter 20, Stats. Appropriations Affected 20.165 (1) (g)
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6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?
 Yes No

9. Policy Problem Addressed by the Rule
2013 Wisconsin Act 356 amended the course of instruction for cosmetology practitioners by decreasing the number of training hours from 1,800 to 1,1550. The Act also required the Cosmetology Examining Board to identify in rule the accrediting agencies it approve to accredit schools. The proposed rule seeks to update the current syllabus in Wis. Admin. Code s. Cos 5.01 to be consistent with Act 356.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, associations representing businesses, local governmental units and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.
No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will have minimal or no economic impact on specific businesses, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefits of implementing this proposed rule includes implementing the statutory goal of 2013 Wisconsin Act 356 and giving clear guidance to cosmetology schools and practitioners on the correct course of instruction required for cosmetologists.

14. Long Range Implications of Implementing the Rule
Long range implications of implementing the rule include consistency in the course of instruction taught at cosmetology schools and consistency amongst neighboring states as to course of instruction requirements.

15. Compare With Approaches Being Used by Federal Government
None.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois requires cosmetology schools to provide 1,500 hours of instruction in cosmetology. 68 Ill. Adm. Codes 117.530.

Iowa: Iowa requires 2,100 hours in cosmetology curriculum. 645 IAC 61.14.

Michigan: Michigan cosmetology curriculum consists of 1,500 of theory and practical instruction and 1,160 hours in minimum practical application. Mich. Admin. Code R.338.2161.

Minnesota: The cosmetology training curriculum consists of 1,550 hours in Minnesota. Minn. R. 2110.0510.

17. Contact Name

Katie Paff

18. Contact Phone Number

608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.