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Governor Scott Walker Secretary Dave Ross

**BARBERING ADVISORY COMMITTEE
VIRTUAL MEETING
Room 121C, 1400 E. Washington Avenue, Madison
Contact: Mojgan Hall - 608-266-2112
December 17, 2012**

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 description of the actions and deliberations of the Board.

**FULL BOARD MEETING
9:00 A.M.**

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes – December 10, 2012 (3-4)**
- C. Secretary Matters
- D. Executive Director Matters
- E. Discussion and Action Related to Barbering Rule Making (5-36)**
- F. New/Other Business
- G. Adjournment

NEXT MEETING DATE: TO BE DETERMINED

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**BARBERING ADVISORY COMMITTEE
MINUTES
DECEMBER 10, 2012**

PRESENT: Hafeezah Ahmad, Art Lyons, Jeffrey Patterson, Joann Schneider, Howard Twait

EXCUSED: Suzanne Sandmann

STAFF: Mojgan Hall, Executive Director; Sam Rockweiler, Advanced Engineer; Matthew Niehaus, Bureau Assistant; other DSPS staff

Mojgan Hall, Chair, called the meeting to order at 9:05 a.m. A quorum of four (4) members was present.

ADOPTION OF AGENDA

MOTION: Hafeezah Ahmad moved, seconded by Jeffrey Patterson, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 12, 2012

MOTION: Joann Schneider moved, seconded by Hafeezah Ahmad, to approve the Minutes of November 12, 2012 as published. Motion carried unanimously.

LEGISLATIVE/RULE MATTERS

Discussion and Action Related to Barbering Rule Making

MOTION: Art Lyons moved, seconded by Hafeezah Ahmad, to accept the changes made to the new Barbering rules as discussed in the Committee meeting. Motion carried unanimously.

ADJOURNMENT

MOTION: Howard Twait moved, seconded by Joann Schneider, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:52 p.m.

THE NEXT MEETING DATE IS DECEMBER 17, 2012

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Summary of Chapter SPS 50 Changes from December 10 - 12

(Page and section numbers refer to the rule draft dated December 12, 2012, and all of these changes are shown there in a red, tracked-changes format (unless different colors are applied electronically by a recipient's word-processing software) – except renumbering typically is not shown in that format, such as renumbering SPS 50 to SPS 205)

1. All references to SPS 50 are renumbered to SPS 205, per Tom Wightman.
2. *On page 2*, subsection (14) Note: References to Lysol and Barbicide Plus are deleted, per input from the advisory committee.
3. Subsection (19): The definition of “general supervision” is deleted because the term is not used in the rules. [This term is not substituted for “direction” on page 4 in SPS 205.200 (1) because “direction” – rather than “general supervision” – is used in section 454.02 (1) of the Statutes in the corresponding text there for treating diseases.]
4. *Page 5*, SPS 205.230 (3) Note: Explains that additional responsibilities for owners are included in the apprenticeship section, per public input during the meeting.
5. *Page 6*, SPS 205.231 (4): Clarifies that all licenses must be posted within the establishment in a location where they are readily visible to the public, which allows deleting the posting requirement on page 7 in SPS 205.240 (13), per input from the committee.
6. *Page 7*, SPS 205.241 (1): Clarifies that the manager is, rather than has been, employed for the establishment.
7. Subsection (2): Clarifies the limitations for leasing chairs or booths, for performing either barbering or cosmetology, per input from the committee and Departmental legal counsel.
8. *Page 9*, SPS 205.270 (2): Substitutes a broader, performance standard of killing 99.99% of germs, in place of using a 70% alcohol solution for waterless hand washing, per input from the committee.
9. SPS 205.271 (1) Note and (2): Deletes reference to tweezers, because the statutory definition of barbering excludes removal of hair at the root, per input from the committee.
10. SPS 205.271 (2) and (3): Clarifies soaking versus spraying with a disinfectant, per input from the committee.
11. *Page 10*, SPS 205.271 (6) Note: Clarifies that the two listed products are examples of germicidal compounds, per input from the committee.
12. SPS 205.290 (1): Clarifies the procedure for exposure to blood, per input from the committee.
13. *Page 12*, SPS Table 205.300–1, Subject V; and page 14, Table 205.310, Subject III: Clarifies that bleaching is the same as lightening, per input from the committee.
14. SPS Table 205.300–2: Underscores the words that are titles, per input from the committee.

15. SPS 205.310 (1) (b): Clarifies that apprenticeship permits are extended rather than renewed, and that the Department of Workforce Development provides notification rather than certification of progress, per input from program staff and the committee.
16. *Page 13*, SPS 205.310 (3) (a) 1.: Clarifies the phrasing for the relationship between the owner and an apprentice, per input from the committee.
17. *Page 14*, SPS 205.320 (3): Clarifies that only the cosmetology apprenticeship hours which are related to barbering can transfer to a barbering apprenticeship, per input from the committee.
18. *Page 15*, SPS 205.330 (7): Clarifies that retaking a failed exam must include retaking all of it, rather than just the non-passed portions, per input from program staff.
19. *Page 16*, SPS 205.340 (2): Newly requires a licensee from another state to pass a written examination conducted or approved by the Department, that addresses Wisconsin's laws and rules governing the barbering profession and establishments, per input from the committee.
20. *Page 17*, SPS 205.410: Clarifies that restoring a license which has expired for 5 years or more is a reinstatement rather than a renewal – and codifies the fee that the Department requires, per input from program staff.
21. *Page 18*, SPS 205.420 (7): Clarifies that the continuing-education means which are listed in pars. (a) to (c) are the only accepted means.
22. *Page 19*, SPS 205.421 (2): Clarifies that no further approval of the listed programs is needed beyond the approval which is provided by this listing.
23. *Page 20*, SPS 205.422 (2): Clarifies that the audits are for assessing compliance with the continuing-education requirements.

File reference: SPS 205/rules changes Post 12.10

SECTION 1. Chapter SPS 205 is created to read:

CHAPTER SPS 205

BARBERS

SUBCHAPTER I

GENERAL

SPS 205.100 Authority and scope. Pursuant to subch. II of ch. 454, Stats., this chapter applies to licensing of barbers, barbering managers and barbering establishments.

Note: Under section 454.22 (1) of the Statutes, “No person may engage in barbering unless the person is one of the following:

- (a) A licensed barber.
- (b) A licensed barbering manager.
- (c) An apprentice in barbering under s. 454.26.
- (d) A student in a barbering course of instruction.
- (e) A person who holds a temporary permit to practice barbering granted by the department under s. 454.23 (7).
- (f) A licensed cosmetologist.
- (g) A licensed cosmetology manager.
- (h) An apprentice in cosmetology under s. 454.10.
- (i) A student in a cosmetology course of instruction.”

SPS 205.110 Definitions. In this chapter:

(1) “Antiseptic” means a chemical that kills or inhibits the growth of organisms on skin or living tissue.

(2) “Barber” has the meaning given in s. 454.20 (1), Stats.

Note: Section 454.20 (1) of the Statutes reads as follows: “Barber” means a person who practices barbering.”

(3) “Barbering” has the meaning given in s. 454.20 (2), Stats.

Note: Section 454.20 (2) of the Statutes reads as follows: “Barbering” means, for compensation, arranging, styling, dressing, shampooing, cleansing, curling, dyeing, tinting, coloring, bleaching, waving, cutting, shaving, trimming, relaxing, singeing, or performing similar work upon the hair of the head, neck, or face of any person by any means. “Barbering” does not include the removal of a person’s hair at the root or the application of temporary or permanent eyelash extensions to the eyelashes of a person.

(4) “Biennium” or “biennial reporting period” means a 2-year period beginning April 1st of each odd-numbered year and ending on March 31st of the next odd-numbered year, during which a licensee shall satisfy the continuing education requirements under this chapter.

(5) “Business day” means any day Monday to Friday, excluding Wisconsin legal holidays.

(6) “Chemical relaxing” means the process of straightening hair by use of chemical agents.

(7) “Chemical waving” means a system of permanent waving employing chemicals rather than heat.

(8) “Contagious” means capable of being transmitted by direct or indirect contact.

(9) “Continuing education” means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills or knowledge of the licensees in the practice of barbering.

(10) “Continuing education credit hour” means a unit of credit for continuing education courses, where one continuing education credit hour equals 50 minutes of actual instruction in a continuing education training program.

(11) “Continuing education training program” means any course, program or activity approved under s. SPS 205.421 having a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee’s professional practice.

(12) “Credential” means a license, permit or certificate or certification of registration that is issued under ch. 454, Stats.

(13) “Department” means the department of safety and professional services.

(14) “Disinfectant” means a chemical or product that destroys disease-causing bacteria.

Note: Examples of disinfectants are (1) a solution of household bleach (5¼ percent sodium hypochlorite) and water containing at least 500 parts per million (ppm) available chlorine (1:100 dilution, or 2 teaspoons of household bleach per quart of water made fresh each day prior to use); (2) a solution of at least 70% isopropyl alcohol; (3) a solution using a phenolic germicidal, ~~such as Lysol® (brown bottle)~~; (4) a solution using an iodophor germicidal agent such as iodine or Betadine®; and (5) a solution using a quaternary ammonium germicide agent ~~such as Lysol (spray) or Barbicide Plus®~~.

(15) “Disinfection” means application of a disinfectant following thorough cleaning of the utensil.

(16) “Division” means the division of legal services and compliance in the department of safety and professional services.

(17) “Establishment” has the meaning given in s. 454.01 (10), Stats.

Note: Section 454.01 (10) of the Statutes reads as follows: “Establishment” means any place in which barbering, cosmetology, aesthetics, electrology, or manicuring is performed.

(18) “Full time” means work that is performed for 30 hours per week or the maximum number of hours an establishment is open if the establishment is open less than 30 hours per week.

~~(19) “General supervision” means the supervising physician is available for direct communication, either in person or by telephone, radio, radiotelephone, television or similar means and is physically located within 120 miles of the licensee.~~

(19) “Infectious” means capable of being transmitted, with or without contact.

(20) “Licensee” means a person who holds a license, permit, certificate or registration issued by the department or who has the right to renew a license, permit, certificate or registration issued by the department.

(21) “Manager” means a person who holds either a current barbering manager license issued under s. 454.23 (3), Stats., and this chapter, or a current cosmetology manager license issued under s. 454.06 (3), Stats., and chapters BC 1 to 11.

Note: For a reprint of section 454.23 (3) of the Statutes, see the Note under section SPS 205.340 (1) (b).

(22) “Owner” means a person who holds an establishment license or right to renew an establishment license.

(23) “Patron” means a person to whom services from a barber are provided for compensation.

(24) “Physician” means a person licensed in Wisconsin to practice medicine and surgery.

(25) “Safety, sanitation, and infection control” means any topics or subjects which pertain to the barbering profession and which are designed to safeguard the public health, safety and welfare by providing instruction on and increasing knowledge and awareness of the identification, assessment, management, control and prevention of factors that may adversely affect the health, comfort, safety, or well-being of individuals. This could include courses dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, and proper techniques for cleaning, disinfection, and sterilization of equipment in accordance with acceptable state and federal standards.

(26) “Sterilization” means a process that destroys all forms of microbial life, including spores.

(27) “Supervision” means regular, on-premise coordination, direction and inspection of the practice of another.

(28) “Temporary permit” means a permit issued by the department under s. 454.23 (7), Stats.

Note: Under section 454.23 (7) of the Statutes, temporary permits allow applicants to perform barbering for up to 6 months while they are scheduled to take the licensure examination.

(29) “Tuberculocidal” means a disinfectant capable of destroying tubercle bacterium.

Note: This destruction can be accomplished through immersion of the object to be disinfected into a solution of household bleach that consists of 5¼ percent sodium hypochlorite diluted to 2 teaspoons per quart of water.

SUBCHAPTER II

PRACTICE OF BARBERING

SPS 205.200 Treatments prohibited, infectious and contagious diseases. (1) No licensee may treat any disease of the skin unless under the direction of a physician.

(2) No licensee may provide services to a patron suffering from an infectious or contagious scalp or skin disease unless the licensee takes appropriate precautions and uses safeguards to prevent the spread of the disease to other patrons and to the licensee.

(3) No licensee, having a known infectious or contagious disease, may provide a service to a patron if the licensee is, by reason of the disease, unable to safely and competently perform the service.

(4) No licensee may provide services to a patron if the licensee has a known infectious or contagious disease unless the licensee takes appropriate precautions and uses safeguards that prevent the spread of the disease to patrons.

SPS 205.210 Practice standards. (1) Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes and department rules applicable to barbering.

(2) Licensees may provide only those services that they are competent to perform by training or experience and are licensed to provide.

(3) Licensees shall provide services to the best of their ability and make reasonable efforts to comply with requests in a manner that is satisfactory to a patron. Licensees may not provide services to a patron without first obtaining the consent of the patron or legal guardian of the patron.

(4) Licensees may neither consume alcohol nor take controlled substances during practice, unless prescribed by a physician.

(5) Licensees shall take adequate and necessary precautions to protect the patron from health and safety hazards when performing services. Licensees may not smoke while performing personal services on a patron.

(6) Licensees may not engage in sexual harassment or sexual assault of a patron, former patron, employee, employer, or co-worker. In this section, “sexual harassment” and “sexual assault” have the meanings defined in ss. 111.32 (13); 940.225 (1), (2), (3) and (3m) and 948.02 (1) and (2), Stats.

Note: Section 111.32 (13) defines sexual harassment as “...unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. ‘Sexual harassment’ includes conduct directed by a person at another person of the same or opposite gender. ‘Unwelcome verbal or physical conduct of a sexual nature’ includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to interfere substantially with an employee’s work performance or to create an intimidating, hostile or offensive work environment.”

Note: Body piercers, body piercing establishments, tattooists and tattoo establishments are regulated by the Department of Health Services under chapter DHS 173. Tanning facilities and tanning facility operators are regulated by the Department of Health Services under chapter DHS 161.

SPS 205.211 Unauthorized practice. (1) Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering.

(2) Licensees shall report to the department unauthorized or unlicensed practice or other violations of ch. 454, Stats., and this chapter.

SPS 205.212 Barbering outside of a licensed establishment. (1) Licensees may not provide barbering outside of a licensed establishment except for persons who are unable to leave their homes because of illness or disability or for persons who are in hospitals, nursing homes, correctional institutions or other institutions. Licensees may provide any barbering for inmates or patients regardless of whether it is done in a designated area or in the personal room of an inmate, patient or infirm person within an institution or private home.

(2) Licensees shall comply with all practice standards set forth in s. SPS 205.210 in providing services outside of a licensed establishment.

SPS 205.220 Advertising. (1) Advertising by licensees shall be truthful and accurate and may not mislead the public.

(2) An establishment shall either post a list of cost of services in a conspicuous place or display a sign that states “All establishment patrons have the right to be informed of the cost of services before the services are provided.”

SPS 205.230 Responsibilities of owners. The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and this chapter. The owner shall do all of the following:

(2) Provide supplies and equipment necessary to maintain safe and sanitary establishment conditions.

(3) Ensure the provision of supervision and training of apprentices and temporary permit holders.

Note: [See section SPS 205.310 for additional requirements for owners who have apprentices.](#)

(4) In the absence of a manager, maintain and provide appropriate records for apprentices, temporary permit holders, and barbers, including employment records, to enable apprentices or barbers to meet the requirements of s. 440.63 (3) (a) 2., 454.23 (2) or 454.23 (3), Stats., for credentialing as an instructor, barber or manager, respectively.

(5) Employ a manager who shall have direct authority over the operations of the establishment. If the 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 manager. The owner shall notify the department that the manager is no longer employed or has

become otherwise unavailable within 10 business days following the manager's last day of employment.

SPS 205.231 Responsibilities of the manager. (1) A manager of a barbering establishment shall be responsible for the daily operations of the establishment and ensure that the establishment is in compliance with ch. 454, Stats., and this chapter. The manager shall maintain supplies and equipment necessary to ensure safe and sanitary establishment conditions.

(2) A manager shall train and supervise any apprentices in accordance with s. SPS 205.310 (3) and shall supervise any temporary permit holders.

(3) A manager shall maintain and provide appropriate records for apprentices, temporary permit holders, and barbers, including employment records, to enable apprentices or barbers to meet the requirements of s. 440.63 (3) (a) 2., 454.23 (2), or 454.23 (3), Stats., for credentialing as an instructor, barber or manager, respectively, except as provided in s. SPS 205.230 (4).

(4) A manager shall post all required licenses, permits and notices within the establishment in a location where they are readily visible to the public.

SPS 205.232 Responsibilities of licensees. Licensees holding current licenses or permits granted under ch. 454, Stats., shall be responsible for all of the following:

(1) Compliance with the sanitation and safety precautions contained in ss. SPS 205.270 to 50.291.

(2) Their own professional practice, conduct and compliance with ss. SPS 205.200 to 50.220.

SPS 205.240 Establishment requirements. (1) Barbering may not be practiced outside the confines of a licensed establishment except as provided in s. SPS 205.212.

(2) Establishments, including floors, walls, ceilings, furniture, equipment, tools, utensils and instruments, shall at all times be in good repair and maintained in an orderly and sanitary condition.

(3) If public drinking facilities are provided, disposable drinking cups or a drinking fountain shall be available.

(4) All floor coverings in an establishment shall be kept in a clean, orderly and safe condition. Loose hair shall be removed regularly and placed in a closed container.

(5) A toilet room may not be used as a dispensary or for the providing of services.

(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.

(7) Plastic or metal containers of adequate size shall be provided to store all soiled linen. All soiled linen shall be properly cleaned in compliance with s. SPS 205.271 (6) or disposed of after use.

(8) Establishments where apprentices are trained shall provide equipment, supplies and products for all barbering services.

(9) No smoking may be allowed in areas of an establishment where flammable products or materials are being used or stored.

(10) Pets may not be kept in an establishment during business hours.

(11) Where an establishment is located in the same building as a residence, the business and living quarters shall be separate.

(12) Establishments shall provide a basin that has hot and cold running water, and a chair that is designed for the service to be provided. At least one basin shall be constructed and available to permit licensees to wash their hands prior to serving each patron and following removal of gloves. Establishments shall provide the equipment and supplies necessary to perform services offered. Basins may be shared with other establishments located on the same premises.

~~(13) The establishment license shall be posted in the establishment.~~

Note: See chapters SPS 361 to 366 or 320 to 325 for ventilation requirements in commercial buildings or one- and two-family dwellings, respectively.

SPS 205.241 Establishment management and leasing requirements. (1) MANAGER REQUIRED. The owner of a barbering establishment may not operate the establishment unless a manager ~~has been is~~ employed for the establishment, subject to the exception for temporary unavailability of a manager in s. SPS 205.230 (5). The manager shall be responsible for supervising and managing the operation of the establishment. The owner and the manager shall ensure that the establishment operates in compliance with ch. 454, Stats., and rules of the department including all of the following:

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

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

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

(2) CHAIR OR BOOTH LEASING. ~~An owner may lease~~ An individual who is neither employed by nor otherwise hired by an owner may perform barbering or cosmetology with a chair or booth ~~to a licensed individual as in the owner's establishment only if all of the~~ following are complied with:

(a) A lease agreement between the owner and individual, for the chair or booth, shall be executed in writing.

(b) The lessee ~~of a chair or booth~~ shall be responsible for ensuring that the leased chair or booth operates in compliance-accordance with ch. 454, Stats., and the rules of the department.

~~and(c) †~~The lessee shall ~~holdbe~~ a manager's and shall hold an establishment license.

(d) The lessee may not contract with an apprentice.

Note: "Lease agreement" in this section includes chair and booth "rental" agreements. To avoid unintended insurance and tax consequences, all parties to a lease or rental agreement are advised to consult with appropriate business advisors and government agencies.

SPS 205.242 Establishment licensure. (1) Before a person may open a new establishment, or change the ownership of an existing establishment, or relocate and create a new establishment as specified in s. SPS 205.260 (2), the person shall submit an application to the department on a form specified by the department.

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

(3) Upon approval of the application and issuance of the license, the establishment may open for business.

(4) Falsification of any information on the application may be grounds for denial, suspension or revocation of the establishment license, as provided in s. 454.29, Stats., and subject the applicant to penalties as indicated in s. 454.295, Stats.

Note: Section 454.295 of the Statutes reads as follows: "Any person who violates this subchapter [II] or any rule promulgated under this subchapter shall be fined not less than \$100 nor more than \$5,000 or imprisoned for not less than 10 days nor more than 90 days or both."

SPS 205.250 Inspections. (1) Inspections by field representatives or agents of the department may be conducted to assure compliance with ch. 454, Stats., and ss. 50.100 to 50.320.

(2) Upon notification of violation, licensees shall respond within 5 business days either by notifying the department of correction of the violation or presenting a proposed plan of correction for department approval.

(3) Failure to respond to a notice of violation or to comply with a plan of correction approved by the department is subject to the provisions for misconduct under s. 440.205, Stats., and to the disciplinary proceedings and actions under s. 454.29, Stats.

SPS 205.260 Change of ownership or location. (1) Change of ownership of any establishment constitutes the creation of a new establishment and shall include submission of an application to the department for a new establishment license.

(2) Change of location of any establishment constitutes the creation of a new establishment and shall include submission of an application to the department for a new establishment license. Relocation of a leased chair or booth that is licensed as an establishment and housed within a lessor establishment shall include written notification to the department identifying the change of chair or booth.

SPS 205.270 Equipment and sanitation. (1) All areas of an establishment and the equipment, tools and implements used by licensees for services in an establishment shall be maintained in a clean, sanitary and safe condition.

(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% that kill 99.99% of germs~~ are an acceptable substitute for using soap and running water to wash hands that are not visibly soiled.

(3) Contact equipment that cannot be cleaned with soap or detergent and water shall be disposed of following each use.

(4) All liquids, creams, powders and semi-solid substances shall be dispensed from a container in a manner that will prevent contamination of the unused portion of the substance.

(5) Shampoo bowls and basins shall be drained after each use and kept in a sanitary and safe condition.

(6) Clean towels shall be used for each patron. A neck strip or towel shall be placed around the neck of the patron to prevent contact with the cape. The head rest of any operating chair shall be covered with fresh linen or paper for each patron.

(7) All other equipment and instruments shall be clean to sight and touch.

SPS 205.271 Disinfection. (1) Unless sterilized, disinfection is required prior to reusing any personal care instruments on another patron.

Note: Examples of personal care instruments are scissors, razors, ~~and~~ clipper blades ~~and tweezers~~.

(2) Disinfection for scissors, razors, ~~and~~ clipper blades ~~and tweezers~~ shall consist of cleaning with soap and water to remove all organic material, wiping with or ~~soaking in~~ spraying with a disinfectant, and air-drying.

(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, soaking in or spraying with a tuberculocidal disinfectant, and air-drying.

(4) Clean and disinfected contact equipment shall be placed in one or more covered containers. One or more separate containers shall be provided for the immediate storage of soiled contact equipment until cleaned and disinfected.

(5) Disinfectant used for decontamination shall be changed daily and shall be kept in a covered container.

(6) Laundry shall be disinfected by washing with a solution containing a germicidal compound.

Note: Bleach and Lysol® (brown bottle) are examples of germicidal compounds.

SPS 205.272 Sterilization. (1) Sterilization shall be accomplished by use of a dry heat or steam sterilizer cleared for marketing by the food and drug administration, and shall be used according to the manufacturer's instructions. If steam sterilization, moist heat, is utilized, heat exposure shall be at a minimum of 121°C or 250°F, for at least 30 minutes. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C or 340°F, for at least 60 minutes.

(2) Sterilizers shall be maintained in working order. Equipment shall be checked in compliance with the manufacturer's recommendations at least monthly to ensure that it is reaching required temperatures.

SPS 205.280 Supplies. (1) All work stations shall be supplied with at least one of the antiseptics listed in s. SPS 205.290 for use by licensees in case of injury.

(2) All licensees working in a licensed establishment shall be supplied with bandages and disposable gloves.

SPS 205.290 Procedure for exposure to blood. (1) (a) When any patron or licensee is exposed to blood by scissors cut, razor cut, needle stick, laceration or other exposure to broken skin or a mucous membrane, the licensee shall stop; barbering and then comply with par. (b) and then par. (c), or then comply with par. (c) and then par. (d), or then comply with (e), whichever are applicable, before resuming the barbering.

(b) Thoroughly wash the exposed area or wound on the ~~patron's or the~~ licensee's body with soap and water; and then disinfect the exposed area or wound with a topical antiseptic such as iodine, 70% isopropyl alcohol, or 6% stabilized hydrogen peroxide or equivalent. ~~In the case of mucous membrane exposure, the licensee shall wash or rinse the affected area with plenty of water.~~

(c) Put on protective gloves.

(d) Thoroughly wash the exposed area or wound on the patron's body with soap and water, and disinfect the exposed area or wound with a topical antiseptic such as iodine, 70% isopropyl alcohol, or 6% stabilized hydrogen peroxide or equivalent.

(e) In the case of mucous membrane exposure, the licensee shall wash or rinse the affected area with plenty of water.

(2) A licensed establishment shall post a written protocol describing the procedure for unintentional occupational exposure to bodily fluids described in sub. (1). The protocol shall be posted in a place conspicuous to licensees.

SPS 205.291 Precautionary procedures. (1) A licensee shall cover any abrasions, oozing or open lesions or wounds on his or her hands or forearms prior to patron contact. If a licensee has oozing or open lesions or weeping dermatitis on his or her hands or forearms that cannot be effectively covered, the licensee shall refrain from direct patron contact until the condition has been resolved.

(2) A licensee shall use disposable protective gloves when dealing with patrons with oozing or open lesions or weeping dermatitis. These gloves shall be changed between patrons and disposed of after use. Gloves shall be removed upon completion of patron services, and hands washed after glove removal.

Note: It is recommended that licensees use protective gloves in handling caustic chemicals such as permanent-waving solution and neutralizer or hair-straightening preparations. The handling of these substances without protection can cause skin damage that may provide a route for infection to be transmitted to the licensee.

(3) Licensees shall carefully bag and dispose of paper products contaminated with blood and thoroughly cleanse and disinfect linens contaminated with blood in accordance with s. SPS 205.271 (6).

Note: Paper products contaminated with blood may be disposed of in the regular trash unless saturated with blood. See section NR 526.05.

SUBCHAPTER III

LICENSURE THROUGH SCHOOL OR THROUGH APPRENTICESHIP, EXAMINATIONS, AND LICENSING

SPS 205.300 Licensure through school. (1) GENERAL. Schools that provide instruction to students for a barber’s or manager’s license shall develop curricula for instruction which are based on the applicable syllabus approved by the department. A school may not deviate from the hours listed for subjects in the appropriate syllabus included in this section.

Note: See chapters SPS 60 to 65 for requirements relating to licensing and corresponding regulation of schools of barbering.

(2) BARBER’S LICENSE SYLLABUS. The syllabus for the barbering practitioner license is shown in Table 205.300–1.

**Table 205.300–1
Barber’s License Syllabus**

	SUBJECTS	THEORY HOURS	PRACTICAL HOURS
I.	Hygiene, grooming and personal development.	5	0
II.	Bacteriology, sterilization and sanitation.	15	10
III.	Tools, equipment and implements.	3	10
IV.	Haircutting, hair tapering (clipper-cuts), razor cutting, hairstyling, curling,	100	400

	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.		
V.	Hair straightening, hair relaxing, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching (lightening) and chemistry.	87	250
VI.	Shaving, beard and mustache shaping, trimming, men's facial, facial massages, and basic principles of electricity.	20	30
VII.	Anatomy and physiology of the hair, skin and disorders of the hair, skin, scalp.	15	0
VIII.	Product knowledge, product use and sales, preparing and consulting with customer for services.	15	0
IX.	Laws, rules, professional ethics and history of barbering.	18	0
X.	Individual student needs, industry trends and electives, such as recordkeeping, mathematics, communications, human relations, public relations, and first aid.	10	12
	TOTAL HOURS:	288	712

(3) MANAGER'S LICENSE SYLLABUS. The syllabus for a manager's license is shown in Table 205.300-2.

**Table 205.300-2.
Manager's License Syllabus**

	SUBJECTS	THEORY HOURS
I.	<u>Business management</u> :- Retail management, advertising and marketing. Time management. Computer applications.	50
II.	<u>Communication</u> :- Communications. Salesmanship. Human relations.	50
III.	<u>Supervision</u> :- Supervision and personnel. Leadership and motivation. Chemical and tool safety. Sanitation safety.	50
	TOTAL HOURS:	150

SPS 205.310 Licensure through apprenticeship. (1) APPRENTICESHIP APPLICATIONS AND PERMITS. (a) The owner of an establishment seeking to train an apprentice shall contact the department of workforce development or the department for an application.

(b) An initial apprenticeship permit shall be issued for a period of 3 years. The permit shall be ~~renewable~~ extendable for one additional 1-year period upon submittal of all of the following:

1. ~~The p~~Payment of ~~the a~~ \$10 ~~renewal~~ fee ~~specified in s. 440.08 (2) (b), Stats.~~
2. Certification-Notification to the department from the department of workforce development of acceptable progress by the apprentice in theory instruction and practical training.

(c) An apprentice may not engage in any barbering work or attend school until a permit has been issued.

(d) Each apprentice shall enter an apprenticeship contract with an establishment owner or his or her designated agent who shall employ and make arrangements for training of the apprentice in accordance with ch. 454, Stats., and the rules of the department.

Note: Under section 454.26 (1) of the Statutes, every barbering apprentice is also governed by section 106.10 of the Statutes and chapter DWD 295. Section 106.10 of the Statutes requires the Department of Workforce Development to also be a party to any contract under this paragraph.

(e) The owner or his or her designated agent shall provide the apprentice with the equipment necessary to learn all phases of practical barbering as listed in s. SPS 205.310 (3) and keep records of all apprentice practical work hours.

(f) An apprentice seeking to transfer his or her apprenticeship contract to another establishment owner shall contact the department of workforce development or the department for transfer procedures. An apprentice may not transfer without prior approval of the department.

(g) Cancellation of an apprenticeship contract by the department of workforce development shall result in an automatic suspension of an apprenticeship permit.

(h) An apprentice who has failed to complete an apprenticeship within 4 years from the date of issuance of his or her initial permit may apply for reentry into the apprenticeship program. Upon its review of the applicant's apprenticeship records, the department may deny the application or issue another apprenticeship permit under specified terms and conditions. The department may allow an apprentice credit for theory and practical training actually obtained under a previous permit.

(2) APPRENTICESHIP INSTRUCTION AND TRAINING. (a) Following issuance of an apprenticeship permit, an apprentice shall enroll in the first available course of theory instruction at a school of barbering and shall maintain acceptable attendance and progress in instruction and practical training. The owner or manager shall pay the apprentice for the hours of school attendance and practical training.

(b) Schools that provide theory instruction for apprentices shall develop a curriculum based on the subjects and theory hours in Table 205.300–1.

(3) PRACTICAL TRAINING. (a) 1. The establishment owner ~~to~~ with whom an apprentice contracts ~~with~~ shall employ a manager to supervise and train the apprentice, except as provided in subd. 2. An apprentice shall only work under the supervision of a manager, except as provided in subd. 2.

2. A manager may delegate their supervisory duty to a licensed barber who has completed at least 2,000 hours of licensed practice.

(b) Each apprentice shall receive at least 3,712 hours of training and experience in the practical services of barbering to qualify for the examination as a barber. Training and experience shall include the subjects and practical hours of training shown in Table 205.310.

Table 205.310
Apprentice Training and Experience

	SUBJECTS	PRACTICAL HOURS
I.	Bacteriology, sterilization and sanitation in the establishment.	70
II.	Haircutting, hair tapering (clipper cuts), razor cutting, hair styling, curling, thermal waving, finger-waving, roller setting, pin curl placement, blow-drying, shampoos, scalp and hair treatment, conditioning, reconditioning, hair analysis and care of hairpieces, wigs and wefts.	1830
III.	Hair straightening, hair relaxing, thermal hair straightening, blowouts, permanents, hair coloring, tinting, bleaching (lightening) and chemistry.	250
IV.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, men's facial, and facial massages.	330
V.	General patron service and individual apprentice needs.	1,232
	TOTAL PRACTICAL HOURS	3,712

SPS 205.320 Transfers. (1) TRANSFER FROM A SCHOOL TO AN APPRENTICESHIP.

(a) Any student transferring to an apprenticeship program shall be granted apprenticeship credit for school hours attained, at a ratio of one student theory hour to one apprentice theory hour, and one student practical hour to one apprentice practical hour.

(b) The department may grant transferees to an apprenticeship program credit for calendar time spent in prior training.

(2) TRANSFER FROM AN APPRENTICESHIP TO A SCHOOL. Any apprentice transferring to a school program shall be granted school credit for apprenticeship hours attained, at a ratio of one apprentice theory hour to one student theory hour, and 4 apprentice practical hours to one student practical hour.

(3) TRANSFER FROM A COSMETOLOGY APPRENTICESHIP TO A BARBERING APPRENTICESHIP. Any cosmetology apprentice regulated under chs. BC 1 to 11 who transfers to a barbering apprenticeship shall be allowed to transfer all of their cosmetology apprenticeship hours [that are related to barbering](#) to the barbering apprenticeship, on a one-to-one basis.

SPS 205.330 Examinations. (1) ADMINISTRATION. The department may do any of the following:

(a) Prepare, administer, or grade examinations.

(b) Approve, in whole or in part, an examination prepared, administered, and graded by a test service provider.

(2) COMPETENCY TESTING. (a) The department shall determine the subject matters for each license and design the examinations to test for minimum competence in the subjects tested.

(b) The department shall make available general information describing the competencies upon which the examination is based.

(3) FORM OF EXAMINATION. (a) *Barber.* An applicant for licensure as a barber shall complete a written examination and a practical examination.

(b) *Manager*. An applicant for licensure as a manager shall complete a written examination.

(4) **PASSING SCORES**. The passing score of the examinations for licensure as a barber or manager shall be based on the department's determination of the level of examination performance needed for minimum competence in the profession.

(5) **UNAUTHORIZED ASSISTANCE**. The department may deny a license to an applicant who gives or receives unauthorized assistance during the examination, or withhold the applicant's score, and may schedule the applicant for reexamination at a future time at the applicant's expense.

(6) **FAILURE REPORTS**. Upon failure of an examination, the department shall provide the applicant with a report of the reasons for the failure.

(7) **REEXAMINATION**. An applicant may retake a failed written or practical examination, but ~~any retake of a barber examination shall include a retake of both the written and practical examinations only in its entirety.~~

SPS 205.340 Licensing. (1) DIRECT LICENSING. (a) An applicant for licensure as a barber shall satisfy the requirements in s. 454.23 (1) and (2), Stats.

Note: Sections 454.23 (1) and (2) of the Statutes read as follows: "(1) **APPLICATION**. An applicant for licensure under this section shall submit an application to the department on a form prescribed by the department.

(2) **BARBER LICENSE**. The department shall grant a barber license to any person who submits an application under sub. (1) and satisfies all of the following conditions:

(a) The applicant pays the initial credential fee determined by the department under s. 440.03 (9) (a), except as provided in s.454.27 (1).

(b) Subject to ss. 111.321, 111.322, and 111.335, the applicant presents evidence satisfactory to the department that the applicant has not been convicted of a felony committed while engaged in the practice of barbering.

(c) The applicant graduates from high school or attains high school graduation equivalency as determined by the department of public instruction; is participating in a program approved by the department; or is at least 18 years old and meets the ability to benefit rule under 20 USC 1091 (d).

(d) The applicant graduates from a course of instruction in barbering of at least 1,000 training hours in barbering in not less than 10 months in a school of barbering licensed under s. 440.62 (3) (ag), a school of cosmetology licensed under s. 440.62 (3) (ar), or a school that is exempted under s. 440.61 or the applicant successfully completes an apprenticeship under s. 454.26.

(e) The applicant passes an examination conducted by the department to determine fitness to practice barbering."

(b) An applicant for licensure as a manager shall satisfy the requirements in s. 454.23 (1) and (3), Stats.

Note: Sections 454.23 (1) and (3) of the Statutes read as follows: "(1) **APPLICATION**. An applicant for licensure under this section shall submit an application to the department on a form prescribed by the department.

(3) **BARBERING MANAGER LICENSE**. The department shall grant a barbering manager license to any person who satisfies all of the following conditions:

(a) The person is a licensed barber or licensed cosmetologist.

(b) The person completes 4,000 hours of practice as a licensed barber or licensed cosmetologist under the supervision of a licensed barbering manager or licensed cosmetology manager or completes 2,000 hours of practice as a licensed barber or licensed cosmetologist and 150 training hours of theoretical instruction in barbering in a school of barbering licensed under s. 440.62 (3) (ag) or school of cosmetology licensed under s. 440.62 (3) (ar) or exempted under s. 440.61.

(c) Pays the fee under s. 440.05 (1).

(d) Passes an examination conducted by the department to determine fitness to practice as a barbering manager."

(2) RECIPROCITY OR ENDORSEMENT LICENSING. Pursuant to s. 454.27, Stats., the department may grant a license to practice barbering without examination, to a person from another state provided that all of the conditions in either (a) to (ed) or (b) to (de) are met:

(a) The department has entered into a written reciprocal agreement with the licensing authority of another state, after determining that the education and services practiced are substantially equivalent to those in Wisconsin.

(b) The applicant holds a current license in the other jurisdiction.

(c) The applicant pays the appropriate fee as indicated in s. 440.05, Stats.

(d) The applicant passes a written examination conducted or approved by the department that addresses this state's laws and rules governing the barbering profession and establishments.

(de) The applicant has at least 4,000 hours of experience in licensed practice.

(3) INACTIVE LICENSE. Any person who has been granted an inactive license, under s. 454.23 (6), Stats., may not receive compensation for barbering services and may not practice in a licensed barbering establishment.

Note: Activities permitted under this subsection include purchasing supplies – or cutting a resident's hair in a nursing home, without compensation.

SUBCHAPTER IV

RENEWALS, REINSTATEMENT, AND CONTINUING EDUCATION

SPS 205.400 License renewal. To renew a license, a licensee shall, on or before March 31st of every odd-numbered year, file with the department all of the following:

(1) An application for renewal on a form prescribed by the department.

(2) The fee determined by the department under s. 440.03 (9) (a), Stats.

(3) Certification on the application for renewal that the licensee has, during the biennial reporting period immediately preceding application, complied with any applicable continuing education requirements in s. SPS 205.420.

SPS 205.401 Late renewal. If the application for renewal is filed after the deadline in s. SPS 205.400 but less than 5 years after the expiration of the applicant's last license, the applicant shall comply with the continuing education requirements in s. SPS 205.420, and pay the late renewal fee in s. 440.08 (3) (a), Stats., in addition to the renewal fee under s. SPS 205.400 (2).

Note: The late renewal fee in section 440.08 (3) (a) of the Statutes is \$25.

SPS 205.402 Renewal that includes conversion from cosmetology. Until March 31, 2015, an active cosmetologist or cosmetology establishment licensed under chs. BC 1 to 11 may convert to a barbering license upon request to the department and satisfaction of the applicable renewal requirements for barbering.

SPS 205.410 Reinstatement of license. If ~~the an~~ application for ~~renewal~~ restoring a license is occurs 5 years or more after the expiration of the applicant's last-most recent license, the applicant shall pass the examination specified in s. SPS 205.330 (3) prior to renewal-reinstatement of the license, ~~and~~ no continuing education requirements apply to that renewal reinstatement, and the fees listed in s. SPS 205.401 shall be submitted to the department.

SPS 205.420 Continuing education requirements for license renewal. (1) Beginning with the biennial reporting period that starts on April 1, 2013, every licensee shall complete a minimum of 4 continuing education credit hours during each biennial reporting period, except as provided in sub. (3).

(2) The continuing education credit hours required under sub. (1) shall consist of all of the following:

(a) One continuing education credit hour reviewing the laws governing the barbering profession and establishments.

(b) Three continuing education credit hours in safety, sanitation, and infection control.

(3) (a) A licensee is not required to complete continuing education credit hours between initial licensure and the first license renewal period.

(b) A licensee who has completed 8 years of practice as a licensed barber, or as a licensed cosmetologist under chs. BC 1 to 11 – including combinations thereof – is not required to satisfy any continuing education requirements for barbering.

(c) A licensee may complete an education examination conducted by the department, in lieu of the educational programs specified in sub. (7), provided a score of at least 70 is achieved on the examination.

(4) A cosmetologist who has been licensed for less than 8 years under chs. BC 1 to 11 and who elects at the time of renewal in 2013 to be issued a barber license shall complete the continuing education hours for the 2015 renewal.

(5) A cosmetologist who has been licensed for less than 8 years under chs. BC 1 to 11 and who elects at the time of renewal in 2015 to be issued a barber license shall complete the continuing education hours for the 2017 renewal.

(6) (a) If a licensee fails to satisfy the continuing education requirements within a biennial reporting period, continuing education credit hours acquired on or after April 1st of any odd-

numbered year will be first applied to the preceding biennium until the requirement is fulfilled. Continuing education credit hours may not apply to more than one biennium.

(b) A licensee who fails to meet the continuing education requirements by March 31st of any odd-numbered year may not engage in the practice of a barbering until the license is renewed, except as provided in s. SPS 205.424.

(7) Continuing education credit hours may shall be obtained through any of the following means:

(a) Attending seminars, corporate in-house courses, workshops, professional or technical presentations made at meetings, conventions, or conferences approved by the department under s. SPS 205.421. Attendance may be in person or via remote classroom where a qualified provider is available to the participant to comment and answer questions.

(b) Teaching a continuing education program approved by the department under s. SPS 205.421. 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.

(c) Distance education, including completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM or the Internet or correspondence courses. Distance education courses shall meet all of the following criteria:

1. The course or program is offered by a provider approved under s. SPS 205.421 and the program meets the requirements of s. SPS 205.420.

2. The course or program requires assignments that are completed or prepared by the licensee and submitted to the provider for correction, grading, or both. A copy of the correction or grading shall be returned to the licensee within 5 business days of receipt to provide the licensee an opportunity to incorporate the results into preparing for the examination under subd. 3.

3. a. 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 participating.

b. The examination shall include at least 5 questions for each hour of instruction.

c. A score of 75 percent or higher shall be considered a passing examination score.

4. The course or program contains a reasonable procedure for verifying the enrollees' identities.

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 may not be included.

6. All corrected or graded lessons and examinations are maintained by the provider for no less than 5 years and submitted to the department or its designee upon request, for auditing purposes.

SPS 205.421 Standards for approval. (1) To be approved, a continuing education training program shall consist of or accomplish all of the following:

(a) Include instruction in an organized method of learning contributing directly to the professional competency of the licensee and pertaining to subject matters that integrally relate to the practice of the profession. The instruction shall include amplification, evaluation, examples, and explanation of the course subject matter to the licensee.

(b) Be conducted by individuals or entities which have specialized education, training or experience, and which are considered qualified in the subject matter of the program as determined by the department.

(c) Fulfill pre-established goals and objectives as determined by the department.

(d) Provide attendance or completion verification records in the form of completion certificates or other documents evidencing attendance at, or completion of, the continuing education training program. The certificate or other document shall include all of the following:

1. The name of the course.
2. The sponsor's name.
3. The student's name.
4. The date of completion.
5. The number of hours.
6. A signature from the instructor or provider.

(2) Continuing education programs offered by any of the following providers qualify for continuing education credit hours with no ~~prior~~ further approval from the department needed, except as provided in sub. (4):

(a) Universities, technical colleges and schools licensed by the appropriate authority for the state in which the program is offered.

(b) The department.

(c) State or national professional organizations recognized by the department.

(3) The department may approve programs by any of the following providers:

(a) State-licensed or -certified instructors who have not had any disciplinary actions taken against them in the 3-year period preceding their planned instruction.

(b) Product distribution companies, national salon chains, or other providers that offer programs with significant professional educational benefits for licensees as determined by the department.

(4) Each biennium, the department shall approve a curriculum for the continuing education credit hours required under s. SPS 205.420 (2) (a) regarding the laws governing the barbering profession and establishments. All providers except those approved under s. SPS 205.421 (2) (a) and (b), shall submit the content of their s. SPS 205.420 (2) (a) courses for review and approval by the department or its designee.

(5) An application for approval of a continuing education program shall comply with all of the following:

(a) Be on a form approved by the department or its designee.

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

(c) Include course materials and a detailed course outline with specific allocations of hours to each topic presented.

(d) Contain a provision by which the program provider agrees to comply with the requirements in this chapter that are applicable to providers.

(6) The department may require a provider seeking approval of a continuing education program to describe or furnish their organizational structure, registration policies, fee schedules, promotional materials, student records system, names and qualifications of instructors, the method of instruction, a summary of evaluations conducted, and information about the provider's response to any complaints concerning an instructor or the course.

(7) The approval of a provider or a program under this section may be withdrawn in the sole discretion of the department or its designee based upon a determination that the program fails to comply with the requirements of this chapter.

SPS 205.422 Certificate of completion, proof of attendance. (1) Each licensee shall certify on the license renewal application that they fully comply with the continuing education requirements in this chapter.

(2) The department may conduct a random audit of its licensees on a biennial basis for assessing compliance with these requirements. It is the responsibility of each licensee to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is requested by the department or its designee, the licensee shall submit the requested information or documentation within 30 business days of receiving the written notice. Failure to do so may result in disciplinary action.

SPS 205.423 Recordkeeping. A licensee shall obtain a certificate of completion from the program provider for each continuing education training program completed. The licensee shall retain the certificates and any other required documentation for a minimum of 5 years.

SPS 205.424 Waiver of continuing education requirement. (1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary and extreme hardship, as determined by the department, may submit a written request for a waiver. The department or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a written statement setting forth the basis of the request, shall be deemed to be licensed and in good standing until the final decision on the application is issued by the department or its designee. If a finding of extreme hardship is not made, the applicant shall immediately discontinue engaging in the practice of barbering until the applicant meets the requirements of s. SPS 205.420 and submits evidence of compliance to the department or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennia.

SUBCHAPTER V

FORFEITURES

SPS 205.500 Scope. (1) The citation procedures in this section may be used in an action to recover a forfeiture under s. 454.29, Stats.

Note: The forfeitures under section 454.29 of the Statutes may be assessed against any license holder or applicant who has committed any of the offenses listed in the section, and can be up to \$1,000 for each separate offense. Each day of continued violation is a separate offense.

(2) The citation form provided under this section may serve as the initial pleading for a disciplinary action and is adequate process to give the department jurisdiction over the credential holder, if the citation is served upon the credential holder.

SPS 205.510 Citation for administrative forfeiture. (1) A citation under this section shall be issued by one of the department's investigators and shall contain substantially all of the following information:

- (a) The name, address and credential number of the credential holder.
- (b) The name and signature of the individual issuing the citation.

(c) A description of the violation alleged, the time and place of its occurrence, a statement that the respondent committed the violation, and the statute or administrative code provision violated.

(d) Notice that the credential holder may submit a response contesting the citation and requesting a hearing. The notice shall include the date and address for the timely submission of a request, and shall state that the request for a hearing must be in writing.

(e) The forfeiture assessment requested by the division.

(f) A summary of the citation procedure, including the provisions for deposit and stipulation in lieu of an appearance before an administrative law judge or the department.

(2) A citation shall be substantially in the form shown in the Appendix.

SPS 205.520 Service. Service of a citation under this section may be accomplished by mailing a copy of the citation to the credential holder at the last known address of the credential holder or by any procedure described in s. 801.14 (2), Stats.

SPS 205.530 Effect of payment. The credential holder may deposit the amount of forfeiture identified in the citation by mailing the deposit and a copy of the citation to the division. Payment shall be treated as a plea of no contest and submission to an order of forfeiture, not to exceed the amount of the deposit.

SPS 205.540 Request for hearing. (1) Within 20 calendar days of the date of service of the citation, the licensee may enter a plea contesting the violation cited and request a hearing on the alleged violation cited.

(2) A plea contesting a violation and requesting a hearing shall be in writing and submitted to the division. The submission shall include a statement of the specific reasons why the licensee believes the forfeiture assessment and the grounds for assessment should be reviewed.

SPS 205.550 Default. (1) If the credential holder does not make a deposit or otherwise respond to the citation in a timely fashion, the department may without further proceedings issue an order of default against the credential holder. A default order issued under this section may assess a forfeiture, not to exceed the amount identified in the citation. Violation of an order issued under this section may result in assessing a forfeiture, not to exceed the amount identified in the citation. Violation of an order issued pursuant to this section may also result in a refusal to renew credentialing or additional disciplinary action.

(2) If the credential holder requests a hearing pursuant to s. SPS 205.526 but fails to appear at the hearing at the time scheduled, the credential holder is in default and the department may make findings and enter an order on the basis of the citation. The department may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the department enters an order, or within a reasonable time.

Note: See sections 440.19 to 440.23 and 454.29 of the Statutes for other disciplinary proceedings and actions – such as administrative warnings, and suspension or revocation of a license, respectively.

SECTION 2. Chapter SPS 205 Appendix is created to read:

CHAPTER SPS 205

APPENDIX

[NOTE TO LEGISLATIVE REFERENCE BUREAU: The Appendix material for this SECTION is included at the end of this document.]

SECTION 3. Section SPS 60.01 is amended to read:

SPS 60.01 Authority. The rules in chs. SPS 60 to 62 and 65 are adopted by the department of safety and professional services under the authority of ss. 227.11 (2) (a), 440.62, and 440.64, Stats., to govern the licensing and regulation of schools of barbering, ~~and~~ cosmetology, aesthetics, electrology, and manicuring, and specialty schools of aesthetics, electrology, and manicuring.

SECTION 4. Sections SPS 61.02 (1) (a), (2) (a), (3) (a) and (4) (a) are amended to read:

SPS 61.02 (1) (a) Schools of barbering ~~and~~ or cosmetology: \$300.

(2) (a) Schools of barbering ~~and~~ or cosmetology: \$250.

(3) (a) Schools of barbering ~~and~~ or cosmetology: \$100.

(4) (a) Schools of barbering ~~and~~ or cosmetology: \$100.

SECTION 5. Section SPS 62.10 (title) and 62.10 are amended to read:

SPS 62.10 (title) Specialty topic instruction privileges and requirements for schools of barbering and cosmetology. A licensed school of barbering ~~and~~ cosmetology may offer a specialty training program in aesthetics or in manicuring, or both, without being licensed as a specialty school or paying license fees beyond those required to maintain licensure as a school of barbering ~~and~~ cosmetology.

SECTION 6. In each of the following sections, substitute “barbering, cosmetology” for “barbering and cosmetology:” SPS 65.01, SPS 65.02 (1), SPS 65.07 and SPS 65.12 (1) (h).

SECTION 7. Section SPS 65.12 (1) (i) 6. is amended to read:

SPS 65.12 (1) (i) 6. Having a license to practice as a barber, ~~and~~ or cosmetologist, or aesthetician, or manicurist, or electrologist limited, suspended, or revoked, or being subject to any

other disciplinary action by any licensing authority regulating the practice of barbering, ~~and~~ cosmetology, aesthetics, manicuring, or electrology.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after publication in the Wisconsin administrative register.

File reference: SPS 205/rules 4

Wisconsin Department of Safety and Professional Services

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CITATION FOR ADMINISTRATIVE FORFEITURE

<input type="checkbox"/> CITATION DLSC CASE FILE # _____	<input type="checkbox"/> FINAL DECISION AND ORDER LS # _____	
<input type="checkbox"/> Individual Credential Holder Name License # _____	OR	<input type="checkbox"/> Establishment Name License # _____

Street _____ City _____ Zip _____

Day of Week _____ Date _____ Time _____

On the above stated time, date and location, an investigation/inspection has disclosed the following violation.

In violation of Section _____ of Wis. Stats. **OR** Wis. Adm. Code

Name and Signature of Investigative Staff _____ Title _____ Date _____

Signature of Licensee **OR** Establishment Owner _____ Date _____

Pursuant to Wis. Stat. § 454.29(3), the Department is authorized to impose a forfeiture in lieu of or in addition to other disciplinary action against your license.

PLEASE TAKE NOTICE THAT THE CREDENTIAL HOLDER MAY DEPOSIT A FORFEITURE IN THE AMOUNT OF \$ _____ BY MAILING A CHECK OR MONEY ORDER NO LATER THAN TWENTY (20) DAYS FROM THE DATE OF THIS CITATION, TOGETHER WITH THE SIGNED COPY OF THIS FORM TO: DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES, DIVISION OF LEGAL SERVICES AND COMPLIANCE, 1400 EAST WASHINGTON AVENUE, P.O. BOX 8935, MADISON, WI 53708. PAYMENT SHALL BE TREATED AS A PLEA OF NO CONTEST TO THE VIOLATION CITED ABOVE AND CONSENT TO AN ORDER OF FORFEITURE, NOT TO EXCEED THE AMOUNT OF THE DEPOSIT.

Please see "NOTICE OF RIGHT TO CONTEST" on next page.

Wisconsin Department of Safety and Professional Services

DIVISION OF LEGAL SERVICES AND COMPLIANCE

NOTICE OF RIGHT TO CONTEST

FURTHER NOTICE that within twenty (20) days of the date of service of this citation, the licensee may enter a plea contesting the violation cited and request a hearing on the alleged violation. Submission of a plea contesting violations and requesting a hearing shall be in writing and submitted to the Department of Safety and Professional Services, Division of Legal Services and Compliance, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708. The submission must include a statement of the specific reasons why the licensee believes the forfeiture assessment and the grounds for assessment should be reviewed.

IF THE CREDENTIAL HOLDER DOES NOT MAKE A DEPOSIT OR OTHERWISE RESPOND TO THE CITATION IN A TIMELY FASHION, THE DEPARTMENT MAY WITHOUT FURTHER PROCEEDINGS ISSUE AN ORDER OF DEFAULT AGAINST THE CREDENTIAL HOLDER. A DEFAULT ORDER ISSUED UNDER THIS SECTION MAY IMPOSE A FORFEITURE, NOT TO EXCEED THE AMOUNT IDENTIFIED ON THE CITATION. VIOLATION OF AN ORDER ISSUED PURSUANT TO THIS SECTION MAY RESULT IN A REFUSAL TO RENEW CREDENTIAL OR ADDITIONAL DISCIPLINARY ACTION.

If the credential holder requests a hearing but fails to appear at the hearing at the time fixed therefor, the credential holder is in default and the Department may make findings and enter an order on the basis of the citation.

Questions With SPS 205 Rules 4

1. Why does chapter 454 of the Statutes prohibit rules requiring use of a tuberculocidal disinfectant in a cosmetology establishment, but not prohibit such rules for barbering establishments? Why does the manufacturer of Barbicide Plus recommend using it only in states that require tuberculocidal disinfectants? Should we delete the requirement on page 9 in SPS 205.271 (3) to use a tuberculocidal disinfectant?

File reference: SPS 205/Rules 4 questions

Timeline for SPS 50: Barbers

<u>Action</u>	<u>Date</u>
<u>Emergency Rule</u>	
Get Secretary approval of scope statement	July 25, 2012
Get Governor approval of scope statement and transmit to LRB	August 10, 2012
Scope statement printed in <i>Wisconsin Administrative Register</i>	September 1, 2012
Scope statement implemented	October 15, 2012
Finalize emergency rule and send to Secretary for approval	December 20, 2012
Send to Governor for approval	January 23, 2013
Send to Secretary for adoption	February 7, 2013
Emergency rule adoption date	February 22, 2013
Emergency rule effective date	February 28, 2013
Emergency rule (and permanent rule) Hearing date	April 1, 2013
Draft request for 1st extension	June 7, 2013
Expiration of emergency rule	July 27, 2013
Draft request for 2nd extension	August 7, 2013
Expiration of 1st extension	September 25, 2013
Expiration of 2nd extension	November 24, 2013
<u>Permanent Rule</u>	
Finalize the draft rule and the draft Economic Impact Analysis (EIA)	December 20, 2012
End of comment period for draft Economic Impact Analysis	January 3, 2013
Finalize Economic Impact Analysis	January 24, 2013
Get approval to announce Hearing and transmit to LRB	March 1, 2013
Announcement noticed in <i>Register</i>	March 15, 2013
Permanent rule (and emergency rule) Hearing date	April 1, 2013
Finalize rule materials for legislative review	April 15, 2013
Get Secretary approval for legislative review	April 30, 2013
Get GORC approval for legislative review	May 15, 2013
Transmit for legislative review	May 16, 2013
Assignment of rule	May 30, 2013
Senate and Assembly review ends (includes no hearing)	June 29, 2013
Rule sent to Joint Committee for Review of Administrative Rules	July 2, 2013
JCRAR review ends (no extension included)	August 1, 2013
Adoption and filing of rule	August 16, 2013
Rule in effect (includes 1.5 months for printing)	November 1, 2013

Assumptions in addition to those listed above in parentheses, to avoid a too-soon sunset of the e-rule:

1. Each Secretary approval occurs within two weeks, as does the Governor's and GORC's
2. Public-Hearing version of the permanent rule and the analysis are the same as the emergency rule and analysis that are approved by the Secretary
3. Economic impact will be none to minimal
4. EIA and Hearing inputs can each be adequately addressed within 10 business days
5. Emergency rule will be extended as requested

Deadlines Due to Adopting an Emergency Rule

Submit-to-Clearinghouse deadline	May 2, 2013
Hearing deadline -- from effective date of emergency rule	May 29, 2013
Hearing deadline -- from Clearinghouse response (with ≥ 5-day review)	April 7, 2013

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