



COSMETOLOGY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
April 6, 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 March 02, 2015 (3-5)**
- C. Administrative Matters**
 - 1. Board and Staff Updates
 - 2. Renewal Update
- D. Public Hearing 9:45 AM**
 - 1. Clearinghouse Rule 15-020 Relating to Courses of Instruction **(6-14)**
 - 2. Review and Respond to Clearinghouse Report and Public Hearing Comments
- E. Legislative and Administrative Rule Matters**
 - 1. COS 1-11 Cosmetology Schooling, Licensure and Practice Requirements **(15)**
- F. 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)
- G. 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.).

H. Monitoring

1. Shay Benitez - Petition for Payment Plan and Termination of Suspension **(16-19)**

I. Case Closing

1. 13 BAC 123 D.P.B.S. **(20-24)**
2. 13 BAC 153 M.C.D.B.S; T.E.M **(25-27)**
3. 13 BAC 145 A.F; B.L.B **(28-31)**

J. Proposed Stipulation and Final Decision and Order

1. 13 BAC 085 C.F.Y LLC; P.S. **(32-36)**
2. 13 BAC 085 D.S. **(37-41)**
3. 13 BAC 119 S.C.F. **(42-47)**
4. 13 BAC 119 S.C.R **(48-53)**

K. Case Status Report (54-58)

L. 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

M. 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
March 2, 2015**

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

EXCUSED: Vicky McNally

STAFF: Brittany Lewin, Executive Director; Kelly Williams, Bureau Assistant; and other Department staff

CALL TO ORDER

Geraldine Reuter, Chair, called the meeting to order at 9:40 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- ***Under Item “C. Administrative Matters” (Open Session) ADD: “Delegated Authorities Motion” as Item ‘C.2.’***

MOTION: Gail Sengbusch moved, seconded by Lori Paul, to amend agenda to add “Delegated Authorities Motion”. Motion carried unanimously.

MOTION: Gail Sengbusch moved, seconded by Kristin Allison, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRAURY 2, 2015

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

ADMINISTRATIVE MATTERS

Delegated Authorities Motion

MOTION: Lori Paul moved, seconded by Dianna Wachter, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

COS 5 COURSE OF INSTRUCTION

MOTION: Kristin Allison moved, seconded by Dianna Wachter, to authorize the draft for submitting the course of instruction to the Clearinghouse. Motion carried unanimously.

COS 1 TO 11 COSMETOLOGY SCHOOLING LICENSURE AND PRACTICE REQUIREMENTS

MOTION: Gail Sengbusch moved, seconded by Dianna Wachter, to delegate Geraldine Reuter to review and approve the revisions to COS 2 relating to Cosmetology School Licensure and Practice Requirements for posting of the EIA Comments and submission to the Clearinghouse. Motion carried unanimously.

MOTION: Lori Paul moved, seconded by Gerri Reuter, to delegate Vicky McNally and Kristin Allison to review and approve the revisions to COS 1, 3-11 relating to Cosmetology School Licensure and Practice Requirements for posting of the EIA Comments and submission to the Clearinghouse. Motion carried unanimously.

MOTION: Gail Sengbusch moved, seconded by Dianna Wachter, to note that Gail Sengbusch disagrees with COS 3.01 because it is above health care standards. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Gail Sengbusch, to add language from Illinois Administrative code 1175.115 (b) (3), (4), (5) to COS 1 to 11 rule package. 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. Motion carried unanimously.

CLOSED SESSION

MOTION: Kristin Allison moved, seconded by Lori Paul, 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 11:22 a.m.

RECONVENE TO OPEN SESSION

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

The Board reconvened into open session at 11:26 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

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

CASE CLOSINGS

MOTION: Kristin Allison moved, seconded by Lori Paul, to close DLSC case number 13 BAC 096, for Prosecutorial Discretion (P3). Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Dianna Wachter, to close DLSC case number 13 BAC 151, for No Violation (NV). Motion carried unanimously.

MOTION: Gerri Reuter moved, seconded by Lori Paul, to close DLSC case number 14 BAC 056 for Prosecutorial Discretion (P2). Motion carried unanimously.

MOTION: Lori Paul moved, seconded by Dianna Wachter, to close DLSC case number 14 BAC 077 for Insufficient Evidence. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Kristin Allison moved, seconded by Gerri Reuter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 096. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Dianna Wachter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 096. Motion carried unanimously.

PROPOSED FINAL DECISION AND ORDER OF DEFAULT

MOTION: Dianna Wachter moved, seconded by Gerri Reuter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against Case 13 BAC 135. Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 11:27 a.m.

**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: 3/5/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cosmetology Examining Board			
4) Meeting Date: 4/6/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public Hearing on Clearinghouse Rule 15-020 relating to courses of instruction. Review and respond to Clearinghouse Report and Public Hearing comments	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Hold Public Hearing at 9:45 AM. Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.			
11) Authorization			
<i>Kathleen Paff</i>		3/5/2015	
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
	:	

PROPOSED ORDER

An order of the Cosmetology Examining Board to amend Cos 5.01 and to repeal and recreate 5.02 relating to course of instruction.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 454.06 (2) (b), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), Stats. and 2013 Wisconsin Act 356

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 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.

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 2,1000 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 5.01 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 not deviate from the hours listed for subjects in the appropriate syllabus included in this section. Schools shall be accredited by any of the following board approved accrediting agencies including the National Accrediting Commission of Career Arts & Sciences (NACCAS), the Accrediting Commission of Career Schools and Colleges (ACCSC), the Council on Occupational Education (COE), the National Interstate Council of State Boards of Cosmetology (NIC) and any other accrediting agency relating to cosmetology that is recognized by the U.S. Department of Education.

SECTION 2. Cos 5.02 (intro.) and Figure 5.02 are repealed and recreated to read:

Cos. 5.02 Cosmetology practitioner license syllabus. A syllabus for the practitioner license is shown below in Table 5.02:

Table 5.02

	SUBJECTS	THEORY HOURS	PRACTICAL HOURS
I.	Hygiene, grooming and personal development.	10	0
II.	Bacteriology, sterilization	20	20

	and sanitation.		
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 and chemistry. Tools, equipment and implements (identification and usage).	185	392
V.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, waxing, facials, facial massages,	35	60

	facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrology. Tools, equipment and implements (identification and usage).		
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	40	75

	relations, first aid, etc.) (Hours may include structured visits conducted by the school outside of the classroom at one or more cosmetology establishments.).		
	TOTAL HOURS	538	1012

SECTION 2. Pursuant to s. 227.24 (1) (c), Stats., this emergency rule shall take effect upon publication in the official state newspaper.

 (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 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 1,150. 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

Shawn Leatherwood

18. Contact Phone Number

608-261-4438

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

**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: 3/25/2015 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: 4/6/2015	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 Cosmetology Schooling, Licensure, and Practice Requirements	
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: None	
10) Describe the issue and action that should be addressed: The Board will review and discuss the preliminary rule draft of Cos 1 to 11 relating to Cosmetology Schooling, Licensure, and Practice Requirements. The Board will approve, or authorize a member of the Board to approve, the revisions to Cos 1 to 11 relating to Cosmetology Schooling, Licensure, and Practice Requirements for posting of EIA comments and submission to the Legislative Clearinghouse.			
11) Authorization			
Kathleen Paff		3/25/2015	
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.			