



COSMETOLOGY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
September 21, 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 (1-3)**
- B. Approval of Minutes:**
 - 1. June 22, 2015 **(4-8)**
 - 2. July 14, 2015 **(9-10)**
- C. Administrative Matters**
 - 1. Staff Updates
 - 2. New Board Member Introductions
- D. Legislative and Administrative Rule Matters – Discussion and Consideration (11-37)**
 - 1. Update on COS 5, Relating to Courses of Instruction (CR 15-020)
 - 2. Update Regarding COS 1-11, Relating to Schooling, Licensure, and Practice Requirements (CR 15-035)
 - 3. Pending and Possible Legislative and Rule Projects
- E. Deliberation on Items Added After Preparation of Agenda:**
 - 1. Introductions, Announcements and Recognition
 - 2. Election of Board Officers
 - 3. Appointment of Board Liaison(s)
 - 4. Administrative Matters
 - 5. Education and Examination Matters
 - 6. Credentialing Matters
 - 7. Practice Matters
 - 8. Legislation/Administrative Rule Matters
 - 9. Liaison Reports
 - 10. Informational Items
 - 11. Disciplinary Matters
 - 12. Presentations of Petitions for Summary Suspension
 - 13. Petitions for Designation of Hearing Examiner
 - 14. Presentation of Proposed Stipulations, Final Decisions and Orders

15. Presentation of Proposed Final Decision and Orders
16. Presentation of Interim Orders
17. Petitions for Re-Hearing
18. Petitions for Assessments
19. Petitions to Vacate Orders
20. Request for Disciplinary Proceeding Presentations
21. Motions
22. Petitions
23. Appearances from Requests Received or Renewed
24. Speaking Engagements, Travel, or Public Relation Requests

F. 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.).

G. Deliberation on Administrative Warnings

1. 14 BAC 011, R.A.S. **(38-39)**

H. Deliberation on Case Closings

1. 14 BAC 014 **(40-43)**
2. 14 BAC 034 **(44-47)**
3. 14 BAC 038 **(48-50)**
4. 14 BAC 040 **(51-54)**
5. 14 BAC 041 **(55-58)**
6. 14 BAC 044 **(59-62)**
7. 14 BAC 049 **(63-66)**
8. 14 BAC 054 **(67-70)**
9. 14 BAC 055 **(71-73)**
10. 14 BAC 065 **(74-76)**
11. 14 BAC 066 **(77-79)**
12. 14 BAC 072 **(80-82)**
13. 14 BAC 078 **(83-86)**
14. 14 BAC 079 **(87-90)**
15. 14 BAC 080 **(91-95)**
16. 14 BAC 083 **(96-98)**
17. 14 BAC 086 **(99-101)**
18. 14 BAC 092 **(102-104)**
19. 15 BAC 013 **(105-108)**
20. 15 BAC 025 **(109-112)**
21. 15 BAC 040 **(113-115)**
22. 15 BAC 042 **(116-118)**
23. 15 BAC 051 **(119-121)**

24. 15 BAC 069 **(122-124)**

I. Deliberation on Proposed Stipulations, Final Decisions, and Orders

1. 14 BAC 080 – Christian F. Murphy & Salon Inveja, LLC **(125-130)**

J. Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspension
7. Petitions for Designation of Hearing Examiner
8. Proposed Stipulations, Final Decision(s) and Order(s)
9. Administrative Warnings
10. Review of Administrative Warnings
11. Proposed Final Decisions and Orders
12. Orders Fixing Costs/Matters Related to Costs
13. Case Closings
14. Proposed Interim Orders
15. Petitions for Assessments and Evaluations
16. Petitions to Vacate Orders
17. Remedial Education Cases
18. Motions
19. Petitions for Re-hearings
20. Appearances from Requests Received or Renewed

K. 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

L. Board Member Training

ADJOURNMENT

NEXT MEETING: NOVEMBER 16, 2015

**COSMETOLOGY EXAMINING BOARD
MEETING MINUTES
June 22, 2015**

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

STAFF: Brittany Lewin, Executive Director; Kelly Williams, Bureau Assistant; Katie Paff, Rules Coordinator; Amber Cardenas, Legal Counsel and other Department staff.

CALL TO ORDER

Vicky McNally, Vice Chair, called the meeting to order at 9:41 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments:

- Item F. should read Continuing Education Provider Application Process and add Item G. 1. Practice Matters a) Eyelash Extensions.

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

APPROVAL OF MINUTES OF APRIL 6, 2015

Corrections

- “Delete “with the exclusion of” from the motion below.”
- **MOTION:** Lori Paul moved, seconded by Dianna Wachter, to note that Gail Sengbusch disagrees ~~with the exclusion of~~ that emery boards and buffer blocks as single use and believes that they are disinfectable, which was discussed at today's meeting and supported by the scientific research of Doug Schoon. Motion carried unanimously.

MOTION: Kristin Allison moved, seconded by Gail Sengbusch, to approve the minutes of April 6, 2015, as corrected. Motion carried unanimously.

ADMINISTRATIVE MATTERS

ELECTION OF BOARD OFFICERS

BOARD CHAIR

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

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

Vicky McNally was elected as Board Chair by unanimous consent.

VICE CHAIR

NOMINATION: Gail Sengbusch nominated Kristin Allison for the Office of Vice Chair.

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

Kristin Allison was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Kristin Allison nominated Lori Paul for the Office of Secretary.

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

Lori Paul was elected as Secretary by unanimous consent.

2015 OFFICER ELECTION RESULTS	
Office of Chair	Vicky McNally
Vice Chair	Kristin Allison
Secretary	Lori Paul

APPOINTMENT OF LIAISONS

2015 LIAISON APPOINTMENTS	
DLSC Monitoring and PAP Liaison(s)	Lori Paul Alternate- Dianna Wachter
Credentialing Liaison(s)	Vicky McNally Alternate- Gail Sengbusch
Education and Exams Liaison(s)	Vicky McNally
Legislative Liaison(s)	Vicky McNally
2015 SCREENING PANEL APPOINTMENTS	
January-December 2015	Gail Sengbusch Kristin Allison

**CLEARINGHOUSE RULE 1-11 RELATING TO COSMETOLOGY SCHOOLING,
LICENSURE AND PRACTICE REQUIREMENTS**

MOTION: Vicky McNally moved, seconded by Kristin Allison, to reject Clearinghouse comment 1 regarding statutory authority and to accept all remaining Clearinghouse comments for Clearinghouse Rule 15-035 relating to cosmetology schooling, licensure, and practice requirements. Motion carried unanimously.

**LEGISLATIVE/ADMINISTRATIVE RULE MATTERS
COS 5 COSMETOLOGY RELATING TO COURSE OF INSTRUCTION UPDATE**

MOTION: Dianna Wachter moved, seconded by Vicky McNally, to appoint Vicky McNally to approve the Adoption Order for Clearinghouse Rule 15-020 relating to courses of instruction. Motion carried unanimously.

LEGISLATIVE LIAISON

MOTION: Lori Paul moved, second by Dianna Wachter, to designate the Chair to serve as the Legislative Liaison and give the Legislative Liaison authority to talk with the Legislature regarding statutory authority to provide services outside of a licensed establishment. Motion carried unanimously.

PRACTICE MATTERS

MOTION: Lori Paul moved, second by Vicky McNally to request that legal counsel review the Board's statutory authority to draft rules regarding eyelash extensions, and request the administrative rule coordinator to draft a Scope Statement regarding eyelash extensions for consideration at the next meeting. 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.). Vicky McNally 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; Gail Sengbusch – yes; Dianna Wachter – yes. Motion carried unanimously.

The Board convened into closed session at 11:07 a.m.

RECONVENE TO OPEN SESSION

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

The Board reconvened into open session at 11:44 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

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

EDUCATION AND EXAMINATION MATTERS

MOTION: Lori Paul moved, seconded by Kristin Allison, to deny the CE Extension petition of M.L., because she has not demonstrated temporary and extreme hardship per Wis. Admin. Code § Cos 11.07. Motion carried unanimously.

MOTION: Lori Paul moved, seconded by Kristin Allison, to acknowledge that the Board does not have the authority to extend credential renewal deadlines. Motion carried unanimously.

PROPOSED FINAL DECISIONS AND ORDERS

MOTION: Lori Paul moved, seconded by Vicky McNally, to adopt the Proposed Final Decision and Order in the matter of disciplinary proceedings against Lamar D Skinner, Sr.- respondent, (DHA Case No. SPS-14-0099) (DLSC Case No. 14 BAC 079). Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Lori Paul moved, seconded by Gail Sengbusch, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the matter of disciplinary proceedings against S.N.S.- respondent, DLSC Case No. 13 BAC 112. Motion carried unanimously.

DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS

MOTION: Dianna Wachter moved, seconded by Lori Paul, to issue an Administrative Warning in the matter of DLSC case number 14 BAC 020 (T.T.D.). Motion carried unanimously.

CASE CLOSINGS

MOTION: Lori Paul moved, seconded by Dianna Wachter, to close the following cases according to the recommendations by the Division Legal Services and Compliance:

1. 13 BAC 160 (A.A.; J.R.K.; B.B.I.; B.B.) **Prosecutorial Discretion (P3)**
2. 14 BAC 015 (K.M.S.) **No Violation (NV)**
3. 14 BAC 018 (S.M.F.) **Insufficient Evidence (IE)**
4. 14 BAC 084 (T.J.H.; T.B.S.; J.M.D.; T.B.S.) **Prosecutorial Discretion (P3)**
5. 15 BAC 002 (T.P.; S.Z) **Prosecutorial Discretion (P1)**

Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 11:52 a.m.

**COSMETOLOGY EXAMINING BOARD
MEETING MINUTES
July 14, 2015**

PRESENT: Vicky McNally, Lori Paul, Denise Trokan, Gail Sengbusch, Dianna Wachter

EXCUSED: Kristin Allison

STAFF: Brittany Lewin, Executive Director; Kelly Williams, Bureau Assistant; Katie Vieira, Rules Coordinator.

CALL TO ORDER

Vicky McNally, Chair, called the meeting to order at 11:05 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments:

➤ *Correction- Meeting start time of 11:00 am*

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

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

**COS 1-11 COSMETOLOGY SCHOOLING, LICENSURE AND PRACTICE
REQUIREMENTS**

MOTION: Lori Paul moved, seconded by Vicky McNally, to reject the Clearinghouse comment in the statutory authority section and Clearinghouse comments (e.) and (g.) in the clarity, grammar, punctuation, and use of plain language section and to accept all remaining Clearinghouse comments for Clearinghouse Rule 15-035 relating to cosmetology schooling, licensure, and practice requirements. Motion carried unanimously.

MOTION: Vicky McNally moved, seconded by Lori Paul, to amend Cos 4.01 (3g) to read “All non-disposable, disinfectable manicure tools and implements shall be cleaned and disinfected with a disinfectant as defined in s. Cos 1.01 (6), after use on each client.” and Cos 4.01 (3r) to read “All items designed to be disposed of after a single use including orangewood sticks, cotton, gauze, neck strips, nail wipes, tissues, sponges, paper towels, wooden applicators and spatulas, emery boards, buffer blocks, pumice stones, sanding bands or sleeves, and disposable nail bits shall be disposed of after each use.” Motion carried unanimously.

MOTION: Gail Sengbusch moved, seconded by Lori Paul, to authorize the Chair to approve the Legislative Report and Draft as amended, for Clearinghouse Rule 15-035 for submission to the Governor’s Office and Legislature. Motion carried unanimously

CLOSED SESSION

MOTION: Gail Sengbusch moved, seconded by Dianna Wachter, 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.). Vicky McNally read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Vicky McNally – yes; Lori Paul – yes; Gail Sengbusch – yes; Dianna Wachter – yes Denise Trokan - yes. Motion carried unanimously.

The Board convened into closed session at 11:26 a.m.

RECONVENE TO OPEN SESSION

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

The Board reconvened into open session at 11:57a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

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

CONTINUING EDUCATION PROVIDER APPLICATION REVIEW

MOTION: Lori Paul moved, seconded by Dianna Wachter, to authorize Vicky McNally to approve or deny CE Provider Applications for the current biennium. Motion carried unanimously.

ADJOURNMENT

MOTION: Vicky McNally moved, seconded by Gail Sengbusch, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:59 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Vieira Administrative Rules Coordinator		2) Date When Request Submitted: 9/8/2015 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: 9/21/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Update	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Cos 5 relating to courses of instruction (CR 15-020) went into effect on August 1 st , 2015. Cos 1-11 relating to cosmetology schooling, licensure, and practice requirements (CR 15-035) was submitted to the Legislature on August 13 th , 2015. Since then it has been referred to the Senate Committee on Health and Human Services on August 20 th and the Assembly Committee on State Affairs and Government Operations on August 26 th . If a hearing is not requested in the committees or at the Joint Committee on Administrative Rules, we can anticipate the legislative review period to end in early November.			
11) Authorization			
Katie Vieira		9/8/2015	
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.			

CERTIFICATE

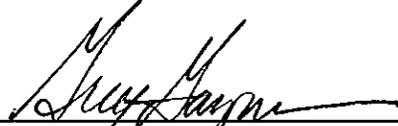
STATE OF WISCONSIN

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

I, Greg Gasper, Administrator of the Division of Policy Development in the Wisconsin Department of Safety and Professional Services and custodian of the official records of the Cosmetology Examining Board, do hereby certify that the annexed rules relating to courses of instruction were duly approved and adopted by the Cosmetology Examining Board on the 21st day of July, 2015.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 22nd day of July, 2015.



*Greg Gasper, Administrator
Division of Policy Development
Department of Safety & Professional Services*

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

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

ORDER

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

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

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

Statutory authority:

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

Explanation of agency authority:

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

Related statute or rule:

None.

Plain language analysis:

2013 Wisconsin Act 356 changed the licensure requirements for cosmetologist by reducing the number of training hours required to successfully complete a cosmetology

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

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

None.

Comparison with rules in adjacent states:

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

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

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

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

Summary of factual data and analytical methodologies:

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

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

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

Fiscal Estimate:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

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

Agency contact person:

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

TEXT OF RULE

SECTION 1. Cos 5.001 is created to read:

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

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

SECTION 2. Cos 5.01 is amended to read:

Cos 5.01 Courses. Schools which provide instruction to students for cosmetology practitioner or cosmetology manager licenses or specialty schools which provide instruction to students for aesthetician, electrologist, or manicurist licenses shall develop curricula for instruction which are based on the applicable syllabus approved by the board. A school or specialty school shall offer at a minimum the hours listed for subjects in the appropriate syllabus included in this section.

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

FIGURE 5.02

	SUBJECTS	THEORY HOURS	PRACTICAL HOURS

I.	Hygiene, grooming and personal development.	10	0
II.	Bacteriology, sterilization and sanitation.	20	20
III.	Haircutting, hair tapering (clipper-cuts), razor cutting, hairstyling, curling, thermal waving, finger-waving, roller setting, pincurl placement, blow-drying, shampoos, scalp and hair treatments, conditioning, reconditioning, hair analysis, and care of hairpieces, wigs and wefts. Tools, equipment and implements (identification and usage).	140	440
IV.	Hair straightening, hair relaxing, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching and chemistry. Tools, equipment and implements (identification and usage).	185	392
V.	Shaving, beard and mustache	35	60

	shaping, trimming, superfluous hair removal, waxing, facials, facial massages, facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrology. Tools, equipment and implements (identification and usage).		
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.	40	75

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

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

(END OF TEXT OF RULE)

Dated July 21, 2015 Agency Wickroy A. Mally
 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)
--	---

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.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Page intentionally left blank

**STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
: CR 15-035
COSMETOLOGY EXAMINING :
BOARD :**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA document is attached.

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

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

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

The Cosmetology Examining Board held a public hearing on June 22, 2015. The following people either testified at the hearing, or submitted written comments:

Laura Thomas, Alexander Academy of Skin Care

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

Ms. Thomas had concerns with individuals providing laser services and other services outside of licensed establishments.

The Cosmetology Examining Board did not modify its rule-making proposal in response to public comments as the proposed rule does not provide for additional locations where licensees may perform services beyond the current rule.

The Cosmetology Examining Board clarified the rule for license holders by adding “disinfectable” to Cos 4.01 (3g) and removing “or porous nail files” from Cos 4.01 (3r). These changes reinforce that license holders do not need to dispose of any tools and implements that are designed by the manufacturer to be disinfected including certain types of porous nail files.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

1. Statutory Authority

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

Response: Section 454.06 (8m) (d), Stats., does not explicitly state that the Board must allow the inactive license holder to perform activities for compensation.

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

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

Response: In s. Cos 9.03 (2) the applicant must submit with the application each type of evidence listed, if applicable. Applicants with surrendered or revoked credentials may not have unmet disciplinary requirements.

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

Response: “Business days” is a commonly used term to refer to the days Monday through Friday. A cosmetologist may work any day of the week including Saturdays and Sundays. Replacing “working days” with “business days” is intended clarify for course providers that the provision is referring to the days Monday through Friday.

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

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

N/A

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY EXAMINING
COSMETOLOGY EXAMINING BOARD	:	BOARD
	:	ADOPTING RULES
	:	CLEARINGHOUSE RULE 15-035

PROPOSED ORDER

An order of the Cosmetology Examining Board to repeal Cos. 1.01 (11e), 1.01 (17), 2.025 (2) (a) 1. to 5., (2g), and (2r) (h), (i), and (j), 3.02 (3), and 4.01 (3); to amend Cos 1.01 (6m), 2.025 (2) (a) (intro.), 2.04 (2), 2.06 (4) and (5), 2.07, 3.01 (6) and (10), 3.02 (1) and (2) (b), 3.04 (2), 3.05 (1), 4.01 (2), 4.02 (3) and (6) (Note), 4.04 (1), 6.04, 7.03 (2), 7.04, 8.01 (2), 8.02 (intro.), 9.02 (title), 11.01, 11.03 (5) (b) and (c) 2., 3., and 5., 11.04 (4) and (5) (b); to repeal and recreate Cos 9.03; to create Cos 1.01 (3e), 1.01 (3m), 2.405 (1) (Note), 3.01 (10) (Note), 4.01 (3), (3g), and (3r), 8.03, 11.04 (1) (e), relating to cosmetology schooling, licensure, and practice requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

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

Statutory authority:

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

Explanation of agency authority:

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

Related statute or rule:

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

Plain language analysis:

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

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

None.

Comparison with rules in adjacent states:

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

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

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

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

Summary of factual data and analytical methodologies:

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

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

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

Agency contact person:

Kathleen Vieira (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 Vieira (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.Vieira@wisconsin.gov. Comments must be received on or before the public hearing to be held on June 22, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

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

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

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

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

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

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

SECTION 4. Cos 1.01 (17) is repealed.

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

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

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

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

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

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

Cos 2.045 (1) (Note) Examples of settings in which personal care services may not take place include on-site wedding parties, adult day care centers, or assisted living facilities.

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

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

(5) In the case of an owner of a cosmetology establishment, employ a cosmetology manager who shall have direct authority over the operations of the establishment. If the cosmetology manager of an establishment leaves employment or becomes otherwise unavailable, an owner may continue to operate the establishment for no more than 90 days without a cosmetology manager. The owner shall notify the board that the cosmetology manager is no longer employed or has become otherwise unavailable within 10 days following the cosmetology manager's last day of employment.

SECTION 10. Cos 2.07 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 14. Cos 3.02 (3) is repealed.

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

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

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

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

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

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

SECTION 18. Cos 4.01 (3) is repealed.

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

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

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

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

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

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

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

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

Cos 4.04 (1m) All ~~work stations shall be supplied~~ establishments shall supply each licensee with at least one of the antiseptics listed in s. Cos 4.05 ~~for use by licensees in case of injury.~~

SECTION 22. Cos 6.04 is amended to read:

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

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

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

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

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

SECTION 24. Cos 7.04 is amended to read:

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

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

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

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

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

SECTION 27. Cos 8.03 is created to read:

Cos 8.03 Inactive license. Any person who has been granted an inactive license, under s. 454.06 (8m), Stats., may not receive compensation for directly performing cosmetology services as defined under s. 454.01 (7m), Stats., and may not perform cosmetology services as defined under s. 454.01 (7m), Stats., in a licensed establishment.

(Note) Activities permitted by an inactive license holder include purchasing supplies or cutting hair outside of an establishment, without compensation, such as for a resident in a nursing home.

SECTION 28. Cos 9.02 (title) is amended to read:

Cos 9.02 Late renewal before 5 years.

SECTION 29. Cos 9.03 is repealed and recreated to read:

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

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

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

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

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

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

SECTION 30. Cos 11.01 is amended to read:

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

SECTION 31. Cos 11.03 (5) (b) and (c) 2., 3. and 5. are amended to read:

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

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

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

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

that require licensees to read a substantial amount of course material must include a minimum of 5,000 words per continuing education hour of educational material.

SECTION 32. Cos 11.04 (1) (e) is created to read:

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

SECTION 33. Cos 11.04 (4) and (5) (b) are amended to read:

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

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

SECTION 34. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

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

Dated July 21, 2015 Agency Lickey D. Malley
Chairperson
Cosmetology Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Cos 1- 11

3. Subject

Relating to cosmetology schooling, licensure, and practice requirements

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

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

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

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

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

None. This rule does not affect local government units.

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

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

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

14. Long Range Implications of Implementing the Rule

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

15. Compare With Approaches Being Used by Federal Government

None

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

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

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

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

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

17. Contact Name

Katie Paff

18. Contact Phone Number

608-261-4472

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