



**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
September 15, 2021**

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

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-5)

B. Approval of Minutes of August 18, 2021 (6-11)

C. Introductions, Announcements and Recognition

D. Reminders: Conflicts of Interest, Scheduling Concerns

E. Administrative Matters – Discussion and Consideration

- 1) Board, Department and Staff Updates
- 2) Board Members – Term Expiration Dates
 - a. Bond, Jr., Milton – 7/1/2023
 - b. Chou, Clarence P. – 7/1/2023
 - c. Ferguson, Kris – 7/1/2025
 - d. Gerlach, Diane M. – 7/1/2024
 - e. Goel, Sumeet K. – 7/1/2023
 - f. Lerma, Carmen – 7/1/2024
 - g. Parish, Michael A. – 7/1/2023
 - h. Sattler, Rachel E. – 7/1/2024
 - i. Schmeling, Gregory J. – 7/1/2025
 - j. Siebert, Derrick R. – 7/1/2025
 - k. Wasserman, Sheldon A. – 7/1/2023
 - l. Yerby, Lemuel G. – 7/1/2024
 - m. Yu, Emily S. – 7/1/2024
- 3) Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 4) Assignment of Screening Panel and Examination Panel Liaisons
- 5) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

F. Legislative and Policy Matters – Discussion and Consideration

- G. Administrative Rule Matters – Discussion and Consideration (12)**
 - 1) Cos 2, 3, 5, & 8, Relating to Scope of Practice, Mobile Practice, Distance Learning – Preliminary Rule Draft **(13-17)**
 - 2) Preliminary Rule Draft: Med 10, Relating to Performance of Physical Examinations
 - 3) Implemented Scope: Med 1, Relating to Licensure
 - 4) Pending or Possible Rulemaking Projects
- H. CE Broker – Discussion and Consideration**
- I. COVID-19 – Discussion and Consideration**
- J. Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration**
- K. Controlled Substances Board Report
- L. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners – Discussion and Consideration**
- M. Newsletter Matters – Discussion and Consideration**
- N. MED-PA Collaboration Committee Report**
- O. Screening Panel Report**
- P. Future Agenda Items
- Q. Discussion and Consideration of Items Added After Preparation of Agenda:
 - 1) Introductions, Announcements and Recognition
 - 2) Elections, Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
 - 3) Administrative Matters
 - 4) Election of Officers
 - 5) Appointment of Liaisons and Alternates
 - 6) Delegation of Authorities
 - 7) Education and Examination Matters
 - 8) Credentialing Matters
 - 9) Practice Matters
 - 10) Legislative and Policy Matters
 - 11) Administrative Rule Matters
 - 12) Liaison Reports
 - 13) Board Liaison Training and Appointment of Mentors
 - 14) Informational Items
 - 15) Division of Legal Services and Compliance (DLSC) Matters
 - 16) Presentations of Petitions for Summary Suspension
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Presentation of Stipulations, Final Decisions and Orders
 - 19) Presentation of Proposed Final Decisions and Orders
 - 20) Presentation of Interim Orders
 - 21) Petitions for Re-Hearing
 - 22) Petitions for Assessments
 - 23) Petitions to Vacate Orders
 - 24) Requests for Disciplinary Proceeding Presentations
 - 25) Motions

- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

R. 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 448.02(8), 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.).

S. **Deliberation on DLSC Matters**

1) **Review of Administrative Warnings**

- a. APPEARANCE – Julie Zimmer, DLSC Attorney; Guy DuBeau, Attorney for Respondent, S.L.V.: 19 MED 177 – S.L.V. **(18-64)**

2) **Proposed Stipulations, Final Decisions and Orders**

- a. 18 MED 523 – Victoria Mondloch, MD **(65-70)**
- b. 19 MED 153 – Kathleen A. Baugrud, MD **(71-77)**
- c. 19 MED 362 – Ronald C. Petcher, MD **(78-83)**
- d. 20 MED 066 – Anthony J. Thompson, DO **(84-90)**

3) **Complaints**

- a. 18 MED 453 – C.L. **(91-93)**
- b. 18 MED 523 – V.J.M. **(94-96)**
- c. 19 MED 007, 19 MED 346 – J.D.W. **(97-100)**

4) **Administrative Warnings**

- a. 18 MED 464 – N.M. **(101-102)**
- b. 19 MED 468 – L.N.R. **(103-104)**
- c. 20 MED 360 – M.J.S. **(105-107)**

5) **Case Closings**

- a. 19 MED 474 – E.B., K.W. **(108-123)**
- b. 20 MED 025 – H.A., M.N.M. **(124-132)**
- c. 20 MED 156 – R.G., P.W. **(133-147)**
- d. 20 MED 213 – W.M.L. **(148-153)**
- e. 20 MED 373 – H.C.M. **(154-159)**
- f. 20 MED 429 – A.W.S. **(160-165)**
- g. 21 MED 174 – K.Z. **(166-175)**
- h. 21 MED 202 – R.L.S. **(176-180)**
- i. 21 MED 222 – M.R.L. **(181-189)**
- j. 21 MED 224 – D.C.S. **(190-196)**
- k. 21 MED 230 – K.D.T. **(197-203)**

6) **Monitoring Matters**

- a. Jesse Van Bommel – Requesting Termination of Order 2362 **(204-256)**

T. **Credentialing Matters**

1) Full Board Oral Examination

- a. APPEARANCE: Lisa Kochanik, Medicine and Surgery Applicant **(257-312)**

- 2) Application Reviews
 - a. Christopher Passidomo, Medicine and Surgery Applicant **(313-378)**
- 3) Consideration of Waiver of 24 Months of ACGME/AOA Approved Post-Graduate Training
 - a. Tareq Maraqa, MD **(379-458)**

U. IMLCC Notice of Disciplinary Action

- 1) Matthew Pappy, MD **(459-472)**

V. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Complaints
- 15) Case Closings
- 16) Board Liaison Training
- 17) Petitions for Extension of Time
- 18) Petitions for Assessments and Evaluations
- 19) Petitions to Vacate Orders
- 20) Remedial Education Cases
- 21) Motions
- 22) Petitions for Re-Hearing
- 23) Appearances from Requests Received or Renewed

W. Open Cases

X. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

Z. Open Session Items Noticed Above Not Completed in the Initial Open Session

AA. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

VIRTUAL/TELECONFERENCE

11:30 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examination of **one (1)** (at time of agenda publication) Candidates for Licensure – **Dr. Goel** and **Dr. Yu**

NEXT MEETING: OCTOBER 20, 2021

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board’s agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
MEETING MINUTES
AUGUST 18,2021**

PRESENT: Clarence Chou, M.D.; Kris Ferguson, M.D. (*arrived at 8:11 a.m.*); Diane Gerlach, D.O.; Sumeet Goel, D.O.; Carmen Lerma (*excused at 10:42 a.m.*); Michael Parish, M.D.; Gregory Schmeling, M.D.; Derrick Siebert, M.D.; Sheldon Wasserman, M.D.; Lemuel Yerby, M.D.; Emily Yu, M.D.

EXCUSED: Milton Bond, Jr.; Rachel Sattler

STAFF: Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Megan Glaeser, Bureau Assistant; and other Department staff

CALL TO ORDER

Sheldon Wasserman, Chairperson, called the meeting to order at 8:0 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

MOTION: Diane Gerlach moved, seconded by Lemuel Yerby, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 21, 2021

MOTION: Michael Parish moved, seconded by Sumeet Goel, to approve the Minutes of July 21, 2021 as published. Motion carried unanimously.

(Kris Ferguson arrived at 8:11 a.m.)

**PRESENTATION AND CONSIDERATION OF THE HEROES FOR HEALTHCARE
PROPOSED MILITARY MEDICS AND CORPSMEN PROGRAM**

MOTION: Sumeet Goel moved, seconded by Michael Parish, to acknowledge and thank Joyce Mallory, Wisconsin Military Medics and Corpsmen (Wis-MAC) Program, for her virtual appearance and presentation to the Board. Motion carried unanimously.

LEGISLATIVE AND POLICY MATTERS

2021 Senate Bill 394 and Assembly Bill 396, Relating to Advanced Practice Registered Nurses

MOTION: Derrick Siebert moved, seconded by Diane Gerlach, to express the Board's concerns regarding the proposed SB 394/AB 396 relating to Advanced Practice Registered Nurses. The Board remains open to reasonable proposals to advance the state of health care for the citizens of Wisconsin, and looks forward to working with the proponents of this

legislation to address and remedy the Board's concerns to ensure the health and safety of the public. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Adoption Orders

Med 10, Relating to Unprofessional Conduct

MOTION: Clarence Chou moved, seconded by Michael Parish, to approve the Adoption Order for Clearinghouse Rule 21-030 (Med 10), relating to unprofessional conduct. Motion carried unanimously.

Med 13, Relating to CME Requirements

MOTION: Michael Parish moved, seconded by Diane Gerlach, to approve the Adoption Order for Clearinghouse Rule 21-017 (Med 13), relating to continuing medical education for physicians. Motion carried unanimously.

Preliminary Rule Drafts

AT 2, Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses

MOTION: Lemuel Yerby moved, seconded by Kris Ferguson, to affirm the Board has reviewed the proposed rules revising Wisconsin Administrative Code Chapter AT 2, relating to reciprocal credentials for service members, former service members, and their spouses. Motion carried unanimously.

OT 2, Relating to Licensure Requirements

MOTION: Diane Gerlach moved, seconded by Kris Ferguson, to affirm the Board has reviewed the proposed rules revising Wisconsin Administrative Code Chapter OT 2, relating to licensure requirements. Motion carried unanimously.

CLOSED SESSION

MOTION: Gregory Schmeling moved, seconded by Michael Parish, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1)(a), Stats.); to consider licensure or certification of individuals (§ 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85(1)(b), Stats. and § 448.02(8), Stats.); to consider individual histories or disciplinary data (§ 19.85(1)(f), Stats.); and to confer with legal counsel (§ 19.85(1)(g), Stats.). Sheldon Wasserman, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Clarence Chou-yes; Kris Ferguson-yes; Diane Gerlach-yes; Carmen Lerma-yes; Sumeet Goel-yes; Michael Parish-yes; Gregory Schmeling-yes; Derrick

Siebert-yes; Sheldon Wasserman-yes; Lemuel Yerby-yes; and Emily Yu-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:28 a.m.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Stipulations, Final Decisions and Orders

20 MED 297 – Andrea M. Mattison, PA

MOTION: Clarence Chou moved, seconded by Sumeet Goel, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Andrea M. Mattison, PA, DLSC Case Number 20 MED 297. Motion carried unanimously.

20 MED 297 – Neil A. Shepler, MD

MOTION: Michael Parish moved, seconded by Gregory Schmeling, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Neil A. Shepler, MD, DLSC Case Number 20 MED 297. Motion carried unanimously.

20 MED 385 – Joseph D. Spennetta, MD

MOTION: Emily Yu moved, seconded by Diane Gerlach, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Joseph D. Spennetta, MD, DLSC Case Number 20 MED 385. Motion carried unanimously.

20 MED 482 – Waheed Jalazai, MD

MOTION: Sumeet Goel moved, seconded by Clarence Chou, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Waheed Jalazai, MD, DLSC Case Number 20 MED 482. Motion carried unanimously.

21 MED 034 – Dennis E. Colby, DO

MOTION: Diane Gerlach moved, seconded by Michael Parish, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Dennis E. Colby, DO, DLSC Case Number 21 MED 034. Motion carried unanimously.

Complaints

18 MED 316 – D.I.S.

MOTION: Sumeet Goel moved, seconded by Gregory Schmeling, to find probable cause in DLSC Case Number 18 MED 316, to believe that D.I.S. has committed unprofessional conduct, and therefore, to issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat§ 448.02(3)(b). Motion carried unanimously.

Stipulations and Interim Orders

21 MED 191 – Francis F. Joseph, MD

MOTION: Sumeet Goel moved, seconded by Kris Ferguson, to adopt the Findings of Fact, Conclusions of Law and Interim Order in the matter of disciplinary proceedings against Francis F. Joseph, MD, DLSC Case Number 21 MED 191. Motion carried. Opposed: Schmeling

Administrative Warnings

20 MED 317 – A.V.B.

MOTION: Gregory Schmeling moved, seconded by Lemuel Yerby, to issue an Administrative Warning in the matter of A.V.B., DLSC Case Number 20 MED 317. Motion carried unanimously.

(Michael Parish, Clarence Chou, Emily Yu recused themselves and left the room for deliberation and voting in the matter concerning A.V.B., DLSC Case Number 20 MED 317.)

21 MED 007 – J.K.B.

MOTION: Lemuel Yerby moved, seconded by Diane Gerlach, to issue an Administrative Warning in the matter of J.K.B., DLSC Case Number 21 MED 007. Motion carried unanimously.

21 MED 251 – J.A.R.

MOTION: Michael Parish moved, seconded by Gregory Schmeling, to issue an Administrative Warning in the matter of J.A.R., DLSC Case Number 21 MED 251. Motion carried unanimously.

Case Closings

MOTION: Clarence Chou moved, seconded by Michael Parish, to close the following DLSC Cases for the reasons outlined below:

1. 19 MED 557 – D.R.F. – No Violation
2. 20 MED 258 – S.C.M. – Insufficient Evidence
3. 21 MED 018 – R.A.H. – No Violation
4. 21 MED 026 – A.D.S. – Insufficient Evidence
5. 21 MED 057 – D.J.K. – Prosecutorial Discretion (P2)

6. 21 MED 100 – K.I.C. – Insufficient Evidence
Motion carried unanimously.

19 MED 165 – B.B.

MOTION: Kris Ferguson moved, seconded by Michael Parish, to reject the case summary and closing of DLSC Case Number 19 MED 165, against B.B., and refer the matter back to DLSC for further investigation. Motion carried unanimously.

(Gregory Schmeling recused himself and left the room for deliberation and voting in the matter concerning B.B., DLSC Case Number 19 MED 165.)

(Carmen Lerma was excused at 10:42 a.m.)

21 MED 214 – J.D.Z.

MOTION: Gregory Schmeling moved, seconded by Emily Yu, to close DLSC Case Number 21 MED 214, against J.D.Z., for No Violation, and to refer the matter to the Chiropractic Examining Board and to refer Wendy Ledesma, MD to DLSC for further investigation. Motion carried unanimously.

CREDENTIALING MATTERS

Waiver of 24 Months of Post-Graduate Training

Andrew Bentall, MD

MOTION: Sumeet Goel moved, seconded by Michael Parish, to approve the waiver of 24 months of approved post-graduate training for Andrew Bentall, MD. Motion carried. Abstained: Schmeling

Application Review

David Kim, MD

MOTION: Gregory Schmeling moved, seconded by Derrick Siebert, to approve the Medicine and Surgery application of David Kim, MD, once all requirements are met. Motion carried unanimously.

Shannon Wiggins, DO

MOTION: Sumeet Goel moved, seconded by Gregory Schmeling, to require Shannon Wiggins to complete an oral examination before taking further action on her application. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Michael Parish moved, seconded by Diane Gerlach, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 11:47 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Sumeet Goel moved, seconded by Michael Parish, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

**DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND
RATIFICATION OF LICENSES AND CERTIFICATES**

MOTION: Gregory Schmeling moved, seconded by Clarence Chou, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Diane Gerlach moved, seconded by Kris Ferguson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:49 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Jameson Whitney, Board Counsel		2) Date When Request Submitted: 9/7/21 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 9/15/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration -Cos 2, 3, 5, 8, Scope of Practice, Mobile Practice, Distance Learning – preliminary draft -Med 10, Physical Examinations – preliminary draft -Med 1, Licensure- implemented scope	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Cos 2, 3, 5, 8: The Cosmetology Examining Board is considering a Preliminary Draft rule, Cos 2, 3, 5, & 8 related to scope of practice, mobile practice, and distance learning, that would include microblading, dermaplaning, and microdermabrasion under the practice of aesthetics, without any additional conditions or training. Microdermabrasion is currently considered a medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r). The proposed rule removes microdermabrasion as a delegated medical procedure and provides that the scope of practice for aesthetics includes dermaplaning, microblading, and microdermabrasion. The Medical Examining Board has specifically exempted tattoo and body piercing, when done for the purposes of personal adornment, from the practice of medicine and surgery in Med 15.02. The Medical Examining Board may wish to consider a future rule project to specifically exempt dermaplaning, microblading, and microdermabrasion from the practice of medicine and surgery by adding the three procedures to Med 15. Cos 2, 3, 5, & 8 is being presented to the Medical Examining Board for discussion and feedback. No action is required. Med 10, Med 1: The Board should review, take necessary action, and give drafting instructions regarding the referenced administrative rule projects.			
11) Signature of person making this request Jameson Whitney		Authorization	Date 9/7/21
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 RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY EXAMINING
COSMETOLOGY EXAMINING BOARD	:	BOARD ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Cosmetology Examining Board to repeal Cos 2.025 (2) (b) and (2r); to renumber Cos 1.01 (11g) and (11n); to renumber and amend Cos 1.01 (2m); to amend Cos 1.01 (6e), 2.03 (8), 2.05 (2); to repeal and recreate Cos 5.01; and to create Cos 1.01 (2g), (4m), (11n), and 2.015.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 454.02, 454.04, and 440.62 (5) (b) 1., Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), and 440.62 (5) (b) 1., Stats.

Explanation of board authority:

Section 15.08 (5) (b), Stats., provides that an examining board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., states that an agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” This section allows an agency to promulgate administrative rules which interpret the statutes it enforces or administers if the proposed rule does not exceed proper interpretation of the statute.

Section 440.62 (5) (b) 1., Stats., states that “[t]he cosmetology examining board shall promulgate rules prescribing the subjects required to be included in courses of instruction at schools of cosmetology and specialty schools and establishing minimum standards for courses of instruction and instructional materials and equipment at schools of cosmetology and specialty schools.”

Section 454.01 (2), Stats., defines “aesthetics” as ... caring for or beautifying the skin of the human body, including but not limited to cleaning, applying cosmetics, oils, lotions, clay, creams, antiseptics, powders or tonics to or massaging, stimulating, wrapping or exercising the skin of the human body.

Related statute or rule:

Microdermabrasion is currently considered a delegated medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r).

Plain language analysis:

Microdermabrasion is currently considered a medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r). The proposed rule removes microdermabrasion as a delegated medical procedure and provides that the scope of practice for aesthetics includes dermaplaning, microblading, and microdermabrasion. The proposed rule also clarifies that courses may be offered to students remotely as deemed appropriate by the school. Schools may use simulated patrons for practical training upon prior written approval from the Board. The proposed rule makes other changes to definitions consistent with industry practice.

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

There are no existing or proposed federal requirements.

Comparison with rules in adjacent states:

Illinois:

Cosmetologists are prohibited from using any technique, product, or practice intended to affect the living layers of the skin. Estheticians are prohibited from using techniques, products, and practices intended to affect the living layers of the skin.

Iowa:

Iowa code prohibits cosmetologists/estheticians from administering any procedure in which the human tissue is cut, shaped, vaporized, or otherwise structurally altered. The code specifically prohibits dermaplaning.

Michigan:

Under Michigan law, the practice of microdermabrasion is limited to the direct supervision and control of a licensed physician. Microblading is considered a body art procedure that must be performed at a licensed body art facility.

Minnesota:

Minnesota allows cosmetologists to perform dermaplaning and microdermabrasion unsupervised if they have additional training and an advanced practice esthetician license. Minnesota requires a tattoo license to perform microblading, and does not allow cosmetologists/estheticians/advanced practice estheticians to perform it unless under supervision of a physician.

Summary of factual data and analytical methodologies:

The Cosmology Examining Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

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

The rule will be posted for 14 days on the department’s website to solicit economic impact comments from stakeholders.

Fiscal Estimate and Economic Impact Analysis:

The fiscal estimate and economic impact analysis will be attached upon completion.

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 Daniel.Hereth @wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kevyn Radcliffe, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kevyn Radcliffe, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be held at a time and place to be announced in the Administrative Register to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Cos 1.01 (2g) is created to read:

Cos 1.01 (2g) “Chemical process” means the use of chemical reactions to change the texture, style, or length of hair, skin, or nails.

Section 2. Cos 1.01 (2m) is renumbered to Cos 1.01 (2r) and amended to read:

Cos 1.01 (2r) “Chemical waving” means a system of permanent waving ~~employing~~ catalyzed or executed by chemicals rather than heat.

SECTION 3. Cos 1.01 (4m) is created to read:

Cos 1.01 (4m) “Dermaplaning” means the removal of skin layers by use of a razor-edged instrument.

SECTION 4. Cos 1.01 (6e) is amended to read:

Cos 1.01 (6e) “Disinfection” means application of a disinfectant following thorough cleaning of the utensil or surface.

SECTION 5. Cos 1.01 (11g) and (11n) are renumbered Cos. 1.01 (11c) and (11g).

SECTION 6. Cos 1.01 (11n) is created to read:

Cos 1.01 (11n) “Microblading” means the insertion of semipermanent pigment under the skin in order to change its appearance.

SECTION 7. Cos 2.015 is created to read:

Cos 2.015 Scope of Practice The scope of practice of aesthetics under s. 454.01, Stats., includes dermaplaning, microblading, and microdermabrasion.

SECTION 8. Cos 2.025 (2) (b) and (2r) are repealed.

SECTION 9. Cos 2.03 (8) is amended to read:

Cos 2.03 (8) Licensees may not provide the following services unless both the licensee and the establishment are properly licensed by the department of ~~health services~~ safety and professional services:

SECTION 10. Cos 2.05 (2) is amended to read:

Cos 2.05 (2) An establishment shall either post a list of cost of services in a conspicuous place or display a sign which states: “All establishment patrons have the right to be informed of the cost of services ~~before the services are provided~~ prior to being serviced.”

SECTION 11. Cos 5.01 is repealed and recreated to read:

Cos 5.01 General course requirements. (1) Schools which provide instruction to students for cosmetology practitioner, 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 in this chapter.

(2) A school or specialty school shall offer at a minimum the practical and theory hours listed for subjects in the appropriate syllabus included in this section chapter.

(3) Courses may be offered to students remotely as deemed appropriate by the school.

(4) Simulated patrons, such as mannequins, may be used for practical training as deemed appropriate by the board. Schools utilizing simulated patrons must obtain prior written approval from the board.

SECTION 12. 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)
