

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 TBD)

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), 2.02 (2); to repeal and recreate Cos 5.01; and to create Cos 1.01 (2g), (4m), (11m), 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: None.

Plain language analysis:

Plain language analysis will be completed before submission to legislative counsel for review of the preliminary rule draft.

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

There are no existing or proposed federal requirements.

Comparison with rules in adjacent states:

Four state analysis will be completed before submission to legislative counsel for review of the preliminary rule draft.

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 TBD 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 101.01 (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 2.02 (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)

Chapter Cos 1

DEFINITIONS

Cos 1.01 Definitions.

Note: Chapter BC 1 was renumbered ch. Cos 1 under s. 13.92 (4) (b) 1., Stats., [Register February 2013 No. 686](#).

Note: See Chapter [SPS 50](#) for rules governing the licensing of barbers, barbering managers, and barbering establishments.

Cos 1.01 Definitions. For the purposes of chs. [Cos 1](#) to [11](#):

- (1) "Antiseptic" means a chemical that kills or inhibits the growth of organisms on skin or living tissue.
- (1v) "Board" means the cosmetology examining board.
- (2) "Chemical relaxing" means the process of straightening hair by use of chemical agents.
- (2g) "Chemical process" means the use of chemical reactions to change the texture, style, or length of hair, skin, or nails.
- ~~(2m)~~ (2r) "Chemical waving" means a system of permanent waving ~~employing catalyzed or executed by~~ chemicals rather than heat.
- (3) "Contagious" means capable of being transmitted by direct or indirect contact.
- (3e) "Cosmetologist" has the meaning given in s. [454.01 \(7e\)](#), Stats.
- (3g) "Credential" means a license, permit or certificate or certification of registration that is issued under ch. [454](#), Stats.
- (3r) "Cutting," as used at s. [454.01 \(13\)](#), Stats., means exclusively the cutting of human nails, cuticles and calluses, and does not refer to any other invasive procedure.
- (4) "Department" means the department of safety and professional services.
- (4m) "Dermaplaning" means the removal of skin layers by use of a razor-edged instrument.
- (6) "Disinfectant" means a chemical or product that destroys disease-causing bacteria.

Note: Examples of disinfectants are: 1. A solution of household bleach (5 ¼ percent sodium hypochlorite) and water containing at least 500 parts per million (ppm) available chlorine (1:100 dilution, or 2 teaspoons of household bleach per quart of water made fresh each day prior to use); 2. A solution of at least 70% isopropyl alcohol; 3. A solution using a phenolic germicidal such as Lysol (brown bottle); 4. A solution using an iodophor germicidal agent such as iodine or Betadyne; and 5. A solution using a quaternary ammonium germicide agent such as Lysol (spray) or Barbicide Plus.
- (6e) "Disinfection" means application of a disinfectant following thorough cleaning of the utensil or surface.
- (6m) "Division" means the division of legal services and compliance in the department of safety and professional services.
- (6s) "Exfoliation" means the process whereby the superficial epidermal cells are removed from the skin.
- (7) "Full time" means work which is performed for 30 hours per week or the maximum number of hours an establishment is open if the establishment is open less than 30 hours per week.
- (7m) "General supervision" means the supervising physician is available for direct communication, either in person or by telephone, radio, radiotelephone, television or similar means and is physically located within 120 miles of the licensee.
- (8) "Infectious" means capable of being transmitted, with or without contact.
- (9) "Laser" means light amplification by the stimulated emission of radiation.
- (10) "Licensee" means a person who holds a license, permit, certificate or registration issued by the board or who has the right to renew a license, permit, certificate or registration issued by the board.
- ~~(11g)~~ (11c) "Massaging," as used at s. [454.01 \(2\)](#) and [\(13\)](#), Stats., means massage for cosmetic rather than therapeutic purposes.
- ~~(11n)~~ (11g) "Mechanical exfoliation" means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques or drying preparations that are rubbed off, and microdermabrasion.

- (11n)** “Microblading” means the insertion of semipermanent pigment under the skin in order to change its appearance.
- (11r)** “Microdermabrasion” means mechanical exfoliation using an abrasive material or apparatus to remove surface epidermal cells with a mechanical closed loop vacuum system.
- (11w)** “Nail enhancement” means any material other than nail polish which is added to the fingernail or toenail generated by the person's own body, or which is used to enhance the fingernail or toenail of a person.
- (12)** “Owner” means the person who holds an establishment license or right to renew an establishment license.
- (13)** “Patron” means a person to whom services from a cosmetologist, aesthetician, electrologist or manicurist are provided for compensation.
- (13m)** “Personal care services” means shampooing, setting, combing, brushing, cutting, chemical waving, chemical relaxing, bleaching or coloring the hair. “Personal care services” also includes electrology, manicuring and aesthetic services.
- (13t)** “Physician” means a person licensed in Wisconsin to practice medicine and surgery.
- (14)** “Practitioner” means a person who holds a current license to practice cosmetology issued under s. [454.06 \(2\)](#), Stats.
- (14m)** “Sterilization” means a process which destroys all forms of microbial life, including spores.
- (15)** “Supervision” means regular, on-premise coordination, direction and inspection of the practice of another.
- (16)** “Training permit holder” means a person who holds a current training permit issued pursuant to s. [454.06 \(9\)](#), Stats.

Note: Immersion of the object to be disinfected in a solution of household bleach (5 ¼ percent sodium hypochlorite diluted to 2 teaspoons per quart of water).

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; renum. (7) to (13) to be (8) to (14), cr. (7), [Register, December, 1990, No. 420](#), eff. 1-1-91; r. and recr. (11), r. (14), renum. (12) and (13) to be (13) and (14), cr. (12), [Register, May, 1993, No. 449](#), eff. 6-1-93; renum. (1) to (1m), cr. (1), [Register, November, 1994, No. 467](#), eff. 12-1-94; renum. (1) to be (1m), cr. (1), (2m), (10m), (13m) and (16), r. and recr. (2) and (9), renum. and am. (5) to be (15) and am. (6), (8) and (14), [Register, May, 1999, No. 521](#), eff. 6-1-99; correction in (1m) made under s. 13.93 (2m) (b) 1., Stats., [Register, May, 1999, No. 521](#); [CR 02-058](#): am. (intro.) and (6), cr. (3g), (3r), (6r), (11m), (14m) and (17), renum. (9) (intro.) to be (6h) and am., r. (9) (a) to (d) and (10m), [Register September 2003 No. 573](#), eff. 10-1-03; [CR 05-118](#): r. (1m), am. (3), (3r) and (8), renum. (6h), (6r), (11) and (11m) to be (6e), (6m), (11e) and (11g), cr. (6s), (7m), (9), (11n), (11r), (11w) and (13t) [Register November 2006 No. 611](#), eff. 12-1-06; corrections in (4), (6m) made under s. 13.92 (4) (b) 6., Stats., [Register January 2012 No. 673](#); [CR 11-011](#): am. (intro.) [Register March 2012 No. 675](#), eff. 4-1-12; corrections in (intro.), (1v), (11g), (13), (14) made under s. 13.92 (4) (b) 6., 7., Stats., [Register February 2013 No. 686](#); [CR 15-035](#): cr. (3e), (3m), am. (6m), r. (11e), (17) [Register December 2015 No. 720](#), eff. 1-1-16; [CR 18-002](#): r. (3m) [Register April 2018 No. 748](#), eff. 5-1-18.

Chapter Cos 2

PRACTICE AND PROFESSIONAL CONDUCT

[Cos 2.02](#) Treatments prohibited, infectious and contagious diseases.

[Cos 2.025](#) Delegated medical procedures.

[Cos 2.03](#) Practice standards.

[Cos 2.04](#) Unauthorized practice.

[Cos 2.045](#) Services outside of a licensed establishment.

[Cos 2.05](#) Advertising.

[Cos 2.06](#) Responsibilities of owners.

[Cos 2.07](#) Responsibilities of the cosmetology manager.

[Cos 2.08](#) Responsibilities of licensees.

Note: Chapter BC 2 was renumbered ch. Cos 2 under s. 13.92 (4) (b) 1., Stats., [Register February 2013 No. 686](#).

Note: See Chapter [SPS 50](#) for rules governing the licensing of barbers, barbering managers, and barbering establishments.

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

Cos 2.02 Treatments prohibited, infectious and contagious diseases.

- (1) No licensee may treat any disease of the skin unless under the direction of a physician.
- (2) No licensee may provide services to a patron suffering from an infectious or contagious scalp or skin disease unless the licensee takes appropriate precautions and uses safeguards to prevent the spread of the disease to other patrons and to the licensee.
- (3) No licensee, having a known infectious or contagious disease, may provide a service to a patron if the licensee is, by reason of the disease, unable to safely and competently perform the service.
- (4) No licensee may provide services to a patron if the licensee has a known infectious or contagious disease unless the licensee takes appropriate precautions and uses safeguards which prevent the spread of the disease to patrons.

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. (3), [Register, May, 1999, No. 521](#), eff. 6-1-99.

Cos 2.025 Delegated medical procedures.

- (1) Licensees may provide client services constituting medical procedures only as directed, supervised and inspected by a physician who has the power to direct, decide and oversee the implementation of the client services provided in licensed establishments.
- (2) Delegated medical procedures include the following:
 - (a) Laser hair removal services.
 - ~~(b) Microdermabrasion services, except as specified under sub. (2r).~~
 - (c) Chemical exfoliation, except for application of commercially available exfoliation products utilized in accordance with the manufacturers' instructions, limited to the following:
 1. Alpha hydroxyl acids of 30% or less, with a ph of not less than 3.0.
 2. Salicylic acids of 20% or less, with a ph of not less than 3.0.

~~(2r) A licensee may utilize microdermabrasion devices in his or her practice without medical supervision if all of the following conditions are met:~~

- ~~(a) The device shall be of an aesthetic grade and not labeled as a prescription device by the United States Food and Drug Administration. Only FDA approved Class I machines may be used pursuant to this subsection.~~
- ~~(b) The device utilizes a closed loop negative pressure system that incorporates a tissue retention device.~~

- ~~(c) The normal and customary use of the device results in the removal of only the surface epidermal cells of the skin.~~
- ~~(d) Eye protection is provided to the client and protective gloves are worn by the operator.~~
- ~~(e) Microdermabrasion services are not provided within 48 hours before or after a chemical exfoliation.~~
- ~~(f) The licensee has performed a pretreatment assessment on the client and reviewed the results with the client.~~
- ~~(g) The client has given written consent prior to the administration of the services. The consent shall contain all of the following:~~
- ~~1. A statement setting forth in general terms the nature and purpose of the procedure or procedures, together with the known risks associated with the procedure or procedures, if reasonably determinable.~~
 - ~~2. A statement that acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.~~
 - ~~3. The signature of the client for whom the procedure is to be performed, or if the client for any reason lacks legal capacity to consent, is signed by a person who has legal authority to consent on behalf of that client.~~
- (3) Delegated medical procedures shall be undertaken only pursuant to formal written protocols setting forth the nature and scope of the procedures delegated, describing the supervisory plan, and indicating any contraindications to undertaking the procedure. A laser hair removal product or device, or intense pulsed light device shall not be used on a minor unless the minor is accompanied by a parent or guardian and only under the general supervision of a physician.
- (4) A licensee providing client services constituting delegated medical procedures shall upon request make available to the client and to the board a copy of the formal written protocols.
- (5) Should a client service constituting a delegated medical procedure be contraindicated based either upon the written protocol or some other basis, the licensee shall decline to carry out the procedure and shall explain to the client the basis for the licensee's inability to provide the service.
- (6) A licensee providing client services constituting delegated medical procedures in a licensed establishment shall post in a conspicuous location in the immediate area where the procedure is carried out the name of the delegating physician and the nature and scope of the procedures delegated.

History: [CR 02-058](#): cr. [Register September 2003 No. 573](#), eff. 10-1-03; [CR 05-118](#): renum. (2) (a) and (c) to be (2) (a) (intro.) and (c) (intro.) and am. (c) (intro.), cr. (2) (a) 1. to 5., (c) 1. and 2., (2g), (2r) and (6), am. (2) (b) and (3) [Register November 2006 No. 611](#), eff. 12-1-06; corrections in (2) (a) (intro.), 1., (2r) (h) (intro.), 1. made under s. [13.92 \(4\) \(b\) 6., 7., Stats.](#), [Register February 2013 No. 686](#); [CR 15-035](#): am (2) (a) (intro.), r. 1. to 5., (2g), (2r) (h), (i), (j) [Register December 2015 No. 720](#), eff. 1-1-16.

Cos 2.03 Practice standards.

- (1) Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules and local codes and ordinances.
- (2) Licensees may provide only those services which they are competent to perform by training or experience and are licensed to provide.
- (3) Licensees shall provide services to the best of their ability and make reasonable efforts to comply with requests in a manner that is satisfactory to a patron. Licensees shall not provide services to a patron without first obtaining the consent of the patron or legal guardian of the patron.
- (4) Licensees may neither consume alcohol nor take controlled substances during practice, unless prescribed by a physician.
- (5) Licensees shall take adequate and necessary precautions to protect the patron from health and safety hazards when performing services. Licensees shall not smoke while performing personal services on a patron.
- (7) Licensees shall not engage in sexual harassment or sexual assault of a patron, former patron, employee, employer, or co-worker. In this section, "sexual harassment" and "sexual assault" have the meanings defined in ss. [111.32 \(13\)](#), [940.225 \(1\)](#), [\(2\)](#), [\(3\)](#) and [\(3m\)](#) and [948.02 \(1\)](#) and [\(2\)](#), Stats.

Note: Section [111.32 \(13\)](#) defines sexual harassment as "...unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. 'Sexual harassment'

includes conduct directed by a person at another person of the same or opposite gender. 'Unwelcome verbal or physical conduct of a sexual nature' includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to interfere substantially with an employee's work performance or to create an intimidating, hostile or offensive work environment."

(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:

- (a)** Body piercing, except for piercing of ears.
- (b)** Tattooing, including permanent cosmetics.
- (c)** Operation of a tanning booth.

Note: Body piercers, body piercing establishments, tattooists and tattoo establishments are regulated by the Department of Safety and Professional Services under ch. [SPS 221](#), Wis. Adm. Code. Tanning facilities and tanning facility operators are regulated by the Department of Safety and Professional Services under ch. [SPS 220](#), Wis. Adm. Code.

(9) Licensees may not use methyl methacrylate monomer, commonly referred to as MMA in liquid form, and may not use any cosmetic or nail product formulated with MMA as one of its ingredients.

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; cr. (7), [Register, May, 1997, No. 497](#), eff. 6-1-97; am. (3) and (5), r. and recr. (4) and r. (6), [Register, May, 1999, No. 521](#), eff. 6-1-99; [CR 02-058](#): cr. (8) and (9) [Register September 2003 No. 573](#), eff. 10-1-03; correction in (8) (intro.) made under s. [13.92 \(4\) \(b\) 6.](#), Stats., [Register March 2012 No. 675](#).

Cos 2.04 Unauthorized practice.

- (1)** Licensees may not assist or participate in the unauthorized or unlicensed practice of cosmetology, aesthetics, electrology or manicuring.
- (2)** Licensees shall report to the board unauthorized or unlicensed practice or other violations of ch. [454](#), Stats., and chs. [Cos 1](#) to [11](#).

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; corrections in (1), (2) made under s. [13.92 \(4\) \(b\) 6.](#), [7.](#), Stats., [Register February 2013 No. 686](#); [CR 15-035](#): am. (2) [Register December 2015 No. 720](#), eff. 1-1-16.

Cos 2.045 Services outside of a licensed establishment.

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

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.

- (2)** Licensees shall comply with all practice standards set forth in s. [Cos 2.03](#) in providing services outside of a licensed establishment.

History: Cr. [Register, May, 1999, No. 521](#), eff. 6-1-99; correction in (2) made under s. [13.92 \(4\) \(b\) 7.](#), Stats., [Register February 2013 No. 686](#).

Cos 2.05 Advertising.

- (1)** Advertising by licensees shall be truthful and accurate and may not mislead the public.
- (2)** An establishment shall either post a list of cost of services in a conspicuous place or display a sign 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.~~"

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89.

Cos 2.06 Responsibilities of owners. The owner of any licensed establishment shall be responsible for compliance with ch. [454](#), Stats., and chs. [Cos 2](#), [3](#) and [4](#). The owner shall:

- (2)** Provide supplies and equipment necessary to maintain safe and sanitary establishment conditions.
- (3)** Ensure the provision of supervision and training of apprentices, temporary permit holders and training permit holders.
- (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. [440.63 \(3\) \(a\) 1.](#) or [454.10 \(2\)](#), Stats., for credentialing as a practitioner 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.

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. (2) (a) and (b), [Register, May, 1993, No. 449](#), eff. 6-1-93; renum. and am. (1) and (2) (intro.) to be (intro.) and (2) (a) to be (5), r. (2) (b) and (c), renum. (2) (d) to be (2) and cr. (3) and (4), [Register, May, 1999, No. 521](#), eff. 6-1-99; [CR 02-058](#): am. (5) [Register September 2003 No. 573](#), eff. 10-1-03; corrections in (intro.), (5) made under s. [13.92 \(4\) \(b\) 6., 7.](#), Stats., [Register February 2013 No. 686](#); [CR 15-035](#): am (4), (5) [Register December 2015 No. 720](#), eff. 1-1-16; [CR 18-002: am. \(4\) Register April 2018 No. 748](#), eff. 5-1-18.

Cos 2.07 Responsibilities of the cosmetology manager.

- (1) The 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. [440.63 \(3\) \(a\) 2.](#) or [454.10 \(2\)](#), Stats., for credentialing as a practitioner or instructor.
- (2) The cosmetology manager shall post all required licenses, permits and notices.

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. (1), (2) (intro.), (e), (f) and (g), [Register, May, 1993, No. 449](#), eff. 6-1-93; am. (1), cr. (1g) and (1r) and r. and recr. (2), [Register, May, 1999, No. 521](#), eff. 6-1-99; [CR 02-058](#): am. (1g) [Register September 2003 No. 573](#), eff. 10-1-03; [CR 05-118](#): am. (1g) [Register November 2006 No. 611](#), eff. 12-1-06; corrections in (1), (1g) made under s. [13.92 \(4\) \(b\) 6., 7.](#), Stats., [Register February 2013 No. 686](#); [CR 12-016](#): am. (1g) [Register August 2013 No. 692](#), eff. 9-1-13; [CR 15-035](#): am. (title), (1), (1g), (1r), (2) [Register December 2015 No. 720](#), eff. 1-1-16; [CR 18-002: am. \(1\), \(1r\) Register April 2018 No. 748](#), eff. 5-1-18.

Cos 2.08 Responsibilities of licensees. Licensees holding current licenses or permits granted under ch. [454](#), Stats., shall:

- (1) Be responsible for compliance with the sanitation and safety precautions contained in ch. [Cos 4](#).
- (2) Be responsible for their own professional practice, conduct and compliance with ch. [Cos 2](#).

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; renum. from BC 2.09, [Register, May, 1993, No. 449](#), eff. 6-1-93; renumber (1) to be Cos 2.08 under s. [13.92 \(4\) \(b\) 1.](#), Stats., and corrections in (1) (a), (b) made under s. [13.92 \(4\) \(b\) 7.](#), [Register February 2013 No. 686](#).

Chapter Cos 5

COURSES OF INSTRUCTION

[Cos 5.001](#) Instruction.

[Cos 5.01](#) Courses.

[Cos 5.02](#) Practitioner license syllabus.

[Cos 5.04](#) Aestheticians license syllabus.

[Cos 5.05](#) Electrologist license syllabus.

[Cos 5.06](#) Manicurist license syllabus.

Note: Chapter BC 5 was renumbered ch. Cos 5 under s. 13.92 (4) (b) 1., Stats., [Register February 2013 No. 686](#).

Note: See Chapter [SPS 50](#) for rules governing the licensing of barbers, barbering managers, and barbering establishments.

Cos 5.001 Instruction. An applicant for licensure as a cosmetologist, 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.

History: [CR 15-020](#): cr. [Register July 2015 No. 715](#), eff. 8-1-15; [CR 18-002](#): am. (intro.) [Register April 2018 No. 748](#), eff. 5-1-18.

~~**Cos 5.01—Courses.** 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. A school or specialty school shall offer at a minimum the hours listed for subjects in the appropriate syllabus included in this section.~~


~~**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 school.~~


History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; renumber (1) to be Cos 5.01 under s. [13.92 \(4\) \(b\) 1.](#), Stats., and correction made under s. [13.92 \(4\) \(b\) 6., 7.](#), Stats., [Register February 2013 No. 686](#); [EmR1502](#): emerg. am., eff. 1-15-15; [CR 15-020](#): am. [Register July 2015 No. 715](#), eff. 8-1-15; [CR 18-002](#): am. [Register April 2018 No. 748](#), eff. 5-1-18.

Cos 5.02 Practitioner license syllabus. A syllabus for the practitioner license is shown below in Figure 5.02: - [See PDF for table](#) 


History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. [Register, July, 1994, No. 463](#), eff. 8-1-94; am., [Register, May, 1999, No. 521](#), eff. 6-1-99; am. [Register, September, 2000, No. 537](#), eff. 10-1-00; [CR 05-118](#): am. [Register November 2006 No. 611](#), eff. 12-1-06; correction in Figure 5.02 made under s. [13.92 \(4\) \(b\) 6., 7.](#), Stats., [Register February 2013 No. 686](#); [EmR1502](#): emerg. r. and recr., eff. 1-15-15; [CR 15-020](#): r. and recr. Figure 5.02 [Register July 2015 No. 715](#), eff. 8-1-15.

Cos 5.04 Aestheticians license syllabus. A syllabus for the aestheticians license is shown below in Figure 5.04: - [See PDF for table](#) 

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. [Register, September, 2000, No. 537](#), eff. 10-1-00; correction in Figure 5.04 made under s. [13.92 \(4\) \(b\) 6., 7.](#), Stats., [Register February 2013 No. 686](#).

Cos 5.05 Electrologist license syllabus. A syllabus for the electrologist license is shown below in Figure 5.05: - [See PDF for table](#) 

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. [Register, September, 2000, No. 537](#), eff. 10-1-00.

Cos 5.06 Manicurist license syllabus. A syllabus for the manicurist license is shown below in Figure 5.06: - [See PDF for table](#) 

History: Cr. [Register, July, 1989, No. 403](#), eff. 8-1-89; am. [Register, July, 1994, No. 463](#), eff. 8-1-94; am. [Register, September, 2000, No. 537](#), eff. 10-1-00; [CR 05-118](#); am. [Register November 2006 No. 611](#), eff. 12-1-06; correction in Figure 5.06 made under s. [13.92 \(4\) \(b\) 6., 7., Stats., Register February 2013 No. 686](#).

454.01 Definitions. In this subchapter:

- (1) "Aesthetician" means a person who practices aesthetics.
- (2) "Aesthetics" means, for compensation, 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.
- (3) "Apprentice" means a person who is learning the practice of barbering or cosmetology under s. [454.10](#).
- (5m) "Barbering" has the meaning given in s. [454.20 \(2\)](#).
- (7) "Compensation" means direct or indirect payment, including the expectation of payment whether or not actually received.
- (7e) "Cosmetologist" means a person who practices cosmetology.
- (7m) "Cosmetology" means, for compensation, performing one or more of the following:
 - (a) Barbering.
 - (b) Aesthetics.
 - (c) Manicuring.
 - (d) The removal of hair of any person at the root, except by use of an electric needle.
- (8) "Electrologist" means a person who practices electrology.
- (9) "Electrology" means, for compensation, removing hair from the human body by use of an electric needle.
- (10) "Establishment" means any place in which barbering, cosmetology, aesthetics, electrology, or manicuring is performed.
- (11) "Examining board" means the cosmetology examining board.
- (11m) "Inactive license" means a license issued under s. [454.06 \(2\)](#) to [\(6\)](#) that is classified as inactive by the examining board under s. [454.06 \(8m\)](#).
- (13) "Manicuring" means, for compensation, cleansing, cutting, shaping, beautifying or massaging limited to the hands, feet or nails of the human body.
- (14) "Manicurist" means a person who practices manicuring.
- (15) "Student" means a person who is learning and not licensed to practice barbering, cosmetology, aesthetics, electrology, or manicuring at a school licensed under s. [440.62 \(3\)](#) or exempted under s. [440.61](#) or a specialty school licensed under s. [440.62 \(4\)](#).
- (15m) "Theoretical instruction" has the meaning given in s. [440.60 \(17\)](#).
- (16) "Training hour" means at least 50 minutes but not more than 60 minutes of instruction.

History: [1987 a. 265](#); [2011 a. 146, 190](#); [2017 a. 82](#).

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY EXAMINING
COSMETOLOGY EXAMINING BOARD	:	BOARD ADOPTING
	:	EMERGENCY RULES

The statement of scope for this rule, SS 139-20, was approved by the Governor on October 17, 2020, published in Register 778B on October 26, 2020, and approved by Cosmetology Examining Board on November 16, 2020. This emergency rule as approved by the Governor on TBD.

ORDER

An order of the Cosmetology Examining Board to repeal and recreate Cos 5.01 relating to scope of practice, mobile establishments, and distance learning.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Cosmetology Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Covid-19 epidemic has restricted the ability of cosmetology, manicuring, electrology, and aesthetics educators to provide in-person instruction to students. As a result, the board is interested in clarifying its rules to expressly allow for remote or distance learning.

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.”

Related statute or rule: None.

Plain language analysis:

The Cosmetology Examining Board proposes allowing courses to be offered to students remotely and that simulated patrons may be used as deemed appropriate by the school.

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

There are no existing or proposed federal requirements.

Comparison with rules in adjacent states:

The four state analysis will be completed before the preliminary rule draft is submitted to the legislative counsel for review.

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

Fiscal Estimate:

The fiscal estimate 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 TBD on TBD to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. 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 school.

SECTION 2. EFFECTIVE DATE. The emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Megan Jackson, Chair
Cosmetology Examining Board

**H. Administrative Rule Matters:
3) Update on Administrative Rules Report Under 227.29**

Megan Jackson
Chairperson

**Georgianna
Halverson**
Vice Chairperson

Ann Hoepfner
Secretary

**COSMETOLOGY
EXAMINING BOARD**



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March 22, 2021

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Adam Neylon, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 204 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Neylon:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are unauthorized.

II. Rules for which the authority to promulgate has been restricted:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules have restricted authority.

III. Rules that are obsolete or that have been rendered unnecessary:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are obsolete or have been rendered unnecessary.

IV. Rules that are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.

V. Rules that are economically burdensome:

After careful review of the agency’s administrative rules, the agency has determined that no promulgated rules are economically burdensome.

VI. Status of rules listed in the Board’s report submitted in March of 2019:

Rule	Description of the legislation that eliminated the authority	Action taken to address or reason for not taking an action
ss. Cos 9.01 (3) and Cos 9.02, and ch. Cos 11	2017 Act 81 repealed the authority to require continuing education for renewal.	Rule effective August 1, 2020
ss. Cos 2.045 (1) and Cos 3.01	2017 Act 82 permits the practice outside of a licensed establishment, and requires the Board to promulgate rules in accordance with the statutory change.	CR 20 – 025 is pending Legislative approval.
s. Cos 8.02 (1) and (4)	2017 Act 81 amended the requirements for reciprocal licensure.	CR 20 – 025 is pending Legislative approval.
Cos 10, Appendix I – Citation	The Department has relocated to a new office building, and the address needs to be updated.	CR 20 – 025 is pending Legislative approval.

Thank you.

Sincerely,

Megan Jackson
Chairperson, Cosmetology Examining Board