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**HYBRID (IN-PERSON/VIRTUAL)  
COSMETOLOGY EXAMINING BOARD  
Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor North, Madison  
Contact: Adam Barr (608) 266-2112  
June 13, 2022**

*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. Be advised that board members may attend meetings designated as "Hybrid" in-person or virtually.*

**AGENDA**

**9:30 AM**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of March 28, 2022 (5-7)**
- C. Introductions, Announcements and Recognition – Discussion and Consideration
- D. Reminders: Conflicts of Interest, Scheduling Concerns
- E. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff, and Board Updates
  - 2) Board Members – Term Expiration Dates
    - a. Cwojdzinski, Kayla M. – 7/1/2024
    - b. Fazel, Charity-Faith – 7/1/2024
    - c. Halverson, Georgianna – 7/1/2023
    - d. Hoepfner, Ann M. – 7/1/2023
    - e. Jackson, Megan A. – 7/1/2023
    - f. Lee, Kristin N. – 7/1/2023
    - g. Quintal, Daisy L. – 7/1/2023
- F. Legislative and Policy Matters – Discussion and Consideration
- G. Report and Possible Action Resulting from the Cosmetology Examining Board Scope of Practice Committee – Discussion and Consideration (8-10)**
- H. Administrative Rule Matters – Discussion and Consideration (11)**
  - 1) Review of Cos 2, 3, 5, & 8, Relating to Scope of Practice, Mobile Practice, Distance Learning **(12-18)**
  - 2) Possible Scope Statement: Education Requirements (Cos 5)
  - 3) Pending and Possible Rulemaking Projects

**I. Speaking Engagement(s), Travel, or Public Relation Request(s) – Discussion and Consideration**

- 1) Consider Attendance: National Interstate Council of State Boards of Cosmetology (NIC) Annual Conference on 9/30/2022-10/3/2022 in San Antonio, TX **(19-22)**

**J. COVID-19 – Discussion and Consideration**

**K. Deliberation on Items Added After Preparation of Agenda**

- 1) Introductions, Announcements and Recognition
- 2) Election of Officers, Appointment of Liaison(s), Delegation of Authorities
- 3) Administrative Matters
- 4) Education and Examination Matters
- 5) Credentialing Matters
- 6) Practice Matters
- 7) Legislative and Policy Matters
- 8) Administrative Rule Matters
- 9) Liaison Reports
- 10) Board Liaison Training and Appointment of Mentors
- 11) Informational Items
- 12) Division of Legal Services and Compliance (DLSC) Matters
- 13) Presentations of Petitions for Summary Suspension
- 14) Petitions for Designation of Hearing Examiner
- 15) Presentation of Stipulations, Final Decisions and Orders
- 16) Presentation of Stipulations and Interim Orders
- 17) Presentation of Proposed Final Decision and Orders
- 18) Presentation of Interim Orders
- 19) Petitions for Re-Hearing
- 20) Petitions for Assessments
- 21) Petitions to Vacate Orders
- 22) Requests for Disciplinary Proceeding Presentations
- 23) Motions
- 24) Petitions
- 25) Appearances from Requests Received or Renewed
- 26) Speaking Engagement(s), Travel, or Public Relation Request(s)

**L. 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.).**

**M. Deliberation on Division of Legal Services and Compliance (DLSC) Matters**

- 1) **Administrative Warnings**
  - a) 22 BAC 019 – T.N. **(23-24)**
- 2) **Case Closings**
  - a) 18 BAC 003 – T.N.S. **(25-29)**
  - b) 19 BAC 019 – T.W., B.N.C., & B.N.C. **(30-34)**
  - c) 19 BAC 007 – P.N.S. **(35-39)**
  - d) 19 BAC 082 – C.N. **(40-45)**

- e) 20 BAC 069 – N.H. **(46-51)**
- f) 21 BAC 012 – L.D. **(52-57)**
- 3) Proposed Stipulation(s), Final Decision(s) and Order(s)**
  - a) 19 BAC 003 – Sarai Gillmore & Salon on Sixth **(58-65)**
  - b) 20 BAC 050 – Tommy Nguyen **(66-70)**
- 4) Proposed Final Decision(s) and Order(s) of Default**
  - a) 19 BAC 095 – Nguyet Nguyen & Nailistic of Wisconsin, LLC **(71-86)**

**N. 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 Suspension
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decision(s) and Order(s)
- 9) Proposed Final Decision(s) and Order(s) of Default
- 10) Proposed Interim Orders
- 11) Administrative Warnings
- 12) Review of Administrative Warnings
- 13) Proposed Final Decisions and Orders
- 14) Orders Fixing Costs/Matters Related to Costs
- 15) Case Closings
- 16) Board Liaison Training
- 17) Petitions for Assessments and Evaluations
- 18) Petitions to Vacate Orders
- 19) Remedial Education Cases
- 20) Motions
- 21) Petitions for Re-hearings
- 22) Appearances from Requests Received or Renewed

**O. Consulting with Legal Counsel**

- 1) Report on Cases Delegated to Chief Legal Counsel**
  - a) Proposed Final Decision and Order: Kim Bui and TLC Nails & Spa, LLC,  
Respondents – DHA Case Number SPS-21-073/DLSC Case Number 18 BAC  
003 **(87-98)**

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

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

**ADJOURNMENT**

**NEXT MEETING: AUGUST 29, 2022**

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**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 Office at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE  
COSMETOLOGY EXAMINING BOARD  
MEETING MINUTES  
MARCH 28, 2022**

**PRESENT:** Kayla Cwojdzinski, Charity-Faith Fazel, Georgianna Halverson, Ann Hoepner, Megan Jackson, Daisy Quintal

**EXCUSED:** Kristin Lee

**STAFF:** Adam Barr, Executive Director; Jon Derenne, Legal Counsel; Kimberly Wood, Program Assistant Supervisor-Adv.; and other Department staff.

**CALL TO ORDER**

Megan Jackson, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with six (6) members present.

**ADOPTION OF AGENDA**

**MOTION:** Ann Hoepner moved, seconded by Daisy Quintal, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF JANUARY 24, 2022**

**MOTION:** Ann Hoepner moved, seconded by Daisy Quintal, to approve the Minutes of January 24, 2022 as published. Motion carried unanimously.

**BOARD CHAIR MEETING AND OPTIONS TO ADDRESS DEPARTMENT RESOURCES**

**MOTION:** Ann Hoepner moved, seconded by Kayla Cwojdzinski, to send correspondence to the Legislature to request position authority for DSPS to hire additional staff. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** Ann Hoepner moved, seconded by Kayla Cwojdzinski, 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.). Megan Jackson, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Kayla Cwojdzinski-yes; Charity-Faith Fazel-yes; Georgianna Halverson-yes; Ann Hoepner-yes; Megan Jackson-yes; and Daisy Quintal-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:55 a.m.

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

**Administrative Warnings**

**MOTION:** Ann Hoepfner moved, seconded by Kayla Cwojdzinski, to issue an Administrative Warning in the following DLSC Cases:

1. 19 BAC 090 – D.H.
2. 20 BAC 026 – K.P.B.

Motion carried unanimously.

**Case Closings**

**MOTION:** Ann Hoepfner moved, seconded by Kayla Cwojdzinski, to close the following DLSC Cases for the reasons outlined below:

1. 19 BAC 028 – L.L. – Insufficient Evidence
2. 19 BAC 030 – C.N. – Insufficient Evidence
3. 19 BAC 034 – M.N., L.D. – Insufficient Evidence
4. 19 BAC 079 – K.N. – Prosecutorial Discretion (P5)
5. 19 BAC 090 – T.T., B.S.S. – No Violation
6. 20 BAC 011 – R.K., N.O.O. – Prosecutorial Discretion (P2)
7. 20 BAC 021 – K.H. – Insufficient Evidence
8. 20 BAC 032 – H.N., K.K. – Prosecutorial Discretion (P1)
9. 20 BAC 070 – S.J., R.S. – No Violation
10. 20 BAC 079 – B.N. – Lack of Jurisdiction (L2), G.C. – Prosecutorial Discretion (P2)

Motion carried unanimously.

**DELIBERATION ON PROPOSED FINAL DECISIONS AND ORDERS**

**Kim Bui and TLC Nails & Spa, LLC, Respondents (DHA Case Number SPS-21-073/DLSC Case Number 18 BAC 003)**

**MOTION:** Megan Jackson moved, seconded by Ann Hoepfner, to delegate to DSPS Chief Legal Counsel the Board’s authority to preside over and resolve the matter of disciplinary proceedings against Kim Bui and TLC Nails & Spa, LLC, Respondent – DHA Case Number SPS-21-073/DLSC Case Number 18 BAC 003. Motion carried unanimously.

**RECONVENE TO OPEN SESSION**

**MOTION:** Ann Hoepfner moved, seconded by Kayla Cwojdzinski, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 10:14 a.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

**MOTION:** Ann Hoepner moved, seconded by Daisy Quintal, 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.)*

### **ADJOURNMENT**

**MOTION:** Ann Hoepner moved, seconded by Kayla Cwojdzinski, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:15 a.m.

DRAFT

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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Kimberly Wood, Program Assistant Supervisor on Behalf of Legal Counsel		2) Date when request submitted: 6/7/2022 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: 6/13/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Report and Possible Action Resulting from the Cosmetology Examining Board Scope of Practice Committee	
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 <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: The Board will receive a report of the recommendations made by the Cosmetology Examining Board Scope of Practice Committee relative to rule promulgation efforts for Cos 2, 3, 5, & 8, Relating to Scope of Practice, Mobile Practice, Distance Learning. The recommendation motions of the Committee are attached.			
11) Authorization			
<i>Kimberly Wood</i> Signature of person making this request		6/7/2022 Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the <a href="#">Agenda Items</a> folders. 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.			



**COSMETOLOGY EXAMINING BOARD  
SCOPE OF PRACTICE COMMITTEE**

**Recommendations Regarding Cos 2, 3, 5, & 8, Relating to Scope of Practice, Mobile Practice, Distance Learning**

**FEBRUARY 10, 2022**

**MOTION:** Sumeet Goel moved, seconded by Edit Olasz Harken, to recommend to the Cosmetology Examining Board that it clarify its administrative rules to specify that microblading is within the scope of practice of aestheticians and cosmetologists as defined in state statute. Motion carried unanimously.

**MOTION:** Megan Jackson moved, seconded by Ann Hoepfner, to recommend to the Cosmetology Examining Board that it make no changes to its administrative rules regarding microdermabrasion. Motion carried unanimously.

**MAY 12, 2022**

**MOTION:** Megan Jackson moved, seconded by Ann Hoepfner, to recommend to the Cosmetology Examining Board that dermaplaning may be considered part of the scope of practice of aesthetics, assuming proper formal training in the procedure as part of a board approved curriculum, as long as only the stratum corneum layer is being affected. Motion carried unanimously.

**MOTION:** Ann Hoepfner moved, seconded by Sumeet Goel, to recommend to the Cosmetology Examining Board that Cos 2.025 as it relates to chemical exfoliation be amended to reduce the minimum ph level to 2.0, the remainder of the provision should remain unchanged. Motion carried unanimously.

**MOTION:** Edit Olasz Harken moved, seconded by Megan Jackson, to recommend to the Cosmetology Examining Board that microneedling be listed under Cos 2.025 as a delegated medical procedure. Motion carried unanimously.

**MOTION:** Megan Jackson moved, seconded by Sumeet Goel, to recommend to the Cosmetology Examining Board that eyelash and eyebrow tinting and lifting may be considered part of the scope of board regulated professions, assuming proper formal training in the procedure as part of a board approved curriculum. Motion carried unanimously.

**JUNE 2, 2022**

**MOTION:** Sumeet Goel moved, seconded by Ann Hoepfner, to recommend to the Cosmetology Examining Board that utilization of electromagnetic radiation and electric current be considered delegated medical procedures, except when application is limited to the stratum corneum layer of skin assuming proper formal training in the procedures as part of a board approved curriculum. Motion carried unanimously.

**MOTION:** Megan Jackson moved, seconded by Sumeet Goel, to recommend to the Cosmetology Examining Board that it open a Scope Statement revising Cos 5 to outline formal education requirements for procedures recommended for inclusion by the Committee. Motion carried unanimously.

**MOTION:** Edit Olasz Harken moved, seconded by Megan Jackson, to recommend to the Cosmetology Examining Board that 2.02(1), Wis. Admin. Code be modified to read “No licensee may **diagnose or** treat any disease of the skin unless under the direction of a physician.” Motion carried unanimously.

**MOTION:** Edit Olasz Harken moved, seconded by Megan Jackson, to recommend to the Cosmetology Examining Board that utilization of thermal energy be considered a delegated medical procedure, except when application is limited to the stratum corneum layer of skin assuming proper formal training in the procedure as part of a board approved curriculum. Motion carried unanimously.

**MOTION:** Ann Hoepfner moved, seconded by Edit Olasz Harken, to recommend to the Cosmetology Examining Board incorporation of language indicating that any treatment impacting a skin layer below the stratum corneum layer be considered a delegated medical procedure. Motion carried unanimously.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> <b>Dana Denny</b> <b>Administrative Rules Coordinator</b>		<b>2) Date when request submitted:</b> 06/07/22 <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>	
<b>3) Name of Board, Committee, Council, Sections:</b> Cosmetology Examining Board			
<b>4) Meeting Date:</b> 06/13/22	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>Administrative Rule Matters – Discussion and Consideration</b> 1. <b>Review of Cos 2, 3, 5 and 8 recommendations relating to Scope of Practice, Mobile Practice and Distance Learning</b> 2. <b>Possible Scope Statement: Education Requirements (Cos 5)</b> 3. <b>Pending or Possible Rulemaking Projects</b>	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> <b>Open Session</b> <input type="checkbox"/> <b>Closed Session</b>	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b> <b>Discussion of Cosmetology Committee recommendations for Cos 2, 3, 5 and 8 relating to Scope of Practice, Mobile Practice and Distance Learning and Possible Scope Statement for Educational Requirements (Cos 5)</b>  Attachments: <ul style="list-style-type: none"> <li>• Scope Statement 139-20 Cos 2, 3, 5 and 8</li> <li>• Permanent and Emergency Rule Cos 2, 3, 5 and 8 relating to Scope of Practice, Mobile Practice and Distance Learning</li> </ul> Copies of current Board Rule Projects Can be Viewed Here: <a href="https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx">https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx</a>			
<b>11) Authorization</b>			
<i>Dana Denny</i>		06/07/22	
<b>Signature of person making this request</b>		<b>Date</b>	
<b>Supervisor (if required)</b>		<b>Date</b>	
<b>Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date</b>			
<b>Directions for including supporting documents:</b> 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.			

# STATEMENT OF SCOPE

## Cosmetology Examining Board

**Rule No.:** Cos 2, 3, 5, and 8

**Relating to:** Scope of practice, mobile establishments, and distance learning.

**Rule Type:** Permanent and Emergency

### 1. Finding/nature of emergency:

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 potentially clarifying its rules to expressly allow for remote or distance learning.

### 2. Detailed description of the objective of the proposed rule:

The board is considering revising its rules to establish regulations relating to the provision of certain services, including but not limited to, microdermabrasion, microblading, and dermaplaning. The board will also consider creating standards for licensed establishments that are mobile in nature. Further, the board will consider whether it is desirable to develop a definition for “chemical process,” and if so, what should that definition entail. Finally, the board will consider revising its rules to clarify when remote or distance learning may be allowed for the purposes of meeting the education requirements to receive a credential from the board.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Given the nature of changes in the cosmetology industry, the board believes it may be valuable to revise its rules to bring them more into line with current industry practice. This may include establishing standards a credential holder must meet in order to perform certain procedures that may elevate the risk of infection, providing specific standards for mobile licensed establishments, and finally to clarify the methods of providing education which are acceptable to meet the necessary education requirements to receive a credential.

### 4. Detailed explanation of statutory authority for the rule:

Section 15.08 (5) (b), Stats. provides examining boards “[s]hall 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. provides that “[e]ach 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...”

Section 440.62 (5) (b), Stats. provides 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 454.08 (1) (ag) and (ar), Stats. provides that the board may promulgate rules allowing for the practice of cosmetology, electrology, manicuring, and aesthetics outside of a licensed establishment.

Section 454.08 (4), Stats. provides that “[t]he examining board shall, by rule, establish minimum standards concerning the maintenance, equipment, plans, and specifications for licensed establishments as they relate to the public health and safety.”

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

Approximately 80 hours.

**6. List with description of all entities that may be affected by the proposed rule:**

Individuals and entities who hold cosmetology, aesthetics, manicuring, and electrology practitioner and establishment credentials, or are seeking such a credential; providers of cosmetology, aesthetics, manicuring, and electrology education.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

None.

**8. Anticipated economic impact of implementing the rule:**

The rule is not anticipated to have a significant economic impact on small businesses.

**Contact Person:** Jon Derenne, Administrative Rules Coordinator, (608) 266-0955

Approved for Publication:



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Board Chair

September 21, 2020  
Date Submitted

STATE OF WISCONSIN  
COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : COSMETOLOGY EXAMINING  
COSMETOLOGY EXAMINING BOARD : BOARD ADOPTING RULES  
 : (CLEARINGHOUSE RULE )

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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 related to scope of practice, mobile establishments, and distance learning.

Analysis prepared by the Department of Safety and Professional Services.

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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.

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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)

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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Kimberly Wood, Program Assistant Supervisor		2) Date when request submitted: 6/1/2022 <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: Cosmetology Examining Board			
4) Meeting Date: 6/13/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Consider Attendance: National Interstate Council of State Boards of Cosmetology (NIC) Annual Conference on 9/30/2022-10/3/2022 in San Antonio, TX	
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 <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Consider whether the Board will designate someone to attend the conference. MOTION LANGUAGE: To designate BOARD MEMBER NAME as the Board's delegate to attend the NIC Annual Conference on 9/30/2022-10/3/2022 in San Antonio, TX.			
11) Authorization			
<i>Kimberly Wood</i>		6/1/2022	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the <a href="#">Agenda Items</a> folders. 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.			

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## NIC Annual Conference ~ September 30-October 3, 2022 ~

### Make your Hotel Reservations Soon!

*Tentative Schedule:*

September 30, 2022

- New Member Orientation (5:00 pm - 6:00 pm CST)
- Welcome Reception (6:00 pm - 8:30 pm CST)

October 1 - 3, 2022

- Annual Conference - Business Meetings and Education Programs

The conference is scheduled to close at 12:00 pm CST on Monday, October 3, 2022.



**Hotel Contessa is accepting reservations now!**

The guest room group rate is \$189.00 a night plus applicable state and local taxes. A limited number of rooms are blocked for this conference. The special group rate is available until Monday, August 29, 2022, or until the block sells out, whichever comes first. To receive the special group rate, you must indicate you are coming for the National Interstate Council of State Boards of Cosmetology (NIC) conference.

**Reservations:**

- You can register on line by clicking on the following link: [NIC of State Boards of Cosmetology](#). The group rate is already attached to all on line reservations using this link.

**or**

- by telephone by contacting the hotel directly at (210) 298-8017, Monday through Friday. You must let them know you are with the NIC of State Boards of Cosmetology to receive the group rate.



## Registration Packet Information and a detailed Agenda will be coming soon!

Visit our website at [www.nictesting.org](http://www.nictesting.org)  
to check for updated information.



**We Look Forward to Seeing Everyone  
in San Antonio!**

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**National Interstate Council  
of State Boards of Cosmetology**

[www.nictesting.org](http://www.nictesting.org)