

Clearinghouse Rule 18-002

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

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

The Cosmetology Examining Board is petitioning the Joint Committee for Review of Administrative Rules to repeal a rule the board has determined to be an unauthorized rule and is using the process under s. 227.26 (4), Stats.

PROPOSED ORDER

An order of the Cosmetology Examining Board to repeal Cos 1.01 (3m), Cos 5.03, Cos 7.03 (2), and Cos 8.01 (2); to amend Cos 2.06 (4), Cos 2.07 (1), Cos 2.07 (1r), Cos 3.02 (1), Cos 3.02 (2) (b), Cos 5.001, Cos 5.01, Cos 6.04 (1) (a), Cos 7.04, Cos 8.02, Cos 9.03 Note, and Cos 11.01, relating to cosmetology manager licensing.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 454.04, and 454.06, Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), 454.08 (1) (ag) 1., 2., 454.08 (6), Stats., and 2017 Wisconsin Act 82.

Explanation of agency authority: Pursuant to ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., the Cosmetology Examining Board is empowered by the legislature to promulgate rules that will provide guidance within the profession and to interpret the statutes it administers. The passage of 2017 Wisconsin Act 82 prompted the Board to review all regulations concerning cosmetology and undertake an update of the rules to make them consistent with the new legislation.

Related statute or rule: Wisconsin Administrative Code, chs. Cos 1 to 11

Plain language analysis: The Cosmetology Examining Board is updating the rules governing the practice of cosmetology based upon passage of 2017 Wisconsin Act 82. Act 82 eliminates the requirement for a cosmetology manager license. This update eliminates or amends references to this license in chs. Cos 1 to 11 of the Wisconsin Administrative Code consistent with the requirements of 2017 Wisconsin Act 82.

Agency contact person: Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

Section 1. Cos 1.01 (3m) is repealed.

Section 2. Cos 2.06 (4) is amended to read:

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

Section 3. Cos 2.07 (1) is amended to read:

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

Section 4. Cos 2.07 (1r) is amended to read:

Cos 2.07 (1r). The cosmetology manager shall, for a minimum of 5 years, maintain and provide appropriate records for apprentices, temporary permit holders, training permit holders, and practitioners, including employment records, to enable apprentices or practitioners to meet the requirements of s. ~~454.06 (3) (b)~~, 440.63 (3) (a) 2., or 454.10 (2), Stats., for credentialing as a practitioner, ~~cosmetology manager~~, or instructor.

Section 5. Cos 3.02 (1) is amended to read:

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

Section 6. Cos 3.02 (2) (b) is amended to read:

Cos 3.02 (2) (b). The lessee of a chair or booth shall be responsible for ensuring

that the leased chair or booth operates in compliance with ch. 454, Stats., and the rules of the board, and the lessee shall hold a cosmetology ~~manager's~~ and an establishment license.

Section 7. Cos 5.001 is amended to read:

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

Section 8. 5.01 is amended to read:

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

Section 9. Cos 5.03 is repealed.

Section 10. Cos 6.04 (1) (a) is amended as follows:

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

Section 11. Cos 7.03 (2) is repealed.

Section 12. Cos 7.04 is amended to read:

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

Section 13. Cos 8.01 (2) is repealed.

Section 14. Cos 8.02 is amended to read:

Cos 8.02. Licensing requirement without examination. The board may grant a license to practice cosmetology, aesthetics, electrology, or manicuring, ~~or to practice as a~~

~~cosmetology manager~~ without examination to a licensee of another state provided that the following conditions are met:

Section 15. Cos 9.03 (Note) is amended to read:

Cos 9.03 (Note). A person may not practice as a cosmetologist, aesthetician, electrologist, or manicurist ~~or cosmetology manager~~ prior to being granted reinstatement of their respective license.

Section 16. Cos 11.01 is amended to read:

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

Section 17. 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)
