

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

X Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. BC 6, Apprenticeship Procedures and Standards, s. BC 6.04 (1)

Subject

Supervision of barbering and cosmetology apprentices

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

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

State's Economy
 Local Government Units

Specific Businesses/Sectors
 Public Utility Rate Payers

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

Yes X No

Policy Problem Addressed by the Rule

2009 Wis. Act 189 amended s. 454.10 (3), Stats., which had previously stated that only a licensed manager could supervise a barbering and cosmetology apprentice. The 2009 amendment expanded the supervision law, which now allows a manager to delegate his or her supervisory duty to a licensed barber or cosmetologist, so long as the person delegated has completed at least 2,000 hours of practice as a licensed barber or cosmetologist. The proposed amendment to s. BC 6.04 (1) will bring that rule into compliance with the enabling statute.

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

This proposed rule tracks legislation that was effective on March 29, 2010, almost two years ago. Any economic or fiscal impact experienced by private businesses or public entities due to the amendment of s. 454.10 (3), Stats., has thus already been absorbed by such entities as a part of routine operations.

The proposed rule was posted on both the state's and the department's administrative rules websites for 14 days for purposes of soliciting comments regarding the economic impact on businesses, business sectors, professional associations, local government units, or potentially interested parties, as required by s. IV, 3. a., EO # 50. In addition, e-mails solicitations were sent to several potentially interested parties. No responses to any of the solicitations were received. Given all of the above, the rules promulgated by this proposal will have no economic or fiscal impact on any of the entities listed above.

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

The existing administrative rule regarding supervision of a barbering and cosmetology apprentice reflects the pre-Act 189 statute. The proposed rule-making will make s. BC 6.04 (1) consistent with the current version of the s. 454.10 (3), Stats. Because the existing rule is not consistent with its enabling statute, the rule must be amended, and there is no alternative to promulgating the amendment to s. BC 6.04 (1) available.

Long Range Implications of Implementing the Rule

The expansion of the apprentice supervision requirement has likely given licensed managers more flexibility with respect to their responsibilities to apprentices. Such flexibility may have and could continue to result in managers having more time to spend on overseeing their establishments, which in turn, may result in better-run operations.

Compare With Approaches Being Used by Federal Government

There are no existing or proposed federal statutes or regulations addressing barbering and cosmetology apprentice supervision.

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

Illinois:

Neither the Illinois Compiled Statutes (ILCS), nor the Illinois Administrative Code contain provisions regarding apprenticeship programs for barbers, cosmetologists, estheticians, hair braiders, or nail technologists. The Illinois Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (Act of 1985) is found in the statutes regarding those five professions at 225 ILCS 410/3E-4. The statutes are administered by the Illinois Department of Financial and Professional Regulation. The department's rules implementing the Act of 1985 are codified at Title 68, Chapter VII, Subchapter b, Part 1175. The Act of 1985 may be viewed at

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1351&ChapterID=24>.

The statutes created by the 1985 Act provide for unpaid student internships in the practice of hair braiding only, at 225 ILCS 410/3E. Hair-braiding interns may not spend more than 30 hours in an internship, and must be under the direct supervision of an on-site licensed cosmetologist or hair braider. The supervising cosmetologist or hair braider may supervise only one student at a time. See

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022504100HArt%2E+IIIE&ActID=1351&ChapterID=24&SeqStart=8100000&SeqEnd=8298437>.

The rules and regulations associated with the Act of 1985 are set forth at Title 68, Part 1175 of the Illinois Administrative Code. The code allows for unpaid student internships in cosmetology, 68 Ill. Admin. Code 1175.530 (h); esthetics, 168 Ill. Admin. Code 1175.835 (a) (5); nail technology, 68 Ill. Admin. Code 1175.1135 (a)(5); and hair braiding, 68 Ill. Admin. Code 1175.1535 (f), but is silent with respect to internships for barbers. See

<http://www.ilga.gov/commission/jcar/admincode/068/06801175sections.html>, and go to the curriculum requirements for the schools of each of the five professions.

Iowa:

No Iowa statutes (Iowa Code) specifically reference barbering or cosmetology apprenticeships or internships. However, the Iowa Code addresses apprenticeships for several technical trades and professions directly, and also contains a statute governing apprenticeship programs in general at s. 260C.44. The word "apprentice" is therein defined as "a person...who is employed in an apprenticeable occupation, and is registered with the United States department of labor, office of apprenticeship." Iowa Code s. 260.44 2.a. The United States Department of Labor, Office of Apprenticeship (DOLOA) maintains a list of apprenticeable professions on its website, which includes both barbering and cosmetology.

Nevertheless, through telephone contact with the executive of the Iowa Board of Barbering, the Wisconsin board has learned that despite the barbering profession's presence on the DOLOA list, Iowa has neither a barbering apprenticeship or mentoring program. For the statutory definition of "apprentice," see Iowa Code s. 260.44 2.a. at

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>. To view the DOLOA list, see http://www.doleta.gov/oa/bul10/Bulletin_2010-05_List_of_Appren_Occ.pdf.

The sole Iowa Administrative Code (IAC) reference to "apprentice" related to either barbering or cosmetology appears in the rules governing barber schools, at s. 645 IAC 23.15. That rule permits a barbering student who completed apprenticeship hours in another state to apply those hours to Iowa's 2,100-hours course-of-study requirement for graduation from a barber school. The foreign apprenticeship hours are applicable to course-of-study requirement at the rate of four to one. See <http://www.legis.iowa.gov/DOCS/ACO/IAC/LINC/Rule.645.23.15.pdf>.

The IAC includes a "mentoring" program for students of the various cosmetology professions. Rule 645—61.20, IAC. Students in the mentoring program may participate for no more than five percent of the total hours required by the course-of-study rule, Rule 645—61.20 (2), and a participant must be under the mentor's supervision at all times, Rule 645—61.20 (3). See <http://www.legis.state.ia.us/aspX/ACODocs/DOCS/11-2-2011.645.61.20.pdf>.

Michigan:

Michigan's statutes and rules related to the barbering and cosmetology professions are set forth in two different

compilations of law, one on barbering, and the other on the cosmetology professions. See the **Barbering Law Book** at <http://www.dleg.state.mi.us/bcsc/forms/barb/bclawbk.pdf>, or the **Cosmetology Law Book** at <http://www.dleg.state.mi.us/bcsc/forms/cos/coslawbk.pdf>.

The only Michigan statutory reference to an apprentice or apprenticeship in the barbering context appears in s. 339.1108 (3), Michigan Compiled Laws (MCL). That section provides that an individual who was either a licensed barber or a barbering apprentice in another jurisdiction may apply the time so spent to Michigan's 2,000-hour barber school course-of-study requirement, at the rate of three months for 100 hours of instruction. See <http://legislature.mi.gov/doc.aspx?mcl-339-1108>.

The Michigan statutes refer to cosmetology apprenticeships in the definition of "apprentice," found in the, MCL s. 339.1201 (a). Under that section, a cosmetology apprentice is "an individual engaged in learning cosmetology in a cosmetology establishment." Section MCL 339.1201 (d) defines "cosmetology" as any of the services of barbering, or "hair care," skin care, manicuring, or electrolysis, or a combination thereof. Under s. 339.1203a, MCL, no Michigan cosmetology licensee may practice electrolysis without a separate license for such practice. For the definition of cosmetology, see <http://legislature.mi.gov/doc.aspx?mcl-339-1201>. (To view any of the other citations in this or the next paragraph, use the same web address, substituting the appropriate 1200 number at the end. For example, see MCL s. 339.1207 at <http://legislature.mi.gov/doc.aspx?mcl-339-1207>.)

Michigan's general cosmetology apprenticeship program is described in MCL ss. 339.1205 and .1207. Under MCL s. 339.1207 (d), an applicant for cosmetology licensure may substitute two years of cosmetology apprenticeship for the 1,500-hour cosmetology school course-of-study licensure requirement. The statutes specific to apprenticeships in electrolysis, manicuring, esthetics, and natural hair cultivation are set forth in ss. MCL 339.1208, .1209, .1210, and .1210a, respectively. The ratio of required school-training hours to months of apprenticeship for each of the four subsidiary practices varies as indicated in those sections.

Michigan's administrative rules contain no provisions regarding barbering apprenticeships. Rules 339.6001 - .6051, Mich. Admin. Code. A barbering student must have a student license to work on a public patron, and any such work must take place in the school facility. Rule 339.6045 (1), Mich. Admin. Code. As part of their course-of-study requirement, barbering students must complete 1,750 hours of practical training in the practice. Rule s. 339.6047, Mich. Admin. Code. See all rules regulating barbers at

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33906001&Dpt=LG&RngHigh=.

The administrative code specific to cosmetology apprenticeships may be found at Rules 338.2141 - .2151. Notably, the general cosmetology training rules prohibit students from using school credit hours to fulfill apprenticeship training requirements, and vice versa. Rule 338.2133, Mich. Admin. Code. A cosmetology licensee may seek the Board of Cosmetology's approval to become an apprenticeship practitioner, i.e., one who trains an apprentice, after completing at least three years of practice. Rule 338.2151 (2), Mich. Admin. Code. Among other things, an apprenticeship practitioner must agree to "[p]ersonally train the apprentice." Rule 338.2151 (2) (i), Mich. Admin. Code. Those rules make clear that apprenticeship practitioners may not delegate their apprentice training responsibilities. See all cosmetology rules at http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33802101&Dpt=LG&RngHigh=.

Minnesota:

Minnesota law governing barbers is codified at ch. 154, Minn. Stats. The statutes require persons practicing as a barber, barbering apprentice, or barbering instructor to have the current, appropriate certificate of registration for each of those practices. Sections 154.01 (a), (b), and (d), Minn. Stats. To become a registered barber, an applicant must have graduated from a barber school approved by the Board of Barber Examiners (BBE), practiced as a registered apprentice for 12 months, and passed the BBE's registration examination. Section 154.05, Minn. Stats. Under s. 154.03, Minn. Stats., a registered apprentice may practice barbering only under the "immediate personal supervision of a registered barber." See ch. 154, Minn. Stats. at <https://www.revisor.mn.gov/statutes/?id=154&view=chapter&format=pdf>.

Statutory law on cosmetology in Minnesota is set forth in ch. 155A, Minn. Stats. There are no provisions in ch. 155A regarding cosmetology apprentices or apprenticeship. See ch. 155A at <https://www.revisor.mn.gov/statutes/?id=155A&view=chapter&format=pdf>.

Minnesota's administrative code related to barbering is located at ch. 2100, Minn. Admin. Rules. The rules governing registered apprentices appear in ss. 2100.0200 - .1700, Minn. Admin. Rules. Section 2100.1200 of the Rules requires the registered barber supervising a registered apprentice to file an affidavit attesting to the number of supervised practice hours accumulated by the apprentice. To renew registration as a barber apprentice, an apprentice must provide a statement of the hours of practice under the immediate supervision of a registered barber. Section 2100.1500, Minn. Admin. Rules. Chapter 2100 contains no provisions regarding delegation of apprentice supervision. See ch. 2100, Minn. Admin. Rules at <https://www.revisor.mn.gov/rules/?id=2100&view=chapter&format=pdf>.

Minnesota has no administrative rules that reference apprenticeships in cosmetology or its subsidiary practices. The rules

governing cosmetology and cosmetology establishments are located at ch. 2105, Minn. Admin. Rules. The rules governing cosmetology schools appear in ch. 2110, Minn. Admin. Rules. See ch. 2105 at <https://www.revisor.mn.gov/rules/?id=2105&view=chapter&format=pdf>. See ch. 2110 at <https://www.revisor.mn.gov/rules/?id=2110&view=chapter&format=pdf>.

Comparison of approaches:

The information provided above respecting each of Wisconsin's four neighboring states indicates a range of differences between each states' approach to the concept of barbering and cosmetology apprenticeships. However, the amendment to s. BC 6.04 (1) contemplated in the Wisconsin barbering and cosmetology examining board's rule-making proposal must occur to bring the existing rule into compliance with s. 454.10 (3), Stats. Thus, a comparison between the other individual states' approaches and Wisconsin's is not necessary.

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