

Report From Agency

**STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
: CR 15-035
COSMETOLOGY EXAMINING :
BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA document is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Cosmetology Examining Board undertook a comprehensive review of the rules governing cosmetology practice in Wisconsin. This review was prompted by the passage of 2011 Wisconsin Act 190 which separated the Barbering and Cosmetology Examining Board, leaving the regulation of cosmetology practice to the Cosmetology Examining Board and transferring the regulation of the practice of barbering to the Department of Safety and Professional Services. This proposed rule makes the changes necessitated by the passage of 2011 Wisconsin Act 190 to Wisconsin Administrative Code Chapters 1 to 11, which includes redefining the term manager to cosmetology manager and creating an inactive license classification. Other changes in the proposed rule include identifying the settings that are excluded from providing cosmetology services outside of a licensed cosmetology establishment, eliminating the requirement for a separate establishment license for electrologists, eliminating the training programs and continuing education required to perform delegated medical procedures, and clarifying the late renewal and reinstatement processes.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Cosmetology Examining Board held a public hearing on June 22, 2015. The following people either testified at the hearing, or submitted written comments:

Laura Thomas, Alexander Academy of Skin Care

The Cosmetology Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

Ms. Thomas had concerns with individuals providing laser services and other services outside of licensed establishments.

The Cosmetology Examining Board did not modify its rule-making proposal in response to public comments as the proposed rule does not provide for additional locations where licensees may perform services beyond the current rule.

The Cosmetology Examining Board clarified the rule for license holders by adding “disinfectable” to Cos 4.01 (3g) and removing “or porous nail files” from Cos 4.01 (3r). These changes reinforce that license holders do not need to dispose of any tools and implements that are designed by the manufacturer to be disinfected including certain types of porous nail files.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

1. Statutory Authority

Comment: In the rule summary, the board should describe its authority to prohibit a person who holds an inactive license under s. 454.06 (8m), Stats., from performing any work in the practice for compensation. Section 454.06 (8m) (d), Stats., permits a person to perform work in the practice for which that person holds an inactive license if that work is minimal, as determined by the ~~department~~ examining board. However, s. Cos 8.03 (1) and (2) appears to only permit activities for which compensation is not received.

Response: Section 454.06 (8m) (d), Stats., does not explicitly state that the Board must allow the inactive license holder to perform activities for compensation.

5. Clarity, Grammar, Punctuation, and Use of Plain Language

Comment: Proposed s. Cos 9.03 (2) states that a licensee may “apply to have the license reinstated in accordance with all of the following:” and then pars. (a) to (c) list types of evidence. It is unclear whether the licensee must submit with the application each type of evidence listed, or if the license is only to be reinstated if the board finds evidence of the factors listed in pars. (a) to (c). Additionally, given the reference to “unmet” disciplinary requirements in the introductory material, under what circumstances would the content of par. (b) not apply?

Response: In s. Cos 9.03 (2) the applicant must submit with the application each type of evidence listed, if applicable. Applicants with surrendered or revoked credentials may not have unmet disciplinary requirements.

Comment: In s. Cos 11.04 (5) (b), what distinction does the board intend by replacing “working days” with “business days” with regards to its filing deadline?

Response: “Business days” is a commonly used term to refer to the days Monday through Friday. A cosmetologist may work any day of the week including Saturdays and Sundays. Replacing “working days” with “business days” is intended clarify for course providers that the provision is referring to the days Monday through Friday.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A