

Chapter Cos 2

PRACTICE AND PROFESSIONAL CONDUCT

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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 2.02 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) A licensee may not provide the following services unless both the licensee and the establishment are properly licensed by the department of 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; CR 20-025: am. (8) (intro.) Register July 2021 No. 787, eff. 8-1-21.

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 10.

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; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register July 2021 No. 787.

Cos 2.045 Personal care services for persons in hospitals, nursing homes, and correctional institutions.

A licensee may provide any personal care services, subject to all practice standards set forth in this chapter, to persons who are in hospitals, nursing homes, or correctional institutions, regardless of whether it is done in a designated area or in the personal room of an inmate, patient, or infirm person.

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; CR 20-025: r. and recr. Register July 2021 No. 787, eff. 8-1-21.

Cos 2.046 Personal care services outside of a licensed establishment generally. Other than personal care services provided under s. Cos 2.045, an appropriately creden-

tial licensee may provide services outside of a licensed establishment as follows:

(1) Aesthetics, cosmetology, and manicuring services may be provided outside of a licensed establishment if all the following are true:

(a) The licensee owns, manages, is employed by, or affiliated with an establishment that is licensed to provide services under s. 454.08 (2), Stats.

(b) The licensee brings to the outside service location their active license certificate, or a copy, provided to them under s. 454.06 (7), Stats.

(c) The licensee complies with all practice standards provided in this chapter when providing personal care services outside of a licensed establishment.

(d) The licensee complies with all sanitation and safety precautions regarding the use of chemical processes provided in ch. Cos 4.

(e) The services provided do not involve the use of a chemical process, with the following exceptions:

1. A licensee practicing aesthetics or cosmetology outside of a licensed establishment may apply cosmetics, oils, lotions, clay, creams, antiseptics, powders, or tonics.

2. A licensee practicing cosmetology outside of a licensed establishment may use cleansing, styling, and finishing products for the purpose of cutting or styling hair.

(2) Electrology services may be provided outside of a licensed establishment if all the following are true:

(a) The licensee complies with all practice standards provided in this chapter when providing personal care services outside of a licensed establishment.

(b) The licensee complies with all sanitation and safety precautions provided in ch. Cos 4.

History: CR 20-025: cr. Register July 2021 No. 787, eff. 8-1-21.

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."

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 who is not a licensed cosmetologist, employ at least one licensed cosmetologist to act as a full-time manager who shall ensure that the establishment operates in compliance with state statutes and administrative rules.

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; CR 20-025: am. (5) Register July 2021 No. 787, eff. 8-1-21.

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) Reg-

ister 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.

Cos 2.09 Continuing education. To ensure competency, the board may require specific remedial continuing education requirements for any licensee as part of a disciplinary process.

History: CR 20-025: cr. Register July 2021 No. 787, eff. 8-1-21.