

Report From Agency

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DEPARTMENT OF SAFETY AND : CR 15-028
PROFESSIONAL SERVICES :
:**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

Not applicable.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA 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 proposed rule addresses changes prompted by the passage of recent legislation. 2011 Wisconsin Act 190 severed the Barbering and Cosmetology Examining Board and transferred the regulation of the practice of barbering to the Department of Safety and Professional Services. Act 190 added several new definitions to s. 440.60, Stats., which required updating s. SPS 60.02. 2013 Wisconsin Act 205 reduced the number of hours of practical training that an apprentice in barbering must acquire from 3,712 hours to 1,712 hours. This change required amending the syllabus for apprentice training experience set forth in s. 50.310 table. Lastly, 2013 Wisconsin Act 356 created a provision requiring the Department to identify, by rule, the accrediting agencies it approves to accredit barbering schools. The proposed rule also updates the renewal date for barbering and cosmetology schools. The proposed rule additionally repeals s. SPS 61.02 as these provisions no longer accurately reflect the fees for licenses issued to schools and specialty schools. Section 440.62 (2), Stats., allows the Department to determine the licensure fees in accordance with s. 440.03 (9) (a), Stats., which establishes a biennial recalculation of credential fees.

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

The Department of Safety and Professional Services held a public hearing on April 20, 2015. The following people either testified at the hearing, or submitted written comments:

Steve Paul (testified)
Lori Paul (written comments)
Todd Degner (written comments)

The Department of Safety and Professional Services summarizes the comments received either by hearing testimony or by written submission as follows:

All comments expressed concern with regards to the definition of barbering as it relates to waxing. SPS 50.110 (3) states, “‘Barbering’ has the meaning given in s. 454.20 (2), Stats.” It is followed by a (Note) that provides the definition of barbering in s. 454.20 (2), Stats., which states: “‘Barbering’ means, for compensation, arranging, styling, dressing, shampooing, cleansing, curling, dyeing, tinting, coloring, bleaching, waxing, waving, straightening, cutting, shaving, trimming, relaxing, singeing, or performing similar work upon the hair of the head, neck, or face of any person by any means. ‘Barbering’ does not include the removal of a person's hair at the root or the application of temporary or permanent eyelash extensions to the eyelashes of a person.”

The statutory definition of barbering has resulted in confusion in the field as to whether barbers can perform waxing since it involves removing hair at the root. All three individuals that provided testimony believed that waxing should be included in the barbering scope of practice. Todd Degner and Lori Paul suggested modifying the definition of barbering to read, “‘Barbering’ means, for compensation, arranging, styling, dressing, shampooing, cleansing, curling, dyeing, tinting, coloring, bleaching, waxing, waving, straightening, cutting, shaving, trimming, relaxing, singeing, or performing similar work upon the hair of the head, neck, or face of any person by any means. ‘Barbering’ does not include the removal of a person's hair at the root with an electric needle or the application of temporary or permanent eyelash extensions to the eyelashes of a person.”

The Department of Safety and Professional Services explains modifications to its rule-making proposal prompted by public comments as follows:

The Department of Safety and Professional Services has modified the (Note) following SPS 50.110 (3) by adding the following sentence: The definition of barbering specifically allows barbers to perform waxing but prohibits barbers from performing all other forms of hair removal at the root.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

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

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

Not applicable.