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Details:

(FORM UPDATED: 07/12/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Public Health (AC-PH)

COMMITTEE NOTICES ...

- Committee Reports ... CR
- Executive Sessions ... ES
- Public Hearings ... PH
- Record of Comm. Proceedings ... RCP

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... Appt
- Clearinghouse Rules ... CRule
- Hearing Records ... bills and resolutions
(ab = Assembly Bill) (ar = Assembly Resolution) (ajr = Assembly Joint Resolution)
(sb = Senate Bill) (sr = Senate Resolution) (sfr = Senate Joint Resolution)
- Miscellaneous ... Misc

Jim Doyle
Governor

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

Celia M. Jackson
Secretary



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September 13, 2006

Representative J. A. Hines, Chair
Assembly Committee on Public Health
Room 10 West, State Capitol
Madison, WI 53702

Senator Carol A. Roessler, Chair
Senate Committee on Health, Children, Families,
Aging and Long-Term Care
Room 8 South, State Capitol
Madison, WI 53702

RE: Clearinghouse Rule 05-118, Rules of the Barbering and Cosmetology
Examining Board

Dear Representative Hines and Senator Roessler:

This letter is in response to modifications requested to Clearinghouse Rule 05-118 following the Assembly Committee on Public Health public hearing which was held on August 30, 2006. Following are the specific changes the Barbering and Cosmetology Examining Board discussed and approved at their September 11, 2006 board meeting.

1) SECTION 5. BC 1.01 (7m) is created to read:

BC 1.01 (7m) "General supervision" means the supervising physician ~~is not onsite but~~ is available for direct communication, either in person or by telephone, radio, radiotelephone, television or similar means and is physically located within 120 miles of the licensee.

2) SECTION 9. BC 1.01 (11n) is created to read:

BC 1.01 (11n) "Mechanical exfoliation" means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques, ~~peeling creams~~ or drying preparations that are rubbed off, and microdermabrasion.

3) SECTION 11. BC 2.025 (2) (a) is renumbered BC 2.025 (2) (a) (intro.) and is amended to read:

BC 2.025 (2) (a) (intro.) Laser hair removal services. Prior to providing any laser hair removal procedures, a licensee shall complete advanced training in the use of laser devices in a training program of not less than 6 hours. If the training program is provided in a setting other than a licensed school of cosmetology or barbering, the program shall incorporate all of the following:

4) SECTION 12. BC 2.025 (2) (a) 1. to 5. are created to read:

BC 2.025 (2) (a) 1. The training shall be conducted by a trainer who has been a practicing aesthetician, a barbering or cosmetology instructor, an aesthetics instructor, or a barbering or cosmetology manager for a minimum of one year, and who has completed a course in laser training provided by a licensed school of cosmetology or barbering, or provided by a licensed school of aesthetics. A licensed physician may also provide the training.

2. Trainees receive hands-on training which includes actual use of the laser device under the supervision and guidance of the trainer.

3. The training is documented by a certificate of completion which sets forth the length of the training and the type of device and which is signed by the trainer and includes the trainer's license number.

4. The licensee posts in a conspicuous location in the immediate area where the procedure is carried out the certificate of completion of the training required in subd. 1.

5. Licensees providing laser hair removal procedures shall complete at least 6 continuing education credit hours acceptable to the board in laser hair removal each biennium. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

5) SECTION 13. BC 2.025 (2) (c) (intro.) and is amended to read:

BC 2.025 (2) (c) (intro.) Chemical ~~skin peels~~ exfoliation, except for nonmedical facial peels for exfoliation purposes. Application of commercially available exfoliation products utilized in accordance with the manufacturers' instructions, limited to the following:

6) **SECTION 16. BC 2.025 (2g) is created to read:**

BC 2.025 (2g) Licensees providing chemical exfoliation shall complete at least 6 continuing education credit hours acceptable to the board in chemical exfoliation each biennium. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

7) SECTION 16. BC 2.025 ~~(2m)~~ **(2r)** is created to read:

BC 2.025 **(2r)** (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 one~~ **Class I** machines may be used pursuant to this subparagraph.

(e) Microdermabrasion services are not provided within 48 hours before or after a chemical ~~skin peel~~ **exfoliation**.

(i) The licensee shall complete at least 6 continuing education credit hours acceptable to the board in microdermabrasion each biennium. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

8) “Chemical skin peels” has also been changed to “chemical exfoliation” in the introductory clause; SECTIONS 16 and 19 of the analysis; and the first line under Comparison with rules in adjacent states, in addition to the same changes made in the text of the rule (identified above).

9) SECTION 18 under the analysis has been changed to read: SECTION 18 **imposes creates** a requirement of ~~parenteral parental~~ or guardian consent for laser hair removal services on minors, **thereby increasing the protection for minors undergoing this type of procedure.**

10) The SECTION numbers under the analysis have been renumbered to correspond with new provisions of the rule-making order, which are SECTIONS 11, 12 and 16.

Also attached is a revised copy of the rule-making order.

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September 13, 2005

I understand that the legislative standing committee's review period will be extended for ten days. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Pamela A. Haack".

Pamela A. Haack, Paralegal
Office of Legal Counsel
608-266-0495

Attachment

STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BARBERING AND COSMETOLOGY
BARBERING AND COSMETOLOGY : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 05-118)

PROPOSED ORDER

An order of the Barbering and Cosmetology Examining Board to repeal BC 1.01 (1m) and 4.09 (3m); to renumber BC 1.01 (6h), (6r), (11) and (11m); to renumber and amend BC 2.025 (2) and (a) and (c), 4.08 (intro.), (1), (2) and (3) and 8.01; to amend BC 1.01 (3), (3r) and (8), 2.025 (2) (b) and (3), 2.07 (1g), 3.01 (7), 3.02 (1) (a) to (c), 3.06 (2), 4.01 (2), 4.02 (1), 4.03 (2), 4.06 (3), 4.07 (intro.) and (2), Figure 5.02, Figure 5.06, Figure 6.03 (1), Figure 6.04 (3) and ch. BC 8 (title); and to create BC 1.01 (6s), (7m), (9), (11n), (11r), (11w) and (13t), 2.025 (2) (a), 1. to 5. and (c) 1. and 2., (2g), (2r) and (6), 4.01 (8), 4.08 (1) and (2) and 8.01, relating to definitions, microdermabrasion, chemical exfoliation, managers, ear piercing, waxing, nail enhancement, licensing requirements and reinstatement of license.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 454.02, 454.04, 454.06, 454.08, 454.10 and 454.13, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Explanation of agency authority:

The Barbering and Cosmetology Examining Board has the authority to promulgate rules under sections 15.08 (5) (b) and 227.11 (2), Stats., relating to limitations and exceptions, practice, licensure, establishment licenses, and licensees of other jurisdictions.

Related statute or rule:

There are no other statutes or rules other than those listed above.

Plain language analysis:

This proposed rule-making order encompasses several changes. A number of the changes are definitions and technical changes to make the rules easier to read and understand (Sections 1, 2, 3, 4, 8, 20, 26, 27, 29, 31, 32, 33 and 34). A significant

revision is allowing microdermabrasion to be practiced, in specific circumstances, without the supervision of a physician (Sections 12, 13, 14, 16 and 17). This proposed rule-making order also modifies the rules regarding managers, their responsibilities and the amount of supervision they must provide (Sections 20, 22). This proposed rule-making order also clarifies some language regarding sanitation procedures providing additional guidance to the practitioners. And, finally, the proposed rule-making order also clarifies licensing requirements that were previously ambiguous.

SECTION 1 repeals the definition of artificial nails which is now subsumed by the addition in s. BC 1.01 (11w), definition of "nail enhancement."

SECTION 2 modifies the definitions of "contagious" and "cutting" to more accurately reflect the meaning.

SECTION 3 moves language to a more appropriate location.

SECTION 4 adds a definition of "exfoliation."

SECTION 5 adds a definition of general supervision to provide guidance to the licensee and the physician who wish to collaborate in the providing of certain services.

SECTION 6 clarifies the definition of "infectious" to show that contact is not a necessary element to the spread of infectious disease.

SECTION 7 provides a definition of "laser" necessary to understand the restrictions on laser hair removal services.

SECTION 8 changes the placement of definitions to a more appropriate location.

SECTION 9 adds new definitions of "mechanical exfoliation," "microdermabrasion" and "nail enhancement."

SECTION 10 adds a new definition of "physician."

SECTION 11 amends and SECTION 12 creates training requirements for practitioners providing laser hair removal services.

SECTION 13 creates an exception to the requirement of medical supervision of microdermabrasion services.

SECTIONS 14 and 15 clarify that some commercially available exfoliation products can be administered without medical supervision.

SECTION 16 creates continuing education requirements for practitioners providing chemical exfoliation.

SECTION 17 creates and identifies the circumstances that must exist to allow microdermabrasion services in absence of medical supervision. The requirements include appropriate training, restrictions on the type of machine allowed, and a requirement for a pretreatment screening of the client to determine suitability for the procedure. This SECTION also mandates a written consent from the client after disclosure of known risks.

SECTION 18 creates a requirement of parental or guardian consent for laser hair removal services on minors, thereby increasing the protection for minors undergoing this type of procedure.

SECTION 19 imposes a requirement that in licensed establishments where laser hair removal, microdermabrasion or chemical exfoliation is performed as a delegated medical act, information on the delegating physician must be conspicuously posted.

SECTION 20 allows for supervision of apprentices and temporary permittees by a licensee with substantial experience.

SECTIONS 21 and 28 clarify that the proper cleaning of linens includes use of a germicide.

SECTION 22 amends the rules to clarify that chain salons need to have full time managers for each salon and recognizes that a manager may be absent for brief periods of time during a day.

SECTION 23 deletes the requirement that a floor plan be submitted to the department when a leased chair or booth is relocated but maintains the requirement of notice to the department of that relocation.

SECTION 24 clarifies that waterless hand washing agents must meet certain standards and may only be used as a substitute for washing with soap and water when the hands are not visibly soiled.

SECTION 25 provides guidance on the appropriate use of lancets for lateral piercing of whiteheads.

SECTION 26 notes that the rules regarding disinfecting tweezers used in electrolysis are different than for general cosmetology.

SECTION 27 adds a requirement that proper maintenance of sterilizers includes following manufacturers recommendations regarding maintenance procedures, and that equipment be checked at least monthly rather than quarterly to ensure that it is reaching required temperatures.

SECTION 29 acknowledges that ear piercing may be performed by licensees and allows use of waterless alcohol base washing agents as a substitute for soap and water.

SECTION 30 clarifies that use of a topical antiseptic is required before performing a waxing procedure.

SECTION 31 establishes waxing as part of the scope of practice for properly trained electrologists and manicurists. This SECTION establishes the training standards for those licensees seeking to provide waxing services.

SECTION 32 eliminates language that is redundant as a result of the adoption of SECTION 25 above.

SECTIONS 33, 34 and 35 modify the training standards to reflect the addition of the concept of nail enhancements as a practice skill.

SECTION 36 modifies the training standards for apprentices to acknowledge nail enhancements as a practice skill.

SECTION 37 modifies the title of the chapter to recognize that the chapter deals with all licenses and eliminates language suggesting the chapter only addresses licensees from other jurisdictions.

SECTION 38 clarifies the title of the chapter to show that it addresses license applications for which an examination is not needed and relocates the SECTION to a more appropriate location.

SECTION 39 repeats the basic statutory licensing requirements in a rule.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government does not regulate barbers and cosmetologists, and a search of the United States Code Services (USCS) and the Code of Federal Regulations (CFR) returned no entries for microdermabrasion, chemical peels, waxing, managers, artificial nails, or nail technology for barbers or cosmetologists.

Comparison with rules in adjacent states:

Microdermabrasion, chemical exfoliation:

Michigan – no mention in laws or rules. Statement on web page for Department of Labor and Economic Growth provides: “Microdermabrasion. The practice of microdermabrasion is limited to the direct supervision and control of a licensed physician. If a licensed cosmetologist is performing microdermabrasion services, they are practicing outside the scope of their licensed profession.”

www.michigan.gov/cis/0,1607,7-154-10557_12992_13996-41878--,00.html

Illinois – No mention in laws or rules.

Minnesota – Mentions dermabrasion as a medical procedure and chemical peels as a health service that require authorization for payment. No other mention of microdermabrasion, or chemical peels. The cosmetology board treats microdermabrasion as within the definition and scope of practice of a cosmetologist.

Iowa – Recently passed legislation amended Chapter 157 of Iowa's Code. No administrative rules have been adopted yet. Newly revised Chapter 157 allows properly trained estheticians and cosmetologists to receive licenses allowing practicing microdermabrasion. Properly trained estheticians may receive a license to practice chemical peels.

Salon chair managers:

Michigan - §339.1204 Cosmetology establishment; issuance of license.

...

(d) Except as provided in subsection (3), the cosmetology establishment shall be under the daily attendance and supervision of a licensed cosmetologist who is not less than 18 years of age and has had not less than one year's practical experience in cosmetology.

Illinois – No rules regarding managers.

Minnesota – Rule 2642.0390 Salon Supervision.

A. The owner and the designated manager appointed in writing by the owner are responsible for the salon at all times.

B. Only one person shall be designated as a manager for each salon. No manager may be concurrently responsible for more than one salon unless the salons are under the same ownership and all located in the same complex which is designated as an assisted-living care facility. When the manager is not on duty, the manager may specify a responsible person in the manager's absence. The responsible person shall be licensed as a manager, and licensed as a cosmetologist in a cosmetology salon, esthetician salon, or manicurist salon; a licensed esthetician in an esthetician salon; or a licensed manicurist in a manicure salon.

Iowa – 157.12 Supervisors.

A person who directly supervises the work of practitioners of cosmetology arts and sciences shall be licensed in the practice supervised or a barber licensed under section 158.3.

Waxing.

Michigan – Waxing by electrologists and manicurists.

339.11203a Cosmetology services; license required; exception; scope of license; limitations.

Sec. 1203a.

(1) An individual shall not render any form of cosmetology services, with or without compensation, on any individual other than a member of his or her immediate family without a license under this article. However, this article does not apply to an individual, person, or premises licensed under article 11 while rendering the services of a barber.

(2) An individual licensed as a cosmetologist under this article may render hair care services, skin care services, natural hair cultivation, and manicuring services as part of the practice of cosmetology, but shall not render electrology without being licensed as an electrologist.

(3) The department may license an individual to render manicuring services, natural hair cultivation, or skin care services in accordance with his or her training. An individual licensed as a manicurist, natural hair culturist, or esthetician shall only render that particular service and shall not render any other cosmetology service without being licensed for that service. An individual licensed as a manicurist, natural hair culturist, or esthetician shall not render electrology without being licensed as an electrologist.

(4) An individual licensed as an electrologist shall render only electrology services and shall not render any other cosmetology service without separately being licensed to render those services.

339.1201 Definitions.

(d) "Cosmetology" means 1 of the following services or a combination of the following services:

(i) Hair care services.

(ii) Skin care services.

(iii) Manicuring services.

(iv) Electrology.

(e) "Cosmetology establishment" means the premises on which cosmetology or 1 or more of its services are rendered or are offered to be rendered. Cosmetology establishment does not include a school of cosmetology.

(f) "Electrologist" means an individual who renders or offers to render electrology.

- (g) "Electrology" means the permanent removal of hair from the body of an individual by the use of electricity.
- (h) "Esthetician" means an individual who renders or offers to render skin care services.
- (i) "Hair care services" means arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, tinting, trimming, styling, relaxing, perming, straightening, or similar work upon the hair of the head or a wig that an individual is wearing.
- (j) "Instructor" means an individual who teaches or offers to teach 1 or more cosmetology services in a school of cosmetology.
- (k) "Manicuring services" means the cleansing, filing, shaping, buffing, polishing, or beautifying of the nails of the hands or feet, and the cleansing, massaging, stimulating, exercising, or beautifying of the skin of the hands, arms, and feet, manually or with the use of tools, appliances, or cosmetic preparations, including the repair of nails, or the creation or decoration of artificial nails. Manicuring services do not include the practice of podiatric medicine and surgery as defined in section 18001 of the public health code, 1978 PA 368, MCL 333.18001.
- (l) "Manicurist" means an individual who renders or offers to render manicuring services.
- (q) "Skin care services" includes the following services or combination of services:
- (i) Beautifying the skin of the body of an individual by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.
 - (ii) Cleansing or stimulating the skin of the body by the use of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
 - (iii) The temporary removal of hair from the body of an individual by the use of depilatories, waxes, razors, scissors, clippers, or tweezers.
 - (iv) Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual but does not include applying permanent makeup or the use of tanning equipment.

Illinois – There is no mention of waxing within the scope of practice for either electrologists or manicurists.

Minnesota – Electrology is an unregulated practice in Minnesota. The definition of manicurist does not allow for hair removal by waxing.

Iowa – Iowa has passed a new Act redefining its regulatory scheme. New administrative rules are being drafted now. Hair removal by waxing is allowed for estheticians, cosmetologists and nail technologists but not for electrologists.

2003 Code for Chapter 157 Cosmetology

13. "*Nail technologist*" means all of the following:

- a. Applying sculptured nails, nail extensions, wraps, overlays, nail art, or any other nail technique to the fingernails and toenails of a person.
- b. Massaging the hands, arms, ankles, and feet of a person.
- c. Removing superfluous hair from hands, arms, feet, or legs of a person by the use of wax or a tweezer.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the board's analysis and determination that a rule change is necessary.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The proposed rule will have no impact on the department's funds.

Effect on small business:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before February 20, 2006 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. BC 1.01 (1m) is repealed.

SECTION 2. BC 1.01 (3) and (3r) are amended to read:

BC 1.01 (3) "Contagious" means ~~that which can be~~ capable of being transmitted by direct or indirect contact.

(3r) "Cutting," as used at s. 454.01 (13), Stats., means exclusively ~~to the~~ cutting of human nails, and cuticles and calluses, and does not refer to any other invasive procedure.

SECTION 3. BC 1.01 (6h) and (6r) are renumbered BC 1.01 (6e) and (6m).

SECTION 4. BC 1.01 (6s) is created to read:

BC 1.01 (6s) "Exfoliation" means the process whereby the superficial epidermal cells are removed from the skin.

SECTION 5. BC 1.01 (7m) is created to read:

BC 1.01 (7m) "General supervision" means the supervising physician is available for direct communication, either in person or by telephone, radio, radiotelephone, television or similar means and is physically located within 120 miles of the licensee.

SECTION 6. BC 1.01 (8) is amended to read:

BC 1.01 (8) "Infectious" means ~~that which is~~ capable of being transmitted, with or without contact.

SECTION 7. BC 1.01 (9) is created to read:

BC 1.01 (9) "Laser" means light amplification by the stimulated emission of radiation.

SECTION 8. BC 1.01 (11) and (11m) are renumbered BC 1.01 (11e) and (11g).

SECTION 9. BC 1.01 (11n), (11r) and (11w) are created to read:

BC 1.01 (11n) "Mechanical exfoliation" means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques or drying preparations that are rubbed off, and microdermabrasion.

(11r) "Microdermabrasion" means mechanical exfoliation using an abrasive material or apparatus to remove surface epidermal cells with a mechanical closed loop vacuum system.

(11w) "Nail enhancement" means any material other than nail polish which is added to the fingernail or toenail generated by the person's own body, or which is used to enhance the fingernail or toenail of a person.

SECTION 10. BC 1.01 (13t) is created to read:

BC 1.01 (13t) "Physician" means a person licensed in Wisconsin to practice medicine and surgery.

SECTION 11. BC 2.025 (2) (a) is renumbered BC 2.025 (2) (a) (intro.) and is amended to read:

BC 2.025 (2) (a) (intro.) Laser hair removal services. Prior to providing any laser hair removal procedures, a licensee shall complete advanced training in the use of laser devices in a training program of not less than 6 hours. If the training program is provided in a setting other than a licensed school of cosmetology or barbering, the program shall incorporate all of the following:

SECTION 12. BC 2.025 (2) (a) 1. to 5. are created to read:

BC 2.025 (2) (a) 1. The training shall be conducted by a trainer who has been a practicing aesthetician, a barbering or cosmetology instructor, an aesthetics instructor, or a barbering or cosmetology manager for a minimum of one year, and who has completed a course in laser training provided by a licensed school of cosmetology or barbering, or provided by a licensed school of aesthetics. A licensed physician may also provide the training.

2. Trainees receive hands-on training which includes actual use of the laser device under the supervision and guidance of the trainer.

3. The training is documented by a certificate of completion which sets forth the length of the training and the type of device and which is signed by the trainer and includes the trainer's license number.

4. The licensee posts in a conspicuous location in the immediate area where the procedure is carried out the certificate of completion of the training required in subd. 1.

5. Licensees providing laser hair removal procedures shall complete each biennium at least 6 continuing education credit hours acceptable to the board in laser hair removal. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall

maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

SECTION 13. BC 2.025 (2) (b) is amended to read:

BC 2.025 (2) (b) Microdermabrasion services, except as specified under sub. (2m).

SECTION 14. BC 2.025 (2) (c) is renumbered BC 2.025 (2) (c) (intro.) and is amended to read:

BC 2.025 (2) (c) (intro.) Chemical ~~skin peels~~ exfoliation, except for ~~nonmedical facial peels for exfoliation purposes.~~ application of commercially available exfoliation products utilized in accordance with the manufacturers' instructions, limited to the following:

SECTION 15. BC 2.025 (2) (c) 1. and 2. are created to read:

BC 2.025 (2) (c) 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.

SECTION 16. BC 2.025 (2g) is created to read:

BC 2.025 (2g) Licensees providing chemical exfoliation shall complete at least 6 continuing education credit hours acceptable to the board in chemical exfoliation each biennium. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

SECTION 17. BC 2.025 (2r) is created to read:

BC 2.025 (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 subparagraph.

(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.

(h) The licensee has completed advanced training in the use of microdermabrasion devices in a training program of not less than 6 hours. If the training program is provided in a setting other than a licensed school of cosmetology or barbering, the program shall incorporate all of the following:

1. The training shall be conducted by a microdermabrasion trainer who has been a practicing aesthetician, a barbering or cosmetology instructor, an aesthetics instructor, or a barbering or cosmetology manager for a minimum of one year, and who has completed a 40 hour course in microdermabrasion training provided by a licensed school of cosmetology or barbering, or provided by a licensed school of aesthetics. A licensed physician may also provide the training.

2. Trainees receive hands-on training which includes actual use of the microdermabrasion device under the supervision and guidance of the trainer.

3. The training is documented by a certificate of completion which sets forth the length of the training and the type of device and which is signed by the trainer and includes the trainer's license number.

(i) The licensee posts in a conspicuous location in the immediate area where the procedure is carried out the certificate of completion of the training required in par. (h).

(j) The licensee shall complete at least 6 continuing education credit hours acceptable to the board in microdermabrasion each biennium. This coursework shall be in addition to any other continuing education requirements required by the board for license renewal. Licensees shall maintain records of continuing education hours for at least 5 years from the date the coursework is completed.

SECTION 18. BC 2.025 (3) is amended to read:

BC 2.025 (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.

SECTION 19. BC 2.025 (6) is created to read:

BC 2.025 (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.

SECTION 20. BC 2.07 (1g) is amended to read:

BC 2.07 (1g) The manager shall train and supervise an apprentice in accordance with s. BC 6.04 (1), and shall supervise temporary permit holders and training permit holders. Supervision and training shall be conducted by a currently licensed manager or practitioner with sufficient education, training and experience to provide the supervision and training.

SECTION 21. BC 3.01 (7) is amended to read:

BC 3.01 (7) Plastic or metal containers of adequate size shall be provided to store all soiled linen. All soiled linen shall be properly cleaned in compliance with s. BC 4.02 (6) or disposed of after use.

SECTION 22. BC 3.02 (1) (a) to (c) are amended to read:

BC 3.02 (1) (a) The owner of more than one establishment shall employ ~~at least one full time licensed manager for the establishments~~ a sufficient number of managers to

satisfy the requirement that a manager be present full time in each establishment as defined in s. BC 1.01 (7).

(b) The owner of a barbering and cosmetology establishment may satisfy the requirement in this section by employing a manager who also works at an establishment owned by a different person, provided the manager works ~~full-time~~ full time as defined in s. BC 1.01 (7) at each establishment where he or she is employed as manager.

(c) A manager is required to be present in an establishment full time, as defined in s. BC 1.01 (7), but if an establishment is open for more than 30 hours per week, the manager is not required to be present in an the establishment at all times when the establishment is open for business, and the manager may be absent for reasonable brief periods during a day.

SECTION 23. BC 3.06 (2) is amended to read:

BC 3.06 (2) Change of location of any establishment constitutes the creation of a new establishment and requires submission of an application for a new establishment license. Relocation of a leased chair or booth which is licensed as an establishment and housed within a lessor establishment requires only written notification to the department ~~accompanied by a floor plan~~ identifying the change of chair or booth.

SECTION 24. BC 4.01 (2) is amended to read:

BC 4.01 (2) Licensees shall wash their hands thoroughly with soap and running water prior to serving each patron and following removal of gloves. Waterless hand washing agents with alcohol as an active ingredient with a concentration of at least 70% are an acceptable substitute for washing hands that are not visibly soiled with soap and running water.

SECTION 25. BC 4.01 (8) is created to read:

BC 4.01 (8) Licensees using lancets for the lateral piercing of raised whiteheads shall utilize only pre-sterilized, single use, disposable lancets.

SECTION 26. BC 4.02 (1) is amended to read:

BC 4.02 (1) Unless sterilized, disinfection is required prior to reuse on another patron of any personal care instruments, including scissors, razors, clipper blades and tweezers, excluding tweezers used in electrolysis.

SECTION 27. BC 4.03 (2) is amended to read:

BC 4.03 (2) Sterilizers shall be maintained in working order. Equipment shall be checked in compliance with manufacturer's recommendations at least ~~quarterly~~ monthly to ensure that it is reaching required temperatures.

SECTION 28. BC 4.06 (3) is amended to read:

BC 4.06 (3) Licensees shall carefully bag and dispose of paper products contaminated with blood and thoroughly cleanse and disinfect linens contaminated with blood in accordance with s. BC 4.02 (6).

SECTION 29. BC 4.07 (intro.) and (2) are amended to read:

BC 4.07 Ear piercing. (intro.) Licensees Ear piercing may be performed by non-licensees, but licensees performing ear piercing shall do all of the following:

(2) Thoroughly wash the skin area to be pierced with soap and water or a waterless washing agent with alcohol as an active ingredient.

SECTION 30. BC 4.08 (intro.), (1), (2) and (3) are renumbered BC 4.08 (3) (intro.), (a), (b) and (c) and as renumbered BC 4.08 (3) (a) is amended to read:

BC 4.08 (3) (a) Apply ~~an~~ a topical antiseptic to the skin surface of the area to be waxed and allow the antiseptic to dry.

SECTION 31. BC 4.08 (1) and (2) are created to read:

BC 4.08 Waxing. (1) Electrologists performing waxing shall have completed training in depilation by waxing in a school of electrology or a school of barbering and cosmetology consisting of not less than 8 training hours in all of the following areas:

- (a) Hygiene and sterilization.
- (b) Treatments with hard hot wax.
- (c) Treatments with liquid strip wax.
- (d) Hair removal from legs and arms, bikini and underarm hair.
- (e) Removal of facial hair.
- (f) Eyebrow shaping.
- (g) Post depilation treatments.

(2) Manicurists performing waxing shall have completed training in depilation by waxing in a school of barbering and cosmetology or a school of manicuring consisting of not less than 8 training hours in all of the following areas:

- (a) Hygiene and sterilization.
- (b) Treatments with hard hot wax.
- (c) Treatments with liquid strip wax.
- (d) Hair removal from the foot, lower leg, hand and forearm.
- (e) Post depilation treatments.

SECTION 32. BC 4.09 (3m) is repealed.

SECTION 33. Figure 5.02 is amended to read:

FIGURE 5.02

SUBJECTS	THEORY HOURS	PRACTICAL HOURS
I. Hygiene, grooming and personal development.	10	0
II. Bacteriology, sterilization and sanitation.	20	20
III. Tools, equipment and implements (identification and usage).	3	9
IV. Haircutting, hair tapering (clipper-cuts), razor cutting, hairstyling, curling, thermal waving, fingerwaving, roller setting, pincurl placement, blow-drying, shampoos, scalp and hair treatments, conditioning, reconditioning, hair analysis, and care of hairpieces, wigs and wefts.	150	450
V. Hair straightening, hair relaxing,	190	400

	thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching and chemistry.		
VI.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, waxing, facials, facial massages, facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrology.	35	60
VII.	Manicuring, including artificial nails <u>nail enhancement</u> .	10	25
VIII.	Anatomy and physiology of the hair, skin and nails and disorders of the hair, skin, scalp and nails.	50	0
IX.	Product knowledge, product use and sales, preparing and consulting with customer for services.	45	0
X.	Laws, rules, professional ethics and history of barbering and cosmetology.	18	0
XI.	Individual student needs, industry trends and electives (e.g. recordkeeping, mathematics, communications, human relations, public relations, first aid, etc.)	117	188
	(Hours may include structured visits conducted by the school outside of the classroom at one or more barbering and cosmetology establishments.)		
	TOTAL HOURS:	648	1152

SECTION 34. Figure 5.06 is amended to read:

FIGURE 5.06

SUBJECTS		THEORY HOURS	PRACTICAL HOURS
I.	Introduction		
	Law and Codes, Bookkeeping, Business Management, History and Ethics	36	
II.	Safety, Sanitation, Sterilization, First Aid and Bacteriology	10	25
III.	Nails and Skin Disorders	24	10
IV.	Anatomy and Physiology	18	8
V.	Manicuring and Pedicuring, including artificial nails <u>nail enhancement</u>	24	112
VI.	Introduction to Advertising	12	
VII.	Individual Student Needs and Electives (Hours may include structured visits conducted by the school outside of the classroom at one or more barbering and cosmetology or manicuring establishments.)	7	14
TOTAL HOURS:		131	169

SECTION 35. Figure 6.03 (1) is amended to read:

FIGURE 6.03 (1)

SUBJECTS		THEORY HOURS
I.	Hygiene, grooming and personal development.	10

II.	Bacteriology, sterilization and sanitation.	20
III.	Tools, equipment and implements (identification and usage).	18
IV.	Haircutting, hair tapering (clippercuts), razor cutting, hairstyling, curling, thermal waving, finger-waving, roller setting, pin-curl placement, blow-drying, shampoos, scalp and hair treatments, conditioning, reconditioning, hair analysis, and care of hairpieces, wigs and wefts.	56
V.	Hair straightening, hair relaxing, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching and chemistry.	78
VI.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, waxing, facials, facial massages, facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrolysis.	30
VII.	Manicuring, including <u>artificial nails</u> <u>nail enhancement</u> .	10
VIII.	Anatomy and physiology of the hair, skin and nails and disorders of the hair, skin, scalp and nails.	50
IX.	Laws, rules, professional ethics and history of barbering and cosmetology.	16
	TOTAL HOURS:	288

SECTION 36. Figure 6.04 (3) is amended to read:

FIGURE 6.04 (3)

SUBJECTS	PRACTICAL HOURS
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I.	Bacteriology, sterilization and sanitation in the establishment.	70
II.	Haircutting, hair taper (clippercuts), razor cutting, hairstyling, curling, thermal waving, finger-waving, roller setting, pin curl placement, blow-drying, shampoos, scalp and hair treatments, conditioning, reconditioning, hair analysis, and care of hairpieces, wigs and wefts.	1,300
III.	Hair straightening, hair relaxing, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching and chemistry.	1,000
IV.	Shaving, beard and mustache shaping, trimming, superfluous hair removal, waxing, facials, facial massages, facial makeup, eyelashes, light therapy, basic principles of electricity, and introduction to electrology.	80
V.	Manicuring, including artificial nails <u>nail enhancement</u> .	30
VI.	General patron service and individual apprentice needs.	1,232
	TOTAL PRACTICAL HOURS:	3,712

SECTION 37. Chapter BC 8 (title) is amended to read:

Chapter BC 8 (title)

~~LICENSEES OF OTHER JURISDICTIONS~~ LICENSURE

SECTION 38. BC 8.01 is renumbered BC 8.02 and as renumbered BC 8.02 (title) and (1) to (3) are amended to read:

BC 8.02 (title) Licensing requirement without examination. (1) The board has entered into a written reciprocal agreement with the licensing authority of another state, where the education and services practiced are substantially equivalent to those in Wisconsin;

(2) The applicant holds a current license in the other jurisdiction;

(3) The applicant pays the appropriate fee specified in s. 440.05, Stats.;

and

SECTION 39. BC 8.01 is created to read:

BC 8.01 Licensing requirement. (1) An applicant for licensure as a barber or cosmetologist shall satisfy the requirements in s. 454.06 (1) and (2), Stats.

(2) An applicant for licensure as a manager shall satisfy the requirements in s. 454.06 (1) and (3), Stats.

(3) An applicant for licensure as an aesthetician shall satisfy the requirements in s. 454.06 (1) and (4), Stats.

(4) An applicant for licensure as an electrologist shall satisfy the requirements in s. 454.06 (1) and (5), Stats.

(5) An applicant for licensure as a manicurist shall satisfy the requirements in s. 454.06 (1) and (6), Stats.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Chairperson
Barbering and Cosmetology
Examining Board

Chs BC 1-9 CR05-118 (Microdermabrasion, waxing, etc.) Draft with Modifications to Leg 9-13-06



Parrott, Douglas

From: Michelle Krueger [MKrueger@wi.rr.com]
Sent: Thursday, September 14, 2006 2:37 PM
To: Rep.Hines
Subject: CR 05-118
Attachments: FDA Backgrounder Cosmetics Alpha Hydroxy Acids.doc

Dear Representative Hines,

I am writing today in response to the most recent requests for further amendments to CR 05-118 by the Greater Milwaukee Dermatology Society. I am a licensed esthetician and own a skincare studio in Cedarburg, WI. I attended the Committee on Public Health Hearing on August 30th, 2006 in Madison. As you know, the hearing was lengthy and most of my comments were covered by other testimony, so out of respect to my colleagues and the committee I chose to submit my written testimony and registered in favor of CR 05-118. In retrospect I wish I would have shared some of the technical information I am including in this correspondence.

First off, I'd like to preface my comments by saying that I personally know many estheticians and I have never met *one* who doesn't place a high degree of importance on client safety. As you learned at the hearing, estheticians have been providing these services for many years with virtually no safety concerns. Our goal with asking the Barber and Cosmetology Board to implement CR 05-118 was to insure that if estheticians were going to perform microdermabrasion, chemical exfoliation or any light based services that they receive good quality advanced education. We are cognizant of the fact that there are license holders who attended esthetic school before some of these products or services were invented, therefore our regulatory board has a responsibility to update our educational requirements as it becomes necessary. I feel that it will be a travesty if our effort to increase public safety and advance our educational requirements results in such severe restrictions that our businesses will be in financial jeopardy. A significant portion of my business comes from facial treatments that include the use of chemical exfoliation. A large percentage of my clientele seek non-medical, non-prescriptive alternatives to care for themselves. They deserve to have those choices readily available to them at affordable prices. I have never injured anyone and I make it a point to take continuing education every year, even though it has never been required by the DRL. My reputation depends on it.

I have taken the liberty to attach some information regarding chemical exfoliation obtained from the FDA website. This topic has been researched by the Cosmetic Ingredient Review Panel and their recommendation is that AHA with a final acid content of 30% and a pH of not less than 3 is a safe level for salon and spa treatments. I have highlighted that section for your convenience. Alphahydroxy solutions are not prescription products and despite what the physicians want you to believe, can be purchased by anyone. They are not regulated by the FDA because they are not drugs. The FDA defines a drug as "products (other than food) that are intended to affect the structures and/or function of the body of humans or other animals". AHA's are classified as cosmetics; therefore it stands to reason that their use does not constitute the practice of medicine.

The following links are just three examples of actual "medical strength" exfoliation solutions and machines that are available to the general public on the internet. The products depicted in the links below are much higher percentages than what is proposed in CR 05-118. I am not suggesting that estheticians should be using these higher strengths, but it serves to educate you to the fact that even "medical" grade products are available without prescription and are being used by consumers at home. I would also like to point out that an "acid" is anything that has a pH of less than 7. Lemon juice and vinegar are acids and have a pH around 2.5. The skin is also acidic having a pH of around 5.5. The "acids" that are used in skin care are generally synthesized versions of natural elements. Glycolic acid comes from sugar, lactic acid is found in milk, citric acid comes from fruits, and salicylic acid is extracted from willow bark and wintergreen. There seemed to be some concern at the hearing that alpha hydroxy acids are akin to paint stripper in their caustic ability. This is simply not true. Cleopatra used alpha-hydroxy acids to soften and smooth her skin when she bathed in milk.

http://cgi.ebay.com/2Bottles100-TCA-Cosmetic-Chemical-Skin-Acid-Peel-Heal_W0QQitemZ260028169986QQihZ016QQcategoryZ21022QQrdZ1QQcmdZViewItem

<http://cgi.ebay.com/70-GLYCOLIC-ACID-Anti-Aging-Anti-Acne-Peel-6->

9/14/2006

[wks_W0QQitemZ230028846605QQihZ013QQcategoryZ33164QQrdZ1QQcmdZViewItem](http://cgi.ebay.com/YEAR-END-CLEARANCE-RAPID-PEEL-MICRODERMABRASION-MACHINE_W0QQitemZ140027496078QQihZ004QQcategoryZ101925QQrdZ1QQcmdZViewItem)

http://cgi.ebay.com/YEAR-END-CLEARANCE-RAPID-PEEL-MICRODERMABRASION-MACHINE_W0QQitemZ140027496078QQihZ004QQcategoryZ101925QQrdZ1QQcmdZViewItem

As an esthetician who cares about client safety I would love to see the Medical Society use their influence to address some of the highly unethical and unsafe practices depicted in the above advertisements. Unfortunately the poor consumers who purchase and use the strength of products available on these web links are likely to be the same patients turning up in the dermatologist office when these do it yourself treatments go wrong. The value of this information is that it provides a reasonable explanation as to why dermatologists are reporting an increase in patients presenting with dermal injury from chemical peels and microdermabrasion. I feel it is not fair for the dermatologists to suggest that properly trained estheticians are to blame when the general public has easy access to these products and machines. See for yourself. Do a quick Google search and you will see that you can purchase any of the products or machines referenced in CR 05-118.

I respect and understand that physicians wish to protect their profession and their patients. So do licensed estheticians. It is becoming increasingly difficult for us to invest in our businesses and communities when there is a constant threat that the medical societies will decide to flex their muscles and declare that we are practicing cutaneous medicine when we most certainly are not. The truth of the matter is that consumers are seeking alternatives to traditional western medicine for all sorts of human concerns. Not every personal service rises to the level of the practice of medicine simply because it involves a human being. The definition of cutaneous medicine is very broad and includes any practice which intentionally or unintentionally has an effect on the living tissues of the human body. Exercise and consuming food are both practices that affect the living tissues of the human body; therefore health clubs and restaurants are practicing cutaneous medicine. I think we can all agree that this is a ridiculous statement, but it is the same argument that the dermatologists are using to justify their position with regard to exfoliation of the epidermis of the skin. If this is the logic we are going to be subject to, then I must confess that I am also guilty of practicing psychiatry because many of my clients feel less depressed or stressed after having a facial treatment. Intention plays a major factor in whether or not someone is practicing medicine.

There is no disagreement about the fact that our services carry some amount of risk. Everything in life carries risk. A shave in a barber shop carries risk. If we are going to legislate an industry based on perceived risk then what are we going to do about selling and operating vehicles? I assure you that riding in a taxi cab carries far more risk of death or injury than microdermabrasion, chemical exfoliation or laser hair removal ever will. I'm sure ER physicians would be happy if they never had to see another car wreck victim.

Estheticians are willing to impose stricter requirements on our industry to increase public safety. It would be unjust to eliminate our ability to continue our long time practices because of something that *might* happen. If this unrealistic standard is going to be applied to our industry then physicians should be expected to operate under those same impossible standards. I do not see any evidence that quantity of education alone can insure good safety records. What seems fair is to logically weigh any amount of risk against benefit and do our best to enforce safe professional practices through quality education. I feel that CR 05-118 accomplishes just that, therefore I respectfully request that you implement it in its current form without further delay.

Sincerely,

Michelle Krueger

SkinCare Solutions
W62N281 Washington Ave
Cedarburg, WI 53012
262-377-8060

9/14/2006

U. S. Food and Drug Administration
FDA Backgrounder
July 3, 1997

Alpha Hydroxy Acids in Cosmetics

Cosmetics that contain alpha hydroxy acids (AHAs) have become widely used in recent years despite many unanswered questions about their safety. Recently, a study sponsored by the cosmetics industry indicates that these products may make users more sensitive to sunlight and especially to the ultraviolet (UV) radiation component of sunlight. UV exposure can damage the skin and at high doses, especially over a long period, can cause skin cancer. FDA is currently evaluating this study and is pursuing additional studies that will make sure these products are safe for consumers to use.

It is wise to use sun protection before going into the sun (daylight). Adequate sun protection includes: wearing a hat with a brim of at least four inches, wearing lightweight sun protective clothing, including long sleeves, and applying a sunscreen with an SPF (or Sun Protection Factor) of at least 15. Sunscreens should be reapplied after excessive sweating or swimming. It is especially important to use effective sun protection if you are going to the beach and will be exposed to high levels of UV radiation.

The recent study makes these sun protection precautions even more important if you use AHA-containing products. It is important to use sun protection, including a sun screen, if you use an AHA product, **even** if you haven't used the product that day. If the AHA that you're using contains a sunscreen, it is suggested that applying an additional sunscreen (SPF 15) product before going into the sun will be beneficial. Even though your AHA product may contain sunscreen, it is primarily a skin treatment product--not a means of sun protection. If you use the AHA at bedtime, be sure to apply an additional sunscreen product in the morning before going into the sun.

The agency has received about 100 reports of adverse effects with AHA products, ranging from mild irritation and stinging to blistering and burns. If you usually have sensitive skin, FDA advises you to test any product that contains an AHA on a small area of skin before applying it to a large area. If you use cosmetics with AHAs and experience skin irritation or prolonged stinging, FDA advises you to stop using the product and consult your physician.

Products with AHAs are marketed for a variety of purposes: to smooth fine lines and surface wrinkles, to improve skin texture and tone, to unblock and cleanse pores, to improve oily skin or acne, and to improve skin condition in general. It is important to

follow the use instructions on the label. Do not exceed the recommended applications. It is **not** recommended that AHA-containing products be used on infants and children.

To find out if a cosmetic contains an AHA, look on the list of ingredients all cosmetics must, by law, have on their outer packaging. AHA ingredients may be listed as:

- glycolic acid
- lactic acid
- malic acid
- citric acid
- glycolic acid + ammonium glycolate
- alpha-hydroxyethanoic acid + ammonium alpha-hydroxyethanoate
- alpha-hydroxyoctanoic acid
- alpha-hydroxycaprylic acid
- hydroxycaprylic acid
- mixed fruit acid
- tri-alpha hydroxy fruit acids
- triple fruit acid
- sugar cane extract
- alpha hydroxy and botanical complex
- L-alpha hydroxy acid
- glycomer in crosslinked fatty acids alpha nutrium (three AHAs).

Of these, the most frequently used in cosmetics are glycolic acid and lactic acid.

If you have purchased a product whose outer packaging has become separated from the product and you are unsure whether it contains AHAs, call the manufacturer, whose phone number may be listed on the inner packaging.

AHA products cause exfoliation, or shedding of the surface skin. The extent of exfoliation depends on the type and concentration of the AHA, its pH (acidity), and other ingredients in the product. Most cosmetics sold to consumers contain AHAs at levels up to 10 percent. It is FDA's understanding that products with AHA concentrations of 20 percent or higher are used by trained cosmetologists for salon "mini-peels."

In studies conducted by FDA on the absorption of AHAs through the skin, the AHAs tested were readily absorbed into the skin at varying rates. The most rapid absorption occurred with AHAs having lower pHs (higher acidity).

FDA issued a report in February 1996. "Effects of Alpha Hydroxy Acid on the Skin" concluded that additional scientific investigation was needed to establish the safety of these products.

The recent report linking AHAs to increased UV sensitivity was sponsored by the Cosmetic, Toiletry, and Fragrance Association. The results were reported at a December

1996 meeting of the trade group's Cosmetic Ingredient Review Panel (CIR), which began reviewing the safety of AHAs in 1994.

The panel concluded at its December meeting that AHAs are "safe for use in cosmetic products at concentrations less than or equal to 10 percent, at final formulation pHs greater than or equal to 3.5, when formulated to avoid increasing the skin's sensitivity to the sun, or when directions for use include the daily use of sun protection." For salon use products, the panel said that the products are "safe for use at concentrations less than or equal to 30 percent, at final formulation pHs greater than or equal to 3.0, in products designed for brief, discontinuous use followed by thorough rinsing from the skin, when applied by trained professionals, and when application is accompanied by directions for the daily use of sun protection."

These conclusions were made final at a June 1997 meeting of the CIR panel in spite of serious safety questions submitted by a consumer group and a major manufacturer. FDA is reviewing these CIR conclusions, as well as the other available data about these products. Consumers should be aware that AHA concentration and pH are generally not noted on all products. (FDA does not require it.) However, the information should be available from the manufacturer.

Cosmetics manufacturers are not required to submit safety data to FDA before marketing products, although they bear the responsibility for manufacturing safe products.

Consumers should report any adverse reactions, such as irritation or sun sensitivity, associated with the use of AHAs to their local FDA office, listed in the Blue Pages of the phone book, or to FDA's Office of Consumer Affairs at (1-800) 532-4440.

Remember: The Best Wrinkle Preventer is Sun Protection.

(BG 97-10)

This is a mirror of the page at <http://www.fda.gov/opacom/backgrounders/alphabg.html>

The full report on AHAs is available as a compressed WordPerfect 6/7 document (available in [zip](#) format).

Cosmetics

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Hypertext updated by dms/kwg 2002-MAR-06



Parrott, Douglas

From: Bill Lieber [wdlieber@wi.rr.com]
Sent: Thursday, September 14, 2006 12:24 PM
To: Rep.Hines
Subject: CR05-118

Follow Up Flag: Follow up
Flag Status: Green

Dear Representative Hines,

I was able to recently review a letter sent by the Greater Milwaukee Dermatology Society regarding their proposed compromise to rule CR05-118. I DO NOT feel that their suggestions represent a fair compromise. Specifically, to require on-site medical direction for any of the procedures listed would be overregulation. On-site medical direction would not add any bit of safety to these procedures as the complications are not time sensitive in their treatment and these procedures can be safely performed by properly trained individuals.

Aestheticians have been doing these procedures safely with off-site medical direction for years. To change that now is not only unnecessary but would also cause almost every esthetic spa in the state to go out of business, thus inflating the cost of these procedures for the public.

Even states, such as Florida, which have passed stricter regulations regarding laser use, have an exclusion which allows for off-site medical direction for laser hair removal.

In regards to not allowing estheticians to perform chemical exfoliation with alpha hydroxy acid products of 20% or more, there are products for twice daily home use of alpha hydroxy acids 20%.

I am an Emergency Medicine physician that has been involved in the esthetics industry for the past three years. I have done off-site medical direction of these procedures and know that they can be done VERY safely in that fashion. I agree that proper training is required and that adding a certain amount of continuing education requirement for estheticians doing these procedures is an appropriate compromise. Requiring a physician to be on-site during these procedures does not add to their safety.

Thank you for your consideration. Please contact me with any questions at 414-315-8819.

Bill Lieber





Greater Milwaukee Dermatology Society

September 15, 2006

Representative J.A. "Doc" Hines
Chairperson Assembly Committee
On Public Health
Room 10 West
State Capitol
P.O. Box 8952
Madison, Wisconsin 53708

In respect to CR05-118:

We appreciate the opportunity to follow-up on the public hearing that was held for CR05-118 on August 30th, 2006.

As of September 15, 2006, no member of the barbering and cosmetology board has attempted to communicate with us regarding revisions to their original proposal. At the recent hearing, it was suggested by the committee that they work with us in developing more appropriate language for the ruling. Specifically, there has been no change to the proposal as it relates to potentially harmful procedures such as laser and intense pulse light treatment. Moreover, the proposal for 'general supervision' of 120 miles is woefully inadequate. Unfortunately, the members of the barbering and cosmetology board have made no substantial changes to CR05-118, and appear to be simply resubmitting it as is.

We the members of The Greater Milwaukee Dermatology Society feel the following changes to the proposed rule should be implemented as per the Committee's call for compromise:

1. Esthetic grade microdermabrasion (as defined by industry standards) needs no supervision by a physician.
2. Chemical exfoliation using alpha hydroxy acids of 20% or less and salicylic acids of 20% or less needs no supervision by a physician. *see education requirements and definition of chemical exfoliation.

Definition of chemical exfoliation: removal of stratum corneum (non-living tissue) only. The term chemical peel cannot be used interchangeably for chemical exfoliation. This would be misleading to the public.

3. Medical grade microdermabrasion can be performed by an esthetician with direct (onsite) physician supervision.

Definition of direct (onsite) supervision: physician must be able to inspect the patient, direct the care of the patient, supervise treatment, and be immediately available to handle all potential adverse outcomes and complications.

4. NO chemical exfoliant greater than 20% alpha hydroxy acid or 20% salicylic acid will be performed by an esthetician regardless of supervision.

5. NO acne surgery (using lancets for the lateral piercing of whiteheads) can be performed by an esthetician.

6. Ear piercing is allowed without direct physician supervision.

7. NO cutting or paring of calluses can be performed by an esthetician.

8. The use of laser devices, intense pulsed light devices, and other light emitting devices by estheticians will be limited to the purposes of hair removal only. The use of these devices for the purposes of hair removal, will require direct, onsite supervision.

Education Requirement:

There needs to be a minimum level of education and training for the use of accepted procedures. These educational requirements need to be clearly defined. Additionally, this education needs to be independent of industry sponsored seminars and programs.

Quality Assurance:

The cosmetology and barbering board should have a committee that is responsible for maintaining standards in education and credentialing regarding accepted procedures.

Thank you very much for allowing us to have input on the changes to CR05-118. We would appreciate the opportunity to review changes to this rule after reviewed by the barbering and cosmetology board.

Sincerely,
Jack Maloney, M.D.
Marguerite Compton, M.D.
Shiela Galbraith, M.D.
Manish Gharia, M.D.
Neal Bhatia, M.D.
Jason Rosenberg, M.D.
Heather Wells, M.D.



September 16, 2006

Representative J.A. "Doc" Hines
Chairperson Assembly Committee
On Public Health
Room 10 West
State Capitol
P.O. Box 8952
Madison, Wisconsin 53708

In respect to CR05-118:

On behalf of the many Wisconsin Dermatologists that have been communicating with me about this issue, we greatly appreciated the opportunity to testify recently at the Public Hearing.

The language changes that resulted from this Hearing are an improvement over the previous draft language. The microdermabrasion and chemical exfoliation language seems to reflect the spirit of compromise from the hearing.

The proposal for general supervision of laser hair removal (by a physician up to 120 miles away) seems to be unchanged from our discussions at the Public Hearing. This issue is really where Dermatologists feel further discussion is needed.

Lasers and Light devices are rapidly becoming prevalent. These are potent medical devices, and there is much risk of harm without stringent regulation. Due to high consumer demand, entrepreneurs are opening businesses in Wisconsin, and are getting settled in before adequate regulations are in place. A quick scan of Yellow Pages and Newspaper ads indicates that this cosmetic laser arena is poorly regulated, and/or rules are not enforced. As representatives from the ASDS and AADA mentioned in their submitted materials, many states are enacting legislation regarding the operation of laser and light devices in medicine (including cosmetic procedures). We submitted examples of the harm that may come to patients from misdiagnosis, improper laser operation, and improper follow-up.

I request that the 120 mile rule be considered for change. If possible, consider changing this to an onsite MD supervision requirement for esthetician performed laser/light hair removal. This seems to be the safe approach. The ASPS and WSPS have submitted recommendations of 30 minutes distance MD supervision, which also would be a huge safety improvement over 120 miles!

As the Estheticians testified, the vast majority of Estheticians are NOT providing laser/light hair removal, so the onsite MD supervision requirement would NOT affect the vast majority of Estheticians. When asked who among the Estheticians performed laser hair removal, it appeared that the Public Hearing audience looked around the room, but the response seemed to be that nobody present used lasers, nor apparently knew anybody that does.

If Estheticians rally aren't performing laser/IPL hair removal currently, then it seems they do not lose anything by compromising on this issue.

I must reiterate, as I mentioned at the hearing, that I value the skills and services that Estheticians provide to Wisconsin citizens. The laser issue seemed peripheral, not germane to them, from the discussions at the hearing. Namely- the overall and relatively unregulated use of lasers and light sources by a whole range of categories of people. This is really the core of the issue.

Beyond the hope that the 120 mile rule can be changed now, I do hope that the Committee on Public Health recognizes the need for further study and regulation changes on this broader area. I hope that the appropriate License Boards can convene a work group of experts, and do some significant work in this area. I, like many of the doctors at the hearing, stand ready for such an endeavor.

Please share this letter with the Committee members.

Respectfully,

Eric Berg, MD

Member of AADA, ASDS, ASLMS, AMA, and WMS
Wisconsin Dermatology Society Representative to the Wisconsin Medical
Society Council on Legislation
1 S Park Street
Madison, WI 53713
608 287-2620
eric.berg@uwmf.wisc.edu



Parrott, Douglas

From: Eric Berg [Eric.Berg@UWMF.WISC.EDU]
Sent: Monday, September 18, 2006 11:37 AM
To: Bradley Manning; Jeremy Levin; Mark Grapentine
Cc: drbonness@aol.com; ksstokes@aol.com; Rep.Hines; Rep.Berceau; Karol Gutowski; Lisa Maroney; mkederm@yahoo.com; Manish Gharia <mgharia98@yahoo.com>
Subject: Moving forward on increasing safety in laser usage

September 18, 2006

Dear Dr Manning, Jeremy, and Mark.

The recent discussions about the Esthetician rule changes have made me realize that Dermatologists and other MDs need to be more proactive in protecting patients from harm, including harmful legislation.

There seems to be an increasing tide of regulations in the cosmetic laser arena, as consumers and physicians realize that poorly trained and/or improper laser operators are rapidly becoming part of the landscape. It seems that this is a case where the regulations simply haven't changed at the frantic pace that this industry has grown.

As a physician with 20 years of laser experience, I have seen cosmetic use of lasers and light devices grow exponentially. I suspect it will continue to grow, and we can expect many more entrepreneurs to move into the market.

The problem is that we need to regulate this activity more, so that patients (consumers) can expect a core level of care. Training requirements, safety issues, MD supervision issues, and other related aspects need to be studied further.

I ask your support of this idea. I would like to work towards crafting legislation, or rule changes. To do so, I recommend the following:

1. The WMS continue to work with the AADA, ASDS, ASPS, WSPS, WDS, and potentially the Wisconsin based ASLMS.
2. A report detailing the entire scope of current Wisconsin regulations regarding lasers, and similar light based devices, be prepared as a reference or starting point. This will require detailed investigation of current law, as well as Licence rules for Estheticians, and all individuals licensed (or working non licenced) under medical, nursing, or other medically related licences. Non licensed refers to a current situation in which a non licenced, non trained individual could operate a laser currently in Wisconsin.
3. Where recent legislation exists, such as the rule allowing Estheticians the privilege of performing laser hair removal, please look at the history of how that came about. Who requested that change in the rules? Who sponsored that change, and helped it become a reality? Were any doctors involved in that decision to allow non medical personnel the privilege of performing laser surgery, with no onsite (or even in state supervision)?
4. We should convene a group of experts, including input from the respective Licencing Boards, to review that information, as well as what is happening legislatively across the country.
5. At a minimum, the WMS should be considering a policy statement or resolution regarding this issue. Many expert MDs are ready for this project.
6. The WMS should look at AMA policy in this area.
7. Ultimately, we should look at ways to effect change, so that Wisconsinites can expect a certain minimum level of care in cosmetic laser and related treatments. I do not know the best way to proceed. As a concerned citizen, I felt compelled to communicate with my legislator regarding my concerns. Rep Therese Berceau has heard some of my concerns, both by conversation, and copies of emails. Once the above mentioned investigation is completed, we may want to look at getting a rule or law change bill sponsored. That is premature at this point, of course.
8. The Assembly Committee on Health may play a role. I really am not in full understanding of their role in this process. Certainly, the Committee should be aware of our intentions, should we embark on this course. I would welcome any advise the Committee would have regarding how to proceed- with a spirit of cooperation, and with the needs of the citizens of Wisconsin as the top priority.

Please let me know if these ideas seem reasonable. As a doctor, my focus is on providing the best care I can, and to first do no harm. As I go through my career, I see that there are times that I could make a positive impact on a larger scale. As a laser expert with 20 years of experience, I cannot look with "blindness" at the trends happening with laser usage (and similar devices) in Wisconsin.

I submit these comments as an individual. I am, however, Dermatology Specialty rep to the WMS Council on Legislation, and am a member of the WDS, AADA, ASDS, ASLMS, and AMA.

Respectfully,

Eric Berg, MD

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Parrott, Douglas

From: Karol Gutowski [GUTOWSKI@surgery.wisc.edu]
Sent: Monday, September 18, 2006 12:00 PM
To: Bradley Manning; Eric Berg; Jeremy Levin; Mark Grapentine
Cc: drbonness@aol.com; ksstokes@aol.com; Rep.Hines; Rep.Berceau; Lisa Maroney; mkederm@yahoo.com; <Manish Gharia
Subject: Re: Moving forward on increasing safety in laser usage

Eric, I agree we need more information on this. We should see what the relevant national professional societies have endorsed for supervision and what other states are doing.

Karol

Karol A. Gutowski, MD, FACS
Associate Professor of Surgery
Residency Program Director
Chief of Plastic Surgery, Wm S Middleton VA Hospital

University of Wisconsin
600 Highland Avenue
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Academic Office: 608-265-2535 (for routine calls) Cosmetic Surgery Center 608-287-2481
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E-mail: gutowski@surgery.wisc.edu
Web:<http://www.surgery.wisc.edu/plastic/faculty/gutowski.shtml>

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>>> Eric Berg 09/18/2006 11:36:30 >>>
September 18, 2006

Dear Dr Manning, Jeremy, and Mark.

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There seems to be an increasing tide of regulations in the cosmetic laser arena, as consumers and physicians realize that poorly trained and/or improper laser operators are rapidly becoming part of the landscape. It seems that this is a case where the regulations simply haven't changed at the frantic pace that this industry has grown.

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Respectfully,

Eric Berg, MD





American Academy of Dermatology Association

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Executive Director & CEO

September 18, 2006

The Honorable J.A. "Doc" Hines
Chair, Assembly Committee on Public Health
Room 10 West
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Chairman Hines:

The American Academy of Dermatology Association recently obtained the revised version of Clearinghouse Rule 05-118, which was discussed the Committee's public hearing on August 30th. As indicated during the hearing, we fully understand the need to work with all parties involved to develop a rule that is not overly burdensome to licensees, but one that also makes patient safety its top priority.

We would like to take this opportunity to make several comments related to the revisions, and provide some additional background information.

- **Section 4. BC 1.01 (6s).** The definition of "exfoliation" means the process whereby the superficial epidermal cells are removed from the skin. We believe that this definition should be expanded to include the fact that this procedure should not penetrate the stratum corneum. Several aestheticians testified that these procedures did not penetrate the stratum corneum, and we believe that anything that does penetrate this layer constitutes the practice of medicine, and as such, should be done only under the direct supervision of a physician.
- **Section 5. BC 1.01 (7m).** We feel that a definition needs to be added for direct supervision. This does not mean that the physician needs to necessarily be next to the licensee performing a medical procedure, but we feel that a physician should on-site at the same facility when delegating a medical procedure such as laser hair removal or chemical peels.
- **Section 9. BC 1.01 (11n) and (11r).** Like Section 4. BC 1.01 (6s) the fact that mechanical exfoliation and microdermabrasion do not penetrate the stratum corneum and affect the living tissue of the skin should be included.

Letter to Chairman Hines

September 18, 2006

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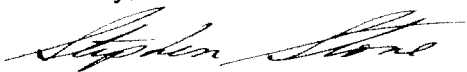
- **Section 16. BC 2.025 (3).** The performance of laser hair removal was discussed at length during the public hearing. Lasers and intense pulsed light devices are prescriptive devices that can cause damage to the living layers of the skin, and as such should only be performed under the direct supervision of a physician. The consensus from many of the aestheticians in attendance at the August 30th hearing was that there was not a strong desire to perform laser hair removal without a physician on-site. We strongly believe that having a physician on-site and immediately available best protects the patient, the licensee performing the procedure, and the supervising physician responsible for the procedure. Having a physician 120 miles away during the performance of a delegated medical procedure would be a negligent practice.
- **Section 23. BC 4.01(8).** While this section only refers to the sterilization of lancets, we do not feel that licensees should be able to use lancets for the lateral piercing of raised whiteheads without the on-site supervision of a physician. This is a medical treatment for acne that can cause existing conditions to worsen if not performed properly, or if performed on different types of lesions that are mistaken for acne.

We support the provisions in the rule which allow a licensee to perform aesthetic grade microdermabrasion and exfoliation services. These procedures only affect the dead layer of skin above the stratum corneum, and as such, would not require the on-site supervision of a licensed physician because they do not constitute the practice of medicine.

We would be happy to provide any additional information you may need about these procedures and the possible adverse incidents that can arise if they are performed improperly. The issues of laser and intense pulsed light usage, and the performance of medical procedures by all non-physicians (physician assistants, nurse practitioners, laser technicians, etc.) needs to be addressed to ensure that health and well-being of the patients of Wisconsin is protected.

We look forward to working with you on future issues of mutual concern.

Sincerely,



Stephen P. Stone, MD, FAAD
President

Cc: Diane R. Baker, MD, FAAD, President-Elect
William P. Coleman, III, MD, FAAD, Vice President
David M. Pariser, MD, FAAD, Secretary-Treasurer
Ronald A. Henrichs, CAE, Executive Director and CEO
Kathleen S. Stokes, MD, FAAD, President, Wisconsin Dermatological Society
Neal Bhatia, MD, FAAD, Greater Milwaukee Dermatology Society

Letter to Chairman Hines
September 18, 2006
Page 3 of 3

Jeremy Levin, Gov't Relations Spec., Wisconsin Medical Society



Parrott, Douglas

From: cherie gabrielse [mmls1@charter.net]
Sent: Saturday, September 23, 2006 3:09 PM
To: Rep.Hines
Subject: Cosmetic Lasers and Intense Pulse light devices
Attachments: 233239.pdf

Dear Mr. Hines,

I am contacting you in regard to legislation that is being considered in regards to rules governing the operation of non invasive cosmetic laser and non laser devices.

I would like to start by introducing myself, my name is Aaron Gabrielse. I have worked in this particular field (cosmetic lasers) since 1998. My wife and I own a business called Cosmetic Lasers services which has existed since 2000. Our company provides a variety of medical/cosmetic lasers to hospitals, clinics and physician's offices throughout Wisconsin and Northern Illinois.

One of the services we offer is to not only provide the devices but to perform the procedures as well. My role is to perform the treatments. Prior to working in this field, I spent six years working in the Emergency Medical field as a EMT/Paramedic. I currently hold no licensure.

My concerns regarding the proposed legislation is that eventually the legislation will prevent me from performing procedures. It is my understanding the legislation is directed primarily at Aestheticians. While I am not an Aesthetician, my concern is that eventually they will impose the same rules on everyone.

My wife and I have our lives invested in our business, which a large percentage of our revenue is generated from procedures I perform.

I would welcome the opportunity to meet with yourself or anyone on the committee overseeing these issues. I have included my CV to provide you with a better understanding of my background.

Sincerely,

Aaron Gabrielse
920-452-0154
414-628-1061

Aaron Gabrielse

3706 S 17th Pl
Sheboygan
Wisconsin
53081
414-628-1061
mmls@milwpc.com

PROFILE

Six years working in the Emergency Medical field. A successful owner and operator of Midwest Mobile Laser Service and Northshore Laser & Skincare Center. Strategically providing lasers to many hospitals, clinics and surgery centers in Southeastern Wisconsin and Northern Illinois for almost six years. Servicing the University of Wisconsin Dermatology resident program, while working with Emeritus Professor Dr. Derek Cripps, inventor of the Sun Protection Formula(SPF factor). Training under Dr. Patrick Bitter Jr. and Dr. Stephen Mulholland, the pioneers of Fotofacial Rejuvenation, Laser Laxity Vectors and Wrinklelite Therapy. Advanced training in Laser safety, Biophysics, Laser and Tissue Interaction as well as Thermal Relaxation Time(TRT). Highly regarded by physicians for expertise with medical and cosmetic lasers as well as business ethics.

WORK HISTORY

May 2001 - Present

Owner/Manager/Cosmetic Laser Specialist
Northshore Laser & Skin Care center
Whitefish Bay, Wisconsin

- Instrumental in building the business from the ground up
- Responsible for every aspect of management from facility design to Hiring,Purchasing,marketing,maintaining financial reports,patient consultation, all laser treatments,patient follow up.

Jun 2000 - Present

Owner/Operator
Midwest Mobile Laser service
Sheboygan

- Purchased Trace Medical's Mobile Laser Division
- Renamed Midwest Mobile Laser Service
- Increased profitability and productivity by combining three separate positions in to one.
- Streamlined and consolidated scheduling to add additional accounts.
- Responsible for day to day operations
- Responsible for maintaining all lasers
- Increased monthly revenue from \$12000 to \$30000 within first six month while reducing expenses.

Dec 1998 - May 2000

Mobile Laser Technician
Trace Medical
Lisle, Illinois

- In charge of day to day laser operations for all Wisconsin accounts
- Maintained database of Wisconsin Physicians
- responsible for overseeing all vehicle and laser maintenance

May 1996 - Dec 1998 **Paramedic**
Orange Cross Ambulance Service
Sheboygan, Wisconsin

- Responsible for all aspects of patient care
- Responsible for station and vehicle inventory
- Maintain state license and National registration

EDUCATION

Apr 2004 - Apr 2004 **Laser Training Institute**
Florida

The Laser Training Institute provides courses throughout the country. I attend there basic Laser Physics course every other year as a refresher.

- Laser Physics
- Laser Biophysics
- Laser safety
- Laser and Tissue interaction

I also have attended multiple laser courses put on by manufactures, these certificates will be attached.

Sep 1994 - Jan 1995 **Lakeshore Technical Institute**
Cleveland, Wisconsin

- Completed 16 month Paramedic certification
- Maintained a 4.0 GPA throughout the program
- Graduated with honours
- Obtained State license and National registry

REFERENCES

Available on request.