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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

**STATE OF WISCONSIN  
BARBERING AND COSMETOLOGY EXAMINING BOARD**

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

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TO: John Gard  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the BARBERING AND COSMETOLOGY EXAMINING BOARD is submitting in final draft form rules relating to definitions, microdermabrasion, chemical skin peels, managers, ear piercing, waxing, nail enhancement, licensing requirements, and reinstatement of license.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

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**STATE OF WISCONSIN  
BARBERING AND COSMETOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING  
PROCEEDINGS BEFORE THE  
BARBERING AND COSMETOLOGY  
EXAMINING BOARD** : **REPORT TO THE LEGISLATURE  
ON CLEARINGHOUSE RULE 05-118**  
: **[s. 227.19 (3), Stats.]**

**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

The Department of Regulation and Licensing finds that this rule will have no impact on the department's funds. And this rule has no significant fiscal effect on the private sector.

**IV. STATEMENT EXPLAINING NEED:**

The rule would redefine rules regarding the offering of microdermabrasion and chemical peel services by board licensees. The rule would allow additional access to these services by allowing certain licensees to provide these services without the direct supervision of a physician under certain circumstances.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on February 6, 2006.

The following individuals appeared and provided oral comments in support of the proposed rules:

Avita Regan, Aviderm Clinical Skin Care, Cambridge, WI  
Connie Schulze, Office of Senator Alberta Darling, Wauwatosa, WI  
Gwen Janda, The Institute of Beauty & Wellness, Milwaukee, WI  
Lauri Thomas, Alexander Thomas School of Esthetics, Brookfield, WI  
Gail Lerman, Director, Mequon Thiensville School of Esthetics, Thiensville, WI. Ms. Lerman also provided a letter in support of the proposed rules, and a draft of a document entitled "A Fourteen Hour Microdermabrasion Training Syllabus" and a "Microdermabrasion 74 Multiple Choice Question Test" was received from the Mequon Thiensville School of Esthetics."

Cheryle Rebholz, Faces II Esthetics Salon

Comments included:

- The practice of microdermabrasion is important to the profession and it would be a hardship to not be able to practice microdermabrasion.
- Microdermabrasion should be allowed to be practiced with the proper training and there have not been complaints about injuries from the performance of microdermabrasion.
- Microdermabrasion helps clients improve their appearance and they are glad to see this rule change come forward.

The following individuals appeared to obtain information only:

Lorraine Botelhe, Lorraine's Salon, Waterloo, WI  
Nikoo Brill, Lad du Flambeau, WI  
Michelle Danta, Hartley, WI  
Heather Dempsey, West Bend, WI, Mequon Thiensville School of Esthetics  
Deborah Glenn, Studio D, LLC, Milwaukee, WI  
Mary Kardoskee, Green Bay, WI  
Mary Kiley, Green Bay, WI  
Michelle Krueger, Cedarburg, WI  
Jacqueline Radke, Racine, WI  
Audrey Sann, Wausau, WI  
Toni Sananikone, Wausau, WI  
Dori Schefilbein, Waterford, WI, Mequon Thiensville School of Esthetics  
Elizabeth Steffen, Cedarburg, WI, The Natural Ways  
Elizabeth Nideewar, Thiensville, WI, Skin Alive  
Jamie Zajac, Woodruff, WI, SCBC Wausau  
Chris Zajdel, The Institute of Beauty/Wellness

#### **VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

Comment 1.a. Section BC 2.025 (2m) allows licensees to practice microdermabrasion without medical supervision. Under s. 454.02 (1), Stats., licensees may not treat conditions "except as indicated in the definition of barbering or cosmetology...or under the direction of a licensed and practicing physician." Therefore, if microdermabrasion is not under the definition of "barbering and cosmetology," a physician's direction appears to be required.

Response: It is the opinion of the board that the act of microdermabrasion is a barbering or cosmetology practice contemplated by Wis. Stat. s. 454.01 (5) (b)" ...cleansing, stimulating...beautifying...or performing other similar work upon the skin of any person." Therefore, no modifications to the rule were made in response to Comment 1.a.

The other recommendations suggested in the Clearinghouse Report were accepted in whole.

### **VIII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Chs BC 1-9 CR05-118 (Microdermabrasion, waxing, etc.) Report to Leg 7-10-06

STATE OF WISCONSIN  
BARBERING AND COSMETOLOGY EXAMINING BOARD

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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 RULES 05-118)

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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) (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), (c) 1. and 2., (2m) and (6), 4.01 (8), 4.08 (1) and (2) and 8.01, relating to definitions, microdermabrasion, chemical skin peels, managers, ear piercing, waxing, nail enhancement, licensing requirements and reinstatement of license.

Analysis prepared by the Department of Regulation and Licensing.

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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, 18, 24, 25, 27, 29, 30, 31 and 32). A significant revision is allowing microdermabrasion to be practiced, in specific circumstances, without the supervision of a physician (Sections 11, 12, 13, 14 and 16). This proposed rule-making order also modifies the rules regarding managers, their responsibilities and the amount of supervision they must provide (Sections 17, 19, and 33). 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 creates an exception to the requirement of medical supervision of microdermabrasion services.

SECTIONS 12 and 13 clarify that some commercially available exfoliation products can be administered without medical supervision.

SECTION 14 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 15 imposes a requirement of parenteral or guardian consent for laser hair removal services on minors.

SECTION 16 imposes a requirement that in licensed establishments where laser hair removal, microdermabrasion or chemical skin peels are performed as a delegated medical act, information on the delegating physician must be conspicuously posted.

SECTION 17 allows for supervision of apprentices and temporary permittees by a licensee with substantial experience.

SECTIONS 18 and 25 clarify that the proper cleaning of linens includes use of a germicide.

SECTION 19 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 20 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 21 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 22 provides guidance on the appropriate use of lancets for lateral piercing of whiteheads.

SECTION 23 notes that the rules regarding disinfecting tweezers used in electrolysis are different than for general cosmetology.

SECTION 24 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 26 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 27 clarifies that use of a topical antiseptic is required before performing a waxing procedure.

SECTION 28 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 29 eliminates language that is redundant as a result of the adoption of SECTION 22 above.

SECTIONS 30, 31 and 32 modify the training standards to reflect the addition of the concept of nail enhancements as a practice skill.

SECTION 33 modifies the training standards for apprentices to acknowledge nail enhancements as a practice skill.

SECTION 34 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 35 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 36 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 peels:

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](http://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](mailto: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](mailto: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](mailto: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.

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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 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.

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, peeling creams 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) (b) is amended to read:

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

SECTION 12. 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, 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 13. 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 14. BC 2.025 (2m) is created to read:

BC 2.025 (2m) 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.

(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 skin peel.

(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).

SECTION 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. 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 27. 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 28. 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 29. BC 4.09 (3m) is repealed.

SECTION 30. 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, thermal hair straightening, blow-outs, permanents, hair coloring, tinting, bleaching and chemistry.	190	400
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 <del>artificial nails</del> <u>nail enhancement</u> .	10	25
VIII.	Anatomy and physiology of	50	0

the hair, skin and nails and disorders of the hair, skin, scalp and nails.

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 31. 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 <del>artificial nails</del> <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 32. 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,	78

	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.	30
VII.	Manicuring, including <del>artificial nails</del> <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 33. Figure 6.04 (3) is amended to read:

FIGURE 6.04 (3)

	SUBJECTS	PRACTICAL HOURS
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	1,000

	chemistry.	
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 <del>artificial nails</del> <u>nail enhancement</u> .	30
VI.	General patron service and individual apprentice needs.	1,232
	TOTAL PRACTICAL HOURS:	3,712

SECTION 34. Chapter BC 8 (title) is amended to read:

Chapter BC 8 (title)

~~LICENSEES OF OTHER JURISDICTIONS~~ LICENSURE

SECTION 35. 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 36. 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.

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(END OF TEXT OF RULE)  
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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 to Leg 7-10-06



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 05-118

AN ORDER 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) (c), 4.08 (intro.), (1), (2), and (3); 6.04 (1) and 8.01; to amend BC 1.01 (3), (3r) and (8), 2.025 (2) (b) and (3), 2.06 (5), 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), chapter BC 8 (title) and 9.02; and to create BC 1.01 (6s), (7m), (9), (11n), (11r), (11w) and (13t), 2.025 (2) (c) 1. and 2., (2m) and (6), 4.01 (8), 4.08 (1) and (2), 6.04 (1) (b) and 8.01, relating to definitions, microdermabrasion, chemical skin peels, managers, ear piercing, waxing, nail enhancement, licensing requirements, and reinstatement of license.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

12-16-2005 RECEIVED BY LEGISLATIVE COUNCIL.

01-18-2006 REPORT SENT TO AGENCY.

RNS:MO

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 05-118

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### 1. Statutory Authority

a. Section BC 2.025 (2m) allows licensees to practice microdermabrasion without medical supervision. Under s. 454.02 (1), Stats., licensees may not treat conditions "except as indicated in the definition of barbering or cosmetology...or under the direction of a licensed and practicing physician." Therefore, if microdermabrasion is not under the definition of "barbering and cosmetology," a physician's direction appears to be required.

b. The text added by the rule to s. BC 2.06 (5) and the creation of s. BC 6.04 (1) (b) appear to conflict with s. 454.10 (3), Stats., which prohibit an apprentice from practicing barbering or cosmetology "except under the supervision of a licensed manager."

#### 2. Form, Style and Placement in Administrative Code

a. On page 8, the "Effect on small business" section states that the proposed rules will have no significant economic impact "on a substantial number" of small businesses. However, if the rule will have an effect on any number of small businesses, that should be stated in this section and the phrase "and affecting small business" should be included in the relating clause. [See s. 1.02 (1), Manual.]

b. For the same reason that "that which can be" is deleted in s. BC 1.01 (3), "that which is" should be deleted in s. BC 1.01 (8).

c. In s. BC 1.01 (7m), the second sentence is drafted as a substantive requirement rather than a definition. It is suggested that "and is a physically located within 120 miles of the licensee" be added to the first sentence.

d. In s. BC 2.025 (2m) (g), "all of the following" should be inserted before the colon after "contain." [See 1.03 (8), Manual.]

**4. Adequacy of References to Related Statutes, Rules and Forms**

On page 1, s. 454.10, Stats., should be added to the "statutes interpreted" section, since that statute is interpreted by the rule change to s. BC 2.06 (5) and the creation of s. BC 6.04 (1) (b).

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

In s. BC 2.025 (2m) (intro.), "A licensee" should replace "Licensees" for consistency with the singular "his or her."