

**2011 DRAFTING REQUEST**

**Bill**

Received: **06/29/2011**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Glenn Grothman (608) 266-7513**

By/Representing: **Regina**

May Contact:

Drafter: **mgallagh**

Subject: **Occupational Reg. - misc  
Occupational Reg. - prof lic**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Grothman@legis.wisconsin.gov**

Carbon copy (CC:) to: **michael.gallagher@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Separate cosmetology and barbering licensure

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**Instructions:**

See attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u>       | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|------------------------|-----------------------|-----------------|
| /?           | mgallagh<br>07/28/2011 | wjackson<br>08/15/2011 |                        | _____          |                        |                       |                 |
| /P1          | mgallagh<br>10/10/2011 | wjackson<br>10/21/2011 | rschluet<br>08/16/2011 | _____          | lparisi<br>08/16/2011  |                       | State           |
| /P2          | mgallagh<br>02/06/2012 | wjackson<br>02/08/2012 | rschluet<br>10/24/2011 | _____          | sbasford<br>10/24/2011 |                       | State           |
| /1           |                        |                        | phenry<br>02/13/2012   | _____          | mbarman<br>02/13/2012  | lparisi<br>02/16/2012 |                 |

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FE Sent For:

act intro  
2-20-12

<END>

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| /P1          | mgallagh<br>10/10/2011 | wjackson<br>10/21/2011           | rschluet<br>08/16/2011 | <i>ph/jm</i>       | lparisi<br>08/16/2011  |                 | State           |
| /P2          |                        | <i>1 WLJ 7/8<br/>(bluesheet)</i> | rschluet<br>10/24/2011 | <i>[Signature]</i> | sbasford<br>10/24/2011 |                 |                 |

FE Sent For:

*1 WLJ 2/13  
 2/13 ph  
 [Signature]*

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| /? | mgallagh |  |  |  |  |  |  |
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1/1 Wlj 8/15

8/15/11

pu

FE Sent For:

<END>

6-28

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

- split - 2 License requirements.
- 4 syllabus get 1/3 cost B/C ?  
slow license.
- 2 levels - active / inactive.

- Do for schools / instructors as well.

different

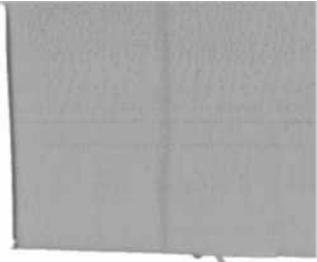
- Rejiny / Glatman  
6-7513

- 2 tiers -  
active & inactive

from  
11 →  
2060

Wisconsin  
LEGISLATURE

128  
7/16/11 (cmh)



MPG: nwn: ph

NOT READY FOR INTRODUCTION

2316/11

mpg: WLj:

LPS: Please toss this note  
When you're done with it. TX

D-Note

Regen

1 **AN ACT to repeal** 440.63 (1) (a) 1. and 440.63 (1) (a) 2.; **to renumber and amend**  
2 440.08 (2) (a) 20., 440.60 (4), 440.60 (5), 440.60 (10), 440.62 (3) (a), 440.63 (1)  
3 (a) (intro.), 454.01 (5) (b), (c) and (d), 454.01 (6) and 454.01 (12); **to consolidate,**  
4 **renumber and amend** 454.01 (5) (intro.) and (a); **to amend** 106.52 (1) (e) 1.,  
5 440.03 (13) (b) 13., 440.03 (13) (b) 14., 440.03 (13) (b) 15., 440.08 (2) (a) 16.,  
6 440.08 (2) (a) 17., 440.08 (2) (a) 18., 440.08 (2) (a) 19., 440.60 (14), 440.62 (1) (a),  
7 440.62 (1) (c), 440.63 (1) (b), (c) and (d), 440.63 (3) (a) (intro.), 2. and 4., 440.635,  
8 454.01 (10), 454.01 (15), 454.02 (1), 454.02 (2) (intro.), 454.02 (3) (intro.), 454.04  
9 (1) (a), 454.04 (1) (b), 454.04 (1) (d), 454.04 (2) (a), 454.04 (2) (b), 454.04 (2) (d),  
10 454.06 (2) (intro.), (b) and (c), 454.06 (3) (intro.), (a), (b) and (d), 454.06 (4) (b)  
11 1. and 2., 454.06 (5) (b) 1. and 2., 454.06 (6) (b) 1. and 2., 454.06 (7), 454.06 (10)  
12 (a), 454.07 (1), 454.08 (1) (a), 454.08 (1) (b), 454.08 (2) (a), 454.08 (2) (b), 454.08  
13 (2) (c), 454.08 (2) (d), 454.08 (5), 454.08 (6), 454.10 (2), 454.10 (3) (a), 454.13 (1)  
14 (intro.), 454.13 (2), 454.15 (2) (c) and 454.15 (2) (d); and **to create** 440.03 (13)  
15 (b) 19e., 440.03 (13) (b) 19m., 440.03 (13) (b) 19s., 440.08 (2) (a) 24b., 440.08 (2)

1 (a) 24d., 440.08 (2) (a) 24g., 440.08 (2) (a) 24i., 440.08 (2) (a) 24k., 440.60 (5e),  
2 440.60 (5m), 440.60 (5s), 440.62 (1) (cm), 440.62 (3) (ag), 440.62 (3) (ar) 4m.,  
3 440.63 (1) (am), 440.63 (3) (am), 454.01 (6e), 454.01 (6m) (intro.), 454.01 (6s),  
4 454.01 (15m), 454.04 (1) (am), 454.04 (2) (am), 454.06 (2m), 454.06 (3m), 454.06  
5 (10) (am), 454.08 (2) (am), 454.08 (6m) and 454.10 (3) (am) of the statutes;  
6 **relating to:** separate licensing requirements for barbering and cosmetology.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

7 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

8 106.52 (1) (e) 1. "Public place of accommodation or amusement" shall be  
9 interpreted broadly to include, but not be limited to, places of business or recreation;  
10 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,  
11 electrologist, or manicuring establishments; nursing homes; clinics; hospitals;  
12 cemeteries; and any place where accommodations, amusement, goods, or services are  
13 available either free or for a consideration, subject to subd. 2.

14 **SECTION 2.** 440.03 (13) (b) 13. of the statutes is amended to read:

15 440.03 (13) (b) 13. Barber or cosmetologist.

16 **SECTION 3.** 440.03 (13) (b) 14. of the statutes is amended to read:

17 440.03 (13) (b) 14. Barbering or cosmetology instructor.

18 **SECTION 4.** 440.03 (13) (b) 15. of the statutes is amended to read:

19 440.03 (13) (b) 15. Barbering or cosmetology manager.

20 **SECTION 5.** 440.03 (13) (b) 19e. of the statutes is created to read:

- 1           440.03 (13) (b) 19e. Cosmetologist.
- 2           **SECTION 6.** 440.03 (13) (b) 19m. of the statutes is created to read:
- 3           440.03 (13) (b) 19m. Cosmetology instructor.
- 4           **SECTION 7.** 440.03 (13) (b) 19s. of the statutes is created to read:
- 5           440.03 (13) (b) 19s. Cosmetology manager.
- 6           **SECTION 8.** 440.08 (2) (a) 16. of the statutes is amended to read:
- 7           440.08 (2) (a) 16. Barbering ~~or cosmetology~~ establishment: April 1 of each
- 8           odd-numbered year.
- 9           **SECTION 9.** 440.08 (2) (a) 17. of the statutes is amended to read:
- 10          440.08 (2) (a) 17. Barbering ~~or cosmetology~~ instructor: April 1 of each
- 11          odd-numbered year.
- 12          **SECTION 10.** 440.08 (2) (a) 18. of the statutes is amended to read:
- 13          440.08 (2) (a) 18. Barbering ~~or cosmetology~~ manager: April 1 of each
- 14          odd-numbered year.
- 15          **SECTION 11.** 440.08 (2) (a) 19. of the statutes is amended to read:
- 16          440.08 (2) (a) 19. Barbering ~~or cosmetology~~ school: April 1 of each
- 17          odd-numbered year.
- 18          **SECTION 12.** 440.08 (2) (a) 20. of the statutes is renumbered 440.08 (2) (a) 15m.
- 19          and amended to read:
- 20          440.08 (2) (a) 15m. Barber ~~or cosmetologist~~: April 1 of each odd-numbered
- 21          year.
- 22          **SECTION 13.** 440.08 (2) (a) 24b. of the statutes is created to read:
- 23          440.08 (2) (a) 24b. Cosmetologist: April 1 of each odd-numbered year.
- 24          **SECTION 14.** 440.08 (2) (a) 24d. of the statutes is created to read:

1 440.08 (2) (a) 24d. Cosmetology establishment: April 1 of each odd-numbered  
2 year.

3 **SECTION 15.** 440.08 (2) (a) 24g. of the statutes is created to read:

4 440.08 (2) (a) 24g. Cosmetology instructor: April 1 of each odd-numbered year.

5 **SECTION 16.** 440.08 (2) (a) 24i. of the statutes is created to read:

6 440.08 (2) (a) 24i. Cosmetology manager: April 1 of each odd-numbered year.

7 **SECTION 17.** 440.08 (2) (a) 24k. of the statutes is created to read:

8 440.08 (2) (a) 24k. Cosmetology school: April 1 of each odd-numbered year.

9 **SECTION 18.** 440.60 (4) of the statutes is renumbered 440.60 (4m) and amended  
10 to read:

11 440.60 (4m) "Barbering ~~or cosmetology~~" has the meaning specified in s. 454.01  
12 ~~(5)~~ (5m).

13 **SECTION 19.** 440.60 (5) of the statutes is renumbered 440.60 (4e) and amended  
14 to read:

15 440.60 (4e) "Barber ~~or cosmetologist~~" has the meaning specified in s. 454.01  
16 ~~(6)~~ (5e).

17 **SECTION 20.** 440.60 (5e) of the statutes is amended to read:

18 440.60 (5e) "Cosmetologist" has the meaning specified in s. 454.01 ~~(6)~~ (6e).

19 **SECTION 21.** 440.60 (5m) of the statutes is created to read:

20 440.60 (5m) "Cosmetology" has the meaning specified in s. 454.01 (6m).

21 **SECTION 22.** 440.60 (5s) of the statutes is created to read:

22 440.60 (5s) "Cosmetology manager" has the meaning specified in s. 454.01 (6s).

23 **SECTION 23.** 440.60 (10) of the statutes is renumbered 440.60 (4s) and amended  
24 to read:

1           440.60 (4s) "~~Manager~~ Barbering manager" has the meaning specified in s.  
2           454.01 (12) (5s).

3           **SECTION 24.** 440.60 (14) of the statutes is amended to read:

4           440.60 (14) "School" means any facility, other than a specialty school, that  
5           offers instruction in barbering ~~or~~, cosmetology, aesthetics, electrology, or manicuring.

6           **SECTION 25.** 440.62 (1) (a) of the statutes is amended to read:

7           440.62 (1) (a) No person may operate a school unless the school holds a current  
8           license as a school of barbering ~~or~~, cosmetology, aesthetics, electrology, or manicuring  
9           issued by the department.

10          **SECTION 26.** 440.62 (1) (c) of the statutes is amended to read:

11          440.62 (1) (c) No school may use the title "school of barbering ~~or cosmetology~~"  
12          or any similar title unless the school holds a current school of barbering ~~or~~  
13          cosmetology license issued by the department.

14          **SECTION 27.** 440.62 (1) (cm) of the statutes is created to read:

15          440.62 (1) (cm) No school may use the title "school of cosmetology" or any  
16          similar title unless the school holds a current school of cosmetology license issued by  
17          the department.

18          **SECTION 28.** 440.62 (3) (a) of the statutes is renumbered 440.62 (3) (ar), and  
19          440.62 (3) (ar) (intro.), 2., 3. and 8. of the statutes, as renumbered, are amended to  
20          read:

21          440.62 (3) (ar) *School of ~~barbering or cosmetology~~ license.* (intro.) The  
22          department shall issue a school of ~~barbering or cosmetology~~ license to each school  
23          that meets all of the following requirements:

24                 2. Requires as a prerequisite to graduation completion of a course of instruction  
25          in ~~barbering or cosmetology~~ of at least 1,800 training hours in not less than 10

1 months. The course of instruction may not exceed 8 training hours in any one day  
2 for any student or 48 hours in any one week for any student.

3 3. If the school offers a course of theoretical instruction for cosmetology  
4 managers, requires as a prerequisite to completion of ~~the~~ that course of instruction  
5 ~~for managers~~ the completion of at least 150 training hours of theoretical instruction.

6 8. Satisfies the requirements for schools of ~~barbering or~~ cosmetology  
7 established in rules promulgated under subs. (2) (e) and (5) (b) and s. 440.64 (1) (b).

8 **SECTION 29.** 440.62 (3) (ag) of the statutes is created to read:

9 440.62 (3) (ag) *School of barbering.* The department shall issue a school of  
10 barbering license to each school that meets all of the following requirements:

11 1. Satisfies the conditions in sub. (2).

12 2. Requires as a prerequisite to graduation completion of a course of instruction  
13 in barbering of at least 1,800 training hours in not less than 10 months. The course  
14 of instruction may not exceed 8 training hours in any one day for any student or 48  
15 hours in any one week for any student.

16 3. If the school offers a course of theoretical instruction for barbering managers,  
17 requires as a prerequisite to completion of that course of instruction the completion  
18 of at least 150 training hours of theoretical instruction.

19 4. If the school offers a course of theoretical instruction for apprentices,  
20 requires as a prerequisite to completion of the course of instruction for apprentices  
21 the completion of at least 288 training hours in not less than 9 weeks and not more  
22 than 2 years.

23 5. Satisfies the requirements for schools of barbering established in rules  
24 promulgated under subs. (2) (e) and (5) (b) and s. 440.64 (1) (b).

\*\*\*\*NOTE: Unlike for a school of cosmetology (see s. 440.62 (3) (a) 5. to 7., which is renumbered s. 440.62 (3) (ar) 5. to 7. by the draft), I have not included a requirement that if a school of barbering offers a course of instruction in another discipline (i.e., cosmetology, aesthetics, manicuring, or electrology), the school must meet certain requirements specific to that course of instruction. The reason is that barbering is a much narrower discipline than cosmetology under the draft and does not include any of the other disciplines, whereas cosmetology includes aesthetics and manicuring. Therefore, under the draft, a school of cosmetology license is required for a school that offers a multi-disciplinary curriculum. Is that consistent with your intent? See also the requirements under s. 454.06 (4) (b) 1., (5) (b) 1., and (6) (b) 1. of the draft, which reference a course of instruction in a school of cosmetology, but the reference to a school of barbering is deleted.

1           **SECTION 30.** 440.62 (3) (ar) 4m. of the statutes is created to read:  
 2           440.62 (3) (ar) 4m. If the school offers a course of instruction in barbering, the  
 3           course of instruction satisfies the requirements under par. (ag) 2.

4           **SECTION 31.** 440.63 (1) (a) (intro.) of the statutes is renumbered 440.63 (1) (a)  
 5           and amended to read:

6           440.63 (1) (a) No person may provide practical instruction in barbering or  
 7           cosmetology in a school of barbering or cosmetology unless the person holds a current  
 8           barbering or cosmetology instructor certificate issued by the department, except as  
 9           follows:

10           **SECTION 32.** 440.63 (1) (a) 1. of the statutes is repealed.

11           **SECTION 33.** 440.63 (1) (a) 2. of the statutes is repealed.

12           **SECTION 34.** 440.63 (1) (am) of the statutes is created to read:

13           440.63 (1) (am) No person may provide practical instruction in cosmetology  
 14           unless the person holds a current cosmetology instructor certificate issued by the  
 15           department.

16           **SECTION 35.** 440.63 (1) (b), (c) and (d) of the statutes are amended to read:

17           440.63 (1) (b) No person may provide practical instruction in a school of  
 18           aesthetics unless the person holds a current barbering or cosmetology instructor or  
 19           aesthetics or cosmetology instructor certificate issued by the department.

and s. 440.62 (3) (ar) 4m<sup>Δ</sup>, which is created in the draft  
 34



1 (c) No person may provide practical instruction in electrology in a school of  
2 ~~barbering or cosmetology or school of electrology~~ unless the person holds a current  
3 electrology instructor certificate issued by the department.

4 (d) No person may provide practical instruction in a school of manicuring  
5 unless the person holds a current ~~barbering or cosmetology instructor or manicuring~~  
6 or cosmetology instructor certificate issued by the department.

\*\*\*\*NOTE: The current language under s. 440.63 shifts back and forth between prohibitions against the kind of instruction a person may provide and prohibitions against the kind of school in which that instruction may be provided. Also, the language under current s. 440.63 (1) (a) 1. and 2. is confusing. Specifically, subs. 1. and 2. require an aesthetics instructor certificate or a manicuring instructor certificate to teach those disciplines in a school of barbering or cosmetology; but, also under current law, a person who holds a barbering or cosmetology instructor certificate, and not an aesthetics or manicuring instructor certificate, may teach at an aesthetics or manicuring school (see s. 440.63 (1) (b) and (d)), and a barbering or cosmetology manager or a person with a barbering or cosmetology instructor certificate may teach aesthetics and manicuring in specialty schools (see also s. 440.635). In order to clarify the requirements, the draft simply prohibits instruction in each separate discipline without an instructor's license for that discipline, or an instructor's license in cosmetology in the cases of aesthetics and manicuring because cosmetology includes those disciplines. Are those changes okay? Also, do you want me to include a provision that explicitly requires proficiency in both manicuring and aesthetics for the cosmetology instructor certificate?

7 **SECTION 36.** 440.63 (3) (a) (intro.), 2. and 4. of the statutes are amended to read:

8 440.63 (3) (a) ~~Barbering or cosmetology instructor certification.~~ (intro.) The  
9 department shall issue a barbering ~~or cosmetology~~ instructor certificate to each  
10 person who meets all of the following requirements:

11 2. Completes 2,000 hours of practice as a licensed barber ~~or cosmetologist~~ or  
12 holds a current barbering manager license issued by the examining board.

13 4. Passes an examination conducted by the department to determine fitness as  
14 a barbering ~~or cosmetology~~ instructor.

15 **SECTION 37.** 440.63 (3) (am) of the statutes is created to read:

(with respect to aesthetics, see the draft's note under  
s. 454.01 (6m) (a) in this draft)   
↑ as renumbered ↑

1           440.63 (3) (am) *Cosmetology instructor certification.* The department shall  
2 issue a cosmetology instructor certificate to each person who meets all of the  
3 following requirements:

4           1. Satisfies the conditions in sub. (2).

5           2. Completes 2,000 hours of practice as a licensed cosmetologist or holds a  
6 current cosmetology manager license issued by the examining board.

7           3. Completes 150 training hours of instructor training approved by the  
8 department.

9           4. Passes an examination conducted by the department to determine fitness as  
10 a cosmetology instructor.

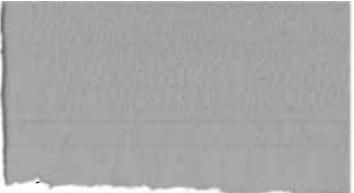
11           **SECTION 38.** 440.635 of the statutes is amended to read:

12           440.635 (1) No person may provide practical instruction in a specialty school  
13 of aesthetics unless the person holds a current cosmetology manager license issued  
14 by the examining board or a current ~~barbering~~ or cosmetology instructor or  
15 aesthetics instructor certificate issued by the department.

16           (2) No person may provide practical instruction in a specialty school of  
17 electrology unless the person holds a current electrologist license and a current  
18 cosmetology manager license issued by the examining board or an electrology  
19 instructor certificate issued by the department.

20           (3) No person may provide practical instruction in a specialty school of  
21 manicuring unless the person holds a current cosmetology manager license issued  
22 by the examining board or a current ~~barbering~~ or cosmetology instructor or  
23 manicuring instructor certificate issued by the department.

24           **SECTION 39.** 454.01 (5) (intro.) and (a) of the statutes are consolidated,  
25 renumbered 454.01 (5m), and amended to read:



1           454.01 (5m) "~~Barbering or cosmetology~~" means, for compensation, performing  
 2 any one or a combination of the following practices: (a) ~~Arranging~~ arranging, styling,  
 3 dressing, shampooing, cleansing, curling, dyeing, tinting, coloring, bleaching,  
 4 waving, cutting, shaving, trimming, relaxing, singeing, or performing similar work  
 5 upon the hair or beard of the head or face of any person by any means.

6           **SECTION 40.** 454.01 (5) (b), (c) and (d) of the statutes are renumbered 454.01  
 7 (6m) (a), (b) and (c), and 454.01 (6m) (a) and (c), as renumbered, are amended to read:

8           454.01 (6m) (a) ~~Massaging, cleansing, stimulating, manipulating, wrapping,~~  
 9 ~~exercising, beautifying or applying cosmetic preparations, antiseptics, powders, oils,~~  
 10 ~~tonics, clay or lotion to or performing other similar work upon the skin of any person~~  
 11 Aesthetics.

\*\*\*\*NOTE: The definition of "aesthetics" under s. 454.01 (2) is virtually identical to s. 454.01 (5) (b) under current law, which relates to the cosmetology aspect of the definition of "cosmetology or barbering." The only difference is that the definition of "aesthetics" explicitly includes "caring" for a person's skin and the application of "creams." The definition of "cosmetology or barbering" under current law implicitly includes the application of creams. Also, given the parallel elements in the two definitions, such as "cleansing," "massaging," "exercising," applying "tonics," etc., it is hard to see how caring for the skin could be included in "aesthetics" but excluded from "cosmetology." Therefore, I have simply included "aesthetics" in the definition of "cosmetology" under the draft. Is that change okay? If "cosmetology" should not include "aesthetics" we may want to include a revision of the definitions in the draft to clarify any difference.

*the defined term*

12           (c) The removal of hair from the body or face, but not the head, of any person,  
 13 except by use of an electric needle.

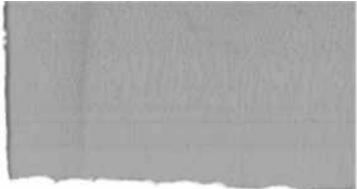
14           **SECTION 41.** 454.01 (6) of the statutes is renumbered 454.01 (5e) and amended  
 15 to read:

16           454.01 (5e) "~~Barber or cosmetologist~~" means a person who practices barbering  
 17 ~~or cosmetology.~~

18           **SECTION 42.** 454.01 (6e) of the statutes is created to read:

19           454.01 (6e) "Cosmetologist" means a person who practices cosmetology.

*Please let me know how you would like to proceed.*



1 SECTION 43. 454.01 (6m) (intro.) of the statutes is created to read:

2 454.01 (6m) (intro.) "Cosmetology" means, for compensation, performing one  
3 or more of the following:

4 SECTION 44. 454.01 (6s) of the statutes is created to read:

5 454.01 (6s) "Cosmetology manager" means a person who practices cosmetology  
6 and who is responsible for managing the operation of a cosmetology establishment.

7 SECTION 45. 454.01 (10) of the statutes is amended to read:

8 454.01 (10) "Establishment" means any place in which barbering or,  
9 cosmetology, aesthetics, electrology, or manicuring is performed.

Ins.  
11-9

10 SECTION 46. 454.01 (12) of the statutes is renumbered 454.01 (5s) and amended  
11 to read:

12 454.01 (5s) "Manager Barbering manager" means a person who practices  
13 barbering ~~or cosmetology~~ and who is responsible for supervising and managing the  
14 operation of an a barbering establishment and ensuring that the establishment  
15 operates in compliance with this chapter and rules promulgated by the examining  
16 board.

\*\*\*NOTE: I have clarified the definitions of "barbering manager" and "cosmetology manager" under the draft. Also, in accord with LRB drafting conventions, I have moved the language at the end of the definition, which appears to require that a manager do something rather than merely stating what a manager is, to s. 454.08 (6) and (6m) under the draft. Are these changes okay?

Defining

17 SECTION 47. 454.01 (15) of the statutes is amended to read:

18 454.01 (15) "Student" means a person who is ~~not licensed to practice barbering~~  
19 ~~or cosmetology and who is engaged in learning the~~ and not licensed to practice of  
20 barbering or, cosmetology, aesthetics, electrology, or manicuring at a school licensed  
21 under s. 440.62 (3) or exempted under s. 440.61 or a specialty school licensed under  
22 s. 440.62 (4).

SECTION 48. 454.01 (15m) of the statutes is created to read:

454.01 (15m) "Theoretical instruction" has the meaning given in s. 440.60 (17).

SECTION 49. 454.02 (1) of the statutes is amended to read:

454.02 (1) Licenses Nothing in this subchapter may be construed as authorizing a person licensed under this subchapter to engage in the practice barbering or cosmetology do not confer the right to diagnose, prescribe for or treat diseases or conditions except as indicated in the definition of barbering or cosmetology medicine and surgery as defined in s. 454.01 (5) or under the direction of a licensed and practicing physician 448.01 (9).

\*\*\*\*NOTE: While beyond the scope of the drafting instructions, I have included a revision of s. 454.02 (1) because that section appears problematic under current law. It is not clear what it means to say that a license "does not confer the right" to do something. That is not a prohibition against doing the thing. Also, the provision appears to authorize a barber or cosmetologist to make medical diagnoses and write prescriptions at a physician's direction, which is probably not the intent. Finally, section 448.03 already prohibits the unauthorized practice of medicine and provides that a medical license is not required for a person lawfully practicing within the scope of a license or other credential issued in accordance with statute, which would include a license granted under ch. 454. I have adjusted the language of s. 454.02 (1) as shown above to say that nothing in ch. 454 may be construed as authorizing the practice of medicine as defined in s. 448.01 (9) and surgery. Are these changes okay?

for the following reasons

proposed s. 454.02(1)

The revision adjusts

SECTION 50. 454.02 (2) (intro.) of the statutes is amended to read:

454.02 (2) (intro.) Barbering or, cosmetology, aesthetics, electrology, and manicuring do not include any of the following:

SECTION 51. 454.02 (3) (intro.) of the statutes is amended to read:

454.02 (3) (intro.) Barbering or, cosmetology, aesthetics, and manicuring do not include any of the following:

SECTION 52. 454.04 (1) (a) of the statutes is amended to read:

454.04 (1) (a) Except as permitted under pars. (b) and (d), no No person may engage in barbering or cosmetology unless the person has received training in the areas of service provided and holds a current barber or cosmetologist license,

or

19

STET

issued by the examining board, that is not an inactive license, holds a current

1 barbering manager license, or temporary permit issued by the examining board, or  
2 is an apprentice in barbering under s. 454.10 or a student in a barbering or  
3 cosmetology course of instruction.

\*\*\*\*NOTE: Unlike apprentices, see s. 454.10 (3) (a) under current law, there is no requirement in either ch. 454 or subch. VI of ch. 440 that a student must practice under the supervision of a licensed manager or licensed barber or cosmetologist. Nevertheless, under s. 454.04 (1) (a) to (d), students are exempt from the prohibition against practicing without a license. Do you want me to include a provision requiring that a student's practice must be under the supervision of a licensed manager or other appropriately licensed professional?

4 **SECTION 53.** 454.04 (1) (am) of the statutes is created to read:

5 454.04 (1) (am) Except as permitted under pars. (b) and (d), no person may  
6 engage in cosmetology unless the person holds a current cosmetology license,  
7 or cosmetology manager license, or temporary permit issued by the examining board,  
8 or is an apprentice in cosmetology under s. 454.10 or a student in a cosmetology  
9 course of instruction.

10 **SECTION 54.** 454.04 (1) (b) of the statutes is amended to read:

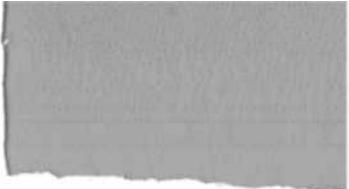
11 454.04 (1) (b) No person may engage in aesthetics unless the person has  
12 received training in the areas of service provided and holds a current aesthetician  
13 license, ~~barber or cosmetologist license,~~ or cosmetology manager license, or temporary  
14 permit, or training permit issued by the examining board, or is an apprentice in  
15 cosmetology under s. 454.10 or a student in an aesthetics or ~~barbering or cosmetology~~  
16 course of instruction.

17 **SECTION 55.** 454.04 (1) (d) of the statutes is amended to read:

18 454.04 (1) (d) No person may engage in manicuring unless the person has  
19 received training in the areas of service provided and holds a current manicurist  
20 license, ~~barber or cosmetologist license,~~ or cosmetology manager license, or temporary  
21 permit, or training permit issued by the examining board, or is an apprentice in

issued by the examining board, that is not an inactive license, holds a current

issued by the examining board, that is not an inactive license



1 cosmetology under s. 454.10 or a student in a manicuring or ~~barbering~~ or cosmetology  
2 course of instruction.

3 **SECTION 56.** 454.04 (2) (a) of the statutes is amended to read:

4 454.04 (2) (a) No person may use the title "~~barber cosmetologist~~", "barber",  
5 "~~cosmetologist~~" or "hairstylist" or any other similar title unless the person holds a  
6 current barber or ~~cosmetologist~~ license or barbering manager license issued by the  
7 examining board. that is not an inactive license

8 **SECTION 57.** 454.04 (2) (am) of the statutes is created to read:

9 454.04 (2) (am) No person may use the title "cosmetologist" or any other similar  
10 title unless the person holds a current cosmetologist license or cosmetology manager  
11 license issued by the examining board. that is not an inactive license

12 **SECTION 58.** 454.04 (2) (b) of the statutes is amended to read:

13 454.04 (2) (b) No person may use the title "aesthetician" or any other similar  
14 title unless the person holds a current aesthetician license, ~~barber~~ or ~~cosmetologist~~  
15 license, or cosmetology manager license issued by the examining board. plain, no strike  
16 **SECTION 59.** 454.04 (2) (d) of the statutes is amended to read: Use 2X  
that is not an inactive license

17 454.04 (2) (d) No person may use the title "manicurist" or any other similar title  
18 unless the person holds a current manicurist license, ~~barber~~ or ~~cosmetologist~~ license  
19 or cosmetology manager license issued by the examining board. plain, no strike

20 **SECTION 60.** 454.06 (2) (intro.), (b) and (c) of the statutes are amended to read:

21 454.06 (2) ~~BARBER OR COSMETOLOGIST LICENSE.~~ (intro.) The examining board  
22 shall issue a barber or ~~cosmetologist~~ license to any person who does all of the  
23 following:

24 (b) Graduates from a course of instruction of at least 1,800 training hours in  
25 not less than 10 months in a school of barbering or ~~cosmetology~~ licensed under s.

1 440.62 (3) ~~(a)~~ (ag) or exempted under s. 440.61 or has successfully completed an  
2 apprenticeship in barbering under s. 454.10.

3 (c) Passes an examination conducted by the examining board to determine  
4 fitness to practice barbering ~~or cosmetology~~.

5 **SECTION 61.** 454.06 (2m) of the statutes is created to read:

6 454.06 **(2m)** COSMETOLOGIST LICENSE. The examining board shall issue a  
7 cosmetologist license to any person who does all of the following:

8 (a) Satisfies the conditions in sub. (1).

9 (b) Graduates from a course of instruction of at least 1,800 training hours in  
10 not less than 10 months in a school of cosmetology licensed under s. 440.62 (3) (ar)  
11 or exempted under s. 440.61 or has successfully completed an apprenticeship in  
12 cosmetology under s. 454.10.

13 (c) Passes an examination conducted by the examining board to determine  
14 fitness to practice cosmetology.

15 **SECTION 62.** 454.06 (3) (intro.), (a), (b) and (d) of the statutes are amended to  
16 read:

17 454.06 **(3)** ~~MANAGER~~ BARBERING MANAGER LICENSE. (intro.) The examining board  
18 shall issue a barbering manager license to any person who does all of the following:

19 (a) Holds a barber ~~or cosmetologist~~ license.

20 (b) Completes 4,000 hours of practice as a licensed barber ~~or cosmetologist~~  
21 under the supervision of a licensed barbering manager or completes 2,000 hours of  
22 practice as a licensed barber ~~or cosmetologist~~ and 150 training hours of theoretical  
23 instruction in barbering management in a school of barbering ~~or cosmetology~~  
24 licensed under s. 440.62 (3) ~~(a)~~ (ag) or exempted under s. 440.61.

1 (d) Passes an examination conducted by the examining board to determine  
2 fitness to practice as a barbering manager.

3 **SECTION 63.** 454.06 (3m) of the statutes is created to read:

4 454.06 (3m) COSMETOLOGY MANAGER LICENSE. The examining board shall issue  
5 a cosmetology manager license to any person who does all of the following:

6 (a) Holds a cosmetologist license.

7 (b) Completes 4,000 hours of practice as a licensed cosmetologist under the  
8 supervision of a licensed cosmetology manager or completes 2,000 hours of practice  
9 as a licensed cosmetologist and 150 training hours of theoretical instruction in  
10 cosmetology management in a school of cosmetology licensed under s. 440.62 (3) (ar)  
11 or exempted under s. 440.61.

12 (c) Pays the fee under s. 440.05 (1).

13 (d) Passes an examination conducted by the examining board to determine  
14 fitness to practice as a cosmetology manager.

15 **SECTION 64.** 454.06 (4) (b) 1. and 2. of the statutes are amended to read:

16 454.06 (4) (b) 1. A course of instruction in aesthetics of at least 450 training  
17 hours in not less than 11 weeks and not more than 30 weeks, in a school of ~~barbering~~  
18 ~~or cosmetology~~ or a school of aesthetics licensed under s. 440.62 (3) (~~a~~) (ar) or (b) or  
19 exempted under s. 440.61.

20 2. At least 450 training hours of ~~training~~ in not less than 11 weeks and not more  
21 than 30 weeks under the supervision of a ~~barber or cosmetologist~~ cosmetology  
22 instructor or aesthetics instructor certified under s. 440.63 (3) (~~a~~) (am) or (b) or a  
23 licensed cosmetology manager, in a licensed establishment that is also licensed as a  
24 specialty school of aesthetics under s. 440.62 (4) (a).

25 **SECTION 65.** 454.06 (5) (b) 1. and 2. of the statutes are amended to read:

1           454.06 (5) (b) 1. A course of instruction in electrology of at least 450 training  
2 hours in not less than 11 weeks and not more than 30 weeks, in a school of ~~barbering~~  
3 ~~or~~ cosmetology, or a school of electrology licensed under s. 440.62 (3) (a) (ar) or (c) or  
4 exempted under s. 440.61.

5           2. At least 450 training hours of ~~training~~ in not less than 11 weeks and not more  
6 than 30 weeks under the supervision of an electrology instructor certified under s.  
7 440.63 (3) (c), or a licensed electrologist who is also a licensed cosmetology manager,  
8 in a licensed establishment that is also licensed as a specialty school of electrology  
9 under s. 440.62 (4) (b).

10           **SECTION 66.** 454.06 (6) (b) 1. and 2. of the statutes are amended to read:

11           454.06 (6) (b) 1. A course of instruction in manicuring of at least 300 training  
12 hours in not less than 7 weeks and not more than 20 weeks, in a school of ~~barbering~~  
13 ~~or~~ cosmetology or a school of manicuring licensed under s. 440.62 (3) (a) (ar) or (d)  
14 or exempted under s. 440.61.

15           454.06 (6) (b) 2. At least 300 training hours of training in not less than 7 weeks  
16 and not more than 20 weeks under the supervision of a ~~barber or cosmetologist~~  
17 cosmetology instructor or manicuring instructor certified under s. 440.63 (3) (~~a~~) (am)  
18 or (d) or a licensed cosmetology manager, in a licensed establishment that is also  
19 licensed as a specialty school of manicuring under s. 440.62 (4) (c).

20           **SECTION 67.** 454.06 (7) of the statutes is amended to read:

21           454.06 (7) POSTING OF LICENSE CERTIFICATES. The examining board shall furnish  
22 a certificate to each licensee, certifying that the holder is licensed to practice  
23 barbering ~~or~~, cosmetology, aesthetics, electrology, or manicuring or is a licensed  
24 barbering manager or licensed cosmetology manager. The licensee shall post the  
25 certificate in a conspicuous place in the licensed establishment. ↑

1           **SECTION 68.** 454.06 (10) (a) of the statutes is amended to read:

2           454.06 (10) (a) The examining board may issue a temporary permit to practice  
3 as a barber ~~or cosmetologist~~ without examination if the applicant meets all of the  
4 requirements of sub. (2) for licensure except passage of an examination and if the  
5 applicant is scheduled to take the examination for licensure.

6           **SECTION 69.** 454.06 (10) (am) of the statutes is created to read:

7           454.06 (10) (am) The examining board may issue a temporary permit to  
8 practice as a cosmetologist without examination if the applicant meets all of the  
9 requirements of sub. (2m) for licensure except passage of an examination and if the  
10 applicant is scheduled to take the examination for licensure.

11           **SECTION 70.** 454.07 (1) of the statutes is amended to read:

12           454.07 (1) The examining board shall, in accordance with s. 440.07 (2), conduct  
13 examinations for barber ~~or~~, cosmetologist, barbering manager, cosmetology  
14 manager, aesthetician, electrologist, and manicurist licenses not less than 8 times  
15 annually, at times and places determined by the examining board.

16           **SECTION 71.** 454.08 (1) (a) of the statutes is amended to read:

17           454.08 (1) (a) The examining board may promulgate rules permitting the  
18 provision of personal care barbering ~~or~~, cosmetology, aesthetics, electrology, or  
19 manicuring services outside of licensed establishments by barbers ~~or~~,  
20 cosmetologists, aestheticians, electrologists, and manicurists to persons who are  
21 unable to leave their homes because of illness or disability or who are in hospitals,  
22 nursing homes, correctional institutions, or other institutions.

23           **SECTION 72.** 454.08 (1) (b) of the statutes is amended to read:

24           454.08 (1) (b) Except as permitted by rule promulgated under par. (a), no  
25 person may practice barbering ~~or~~, cosmetology, aesthetics, electrology, or manicuring

1 in an establishment unless the establishment is licensed to provide that practice  
2 under sub. (2).

3 **SECTION 73.** 454.08 (2) (a) of the statutes is amended to read:

4 454.08 (2) (a) A ~~barber or cosmetologist~~ barbering establishment license ~~which~~  
5 that authorizes the practice of barbering ~~or cosmetology, aesthetics, electrology and~~  
6 manicuring in the licensed establishment.

7 **SECTION 74.** 454.08 (2) (am) of the statutes is created to read:

8 454.08 (2) (am) A cosmetology establishment license that authorizes the  
9 practice of cosmetology, aesthetics, electrology, and manicuring in the licensed  
10 establishment.

11 **SECTION 75.** 454.08 (2) (b) of the statutes is amended to read:

12 454.08 (2) (b) An ~~aesthetician~~ aesthetics establishment license ~~which~~ that  
13 authorizes the practice of aesthetics in the licensed establishment.

14 **SECTION 76.** 454.08 (2) (c) of the statutes is amended to read:

15 454.08 (2) (c) An electrologist electrology establishment license ~~which~~ that  
16 authorizes the practice of electrology in the licensed establishment.

17 **SECTION 77.** 454.08 (2) (d) of the statutes is amended to read:

18 454.08 (2) (d) A ~~manicurist~~ manicuring establishment license ~~which~~ that  
19 authorizes the practice of manicuring in the licensed establishment.

20 **SECTION 78.** 454.08 (5) of the statutes is amended to read:

21 454.08 (5) A person who is not licensed under s. 454.06 by the examining board  
22 may own or operate an establishment, but may not practice barbering ~~or,~~  
23 cosmetology, aesthetics, electrology, or manicuring.

24 **SECTION 79.** 454.08 (6) of the statutes is amended to read:

1           454.08 (6) A person who owns ~~one or more barber or cosmetologist~~  
 2 ~~establishments~~ a barbering establishment shall employ at least one person as a  
 3 manager who holds a barbering manager license and ~~works full time in the~~  
 4 ~~establishments~~ manages the establishment on a full-time basis. The barbering  
 5 manager shall ensure that the establishment operates in compliance with this  
 6 chapter and rules promulgated by the examining board.

7           **SECTION 80.** 454.08 (6m) of the statutes is created to read:

8           454.08 (6m) A person who owns a cosmetology establishment shall employ at  
 9 least one person as a manager who holds a cosmetology manager license and  
 10 manages the establishment on a full-time basis. The cosmetology manager shall  
 11 ensure that the establishment operates in compliance with this chapter and rules  
 12 promulgated by the examining board.

13           **SECTION 81.** 454.10 (2) of the statutes is amended to read:

14           454.10 (2) Apprentices shall receive at least 3,712 hours of practical training  
 15 and at least 288 training hours of theoretical instruction ~~in theory~~ in a school of  
 16 barbering for an apprentice in barbering or a school of cosmetology for an apprentice  
 17 in cosmetology in order to complete the apprenticeship program and be eligible to  
 18 take the examination for a barber or cosmetologist license. Apprentices shall receive  
 19 training for a total of at least 32 hours per week. The training shall be completed in  
 20 not less than 2 years and not more than 4 years.

21           **SECTION 82.** 454.10 (3) (a) of the statutes is amended to read:

22           454.10 (3) (a) No apprentice in barbering may practice barbering or  
 23 ~~cosmetology~~ except under the supervision of a licensed barbering manager or under  
 24 the supervision of a licensed barber or cosmetologist to whom supervisory authority  
 25 has been delegated by a licensed barbering manager. A licensed barbering manager

↑ whose barber license is not an inactive license ↑

↑ whose barbering manager license is not an inactive license ↑

1 may only delegate supervisory authority to a licensed barber or cosmetologist who  
2 has completed at least 2,000 hours of practice as a licensed barber or cosmetologist.

3 SECTION 83. 454.10 (3) (am) of the statutes is created to read:

4 454.10 (3) (am) No apprentice in cosmetology may practice cosmetology except

5 under the supervision of a licensed cosmetology manager or under the supervision

6 of a licensed cosmetologist to whom supervisory authority has been delegated by a

7 licensed cosmetology manager. A licensed cosmetology manager may only delegate

8 supervisory authority to a licensed cosmetologist who has completed at least 2,000

9 hours of practice as a licensed cosmetologist.

10 SECTION 84. 454.13 (1) (intro.) of the statutes is amended to read:

11 454.13 (1) (intro.) Upon application and payment of the fee specified in s.

12 440.05 (2), the examining board may issue a license to practice barbering or,

13 cosmetology, aesthetics, electrology, or manicuring or to practice as a barbering or

14 cosmetology manager to an applicant who is licensed in another state or territory of

15 the United States or in another country to perform services which are substantially

16 the same as those performed by licensees in this state and to whom either of the

17 following applies:

18 SECTION 85. 454.13 (2) of the statutes is amended to read:

19 454.13 (2) The examining board may enter into reciprocal agreements with

20 officials of other states for licensing barbers or, cosmetologists, aestheticians,

21 electrologists, manicurists and, barbering managers, and cosmetology managers

22 and grant licenses to persons licensed in other states according to the terms of such

23 an agreement.

24 SECTION 86. 454.15 (2) (c) of the statutes is amended to read:

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↑ whose cosmetologist license is not an inactive license ↑  
↑ whose cosmetology manager license is not an inactive license ↑



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2 SECTION ~~#~~ 454.01 (11m) of the statutes is created to read:

3 454.01 (11m) "Inactive license" means a license issued under s. 454.06 (2) to  
4 (6) that is classified as inactive by the examining board under s. 454.06 (8m).<sup>✓</sup>

5 END INSERT 11-9

6 INSERT 17-25

7 [MERGE WITH TEXT ENDING WITH "establishment."]

8 A licensee who

8 holds an inactive license may not post a certificate for that inactive license.

9 SECTION ~~#~~ 454.06 (8m) of the statutes is created to read:

10 454.06 (8m) INACTIVE LICENSES. (a) Any person who has been issued a license  
11 under subs. (2) to (6) may apply to the examining board to classify that license as  
12 inactive. Upon application under this paragraph, the examining board may classify  
13 a license as inactive if the examining board determines that the person who holds  
14 that license is in good standing with the examining board and intends to refrain from  
15 the practice that is authorized under the license during the period that the license  
16 is an inactive license.

17 (b) An inactive license is not a current license for purposes of the practice and  
18 title restrictions under s. 454.04.<sup>✓</sup>

19 (c) An inactive license is subject to sub. (8),<sup>✓</sup> except that if the inactive license  
20 was an inactive license for the 12 months immediately preceding the renewal date  
21 for the license under s. 440.08 (2) (a),<sup>✓</sup> the amount of the renewal fee for that inactive  
22 license shall be one-half of the amount of the renewal fee determined by the  
23 department for the license under s. 440.03 (9) (a).<sup>✓</sup>

\*\*\*\*NOTE: Please let me know if you want to set a different renewal fee for an inactive license, other than <sup>g</sup>one-half of the usual renewal fee for the license, or if you would like to remove the renewal fee requirement for an inactive license altogether. Also, I have included a requirement that a licensee may only pay the reduced renewal fee if the license is inactive for the 12 months preceding renewal. Please let me know if you would like to set a shorter, or longer, term than 12 months.

+

\*

1 (d) The examining board may remove the inactive classification of an inactive  
 2 license if the person who holds that inactive license applies to the examining board  
 3 to remove the inactive classification and the person meets any additional  
 4 requirements of the examining board.

5 END INSERT 17-25

6 INSERT 21-23

7 SECTION ~~4~~ 454.15 (2) (a) of the statutes is amended to read:

8 454.15 (2) (a) Made a material misstatement in an application for license or  
 9 permit or renewal, or in an application to classify a license as an inactive license.

10 History: 1987 a. 265; 1991 a. 39.

END INSERT 21-23

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2316/P1dn

MPG: /: : : : :  
WJ

Date

Senator Grothman:

Please review this draft carefully to ensure that it is consistent with your intent.

In addition to the ~~drafter's~~ <sup>(CS)</sup> notes embedded in the draft, I have a few questions regarding your intent for the portions of the draft regarding inactive licenses.

1. I have included the barbering manager license and the cosmetology manager license among the licenses that may be classified as inactive. Is that consistent with your intent?

2. Under current law, ~~section~~ <sup>S.</sup> 454.12 authorizes the examining board to impose continuing education requirements for licensees. Do you want to include language in the draft indicating that a person who holds an inactive license either is or is not subject to any such continuing education requirements?

3. Under the draft a licensee who holds an inactive license may not practice under that license or use titles associated with the practice under that license. Please confirm whether it is consistent with your intent to restrict the use of titles for a person who holds an inactive license, in addition to prohibiting practice under that license.

Please do not hesitate to contact me if you have any questions concerning the draft or this drafter's note.

Thank you.

Michael Gallagher  
Legislative Attorney  
Phone: (608) 267-7511  
E-mail: michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2316/P1dn  
MPG:wlj:rs

August 16, 2011

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2. Under current law, s. 454.12 authorizes the examining board to impose continuing education requirements for licensees. Do you want to include language in the draft indicating that a person who holds an inactive license either is or is not subject to any such continuing education requirements?
3. Under the draft a licensee who holds an inactive license may not practice under that license or use titles associated with the practice under that license. Please confirm whether it is consistent with your intent to restrict the use of titles for a person who holds an inactive license, in addition to prohibiting practice under that license.

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Thank you.

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