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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 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 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.”