

CR 89-102

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CERTIFICATE

STATE OF WISCONSIN

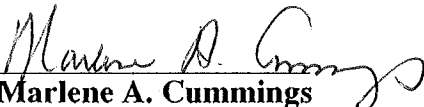
DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Marlene A. Cummings, Secretary of the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department do hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 1st day of November, 1989.

I further certify that said copy has been compared to me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin, this 1st day of November, A.D. 1989.


Marlene A. Cummings
Secretary
Department of Regulation & Licensing

1-1-90

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION AND	:	LICENSING ADOPTING RULES
LICENSING	:	CLEARINGHOUSE RULE 89-102

ORDER

An order of the Department of Regulation and Licensing to create Wisconsin administrative code chapters RL 60 to 62 and RL 65 relating to licensing and regulation of schools of barbering and cosmetology, aesthetics, electrology, and manicuring, specialty schools of aesthetics, electrology and manicuring and regulation of persons providing practical instruction in these schools and specialty schools.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11(2)(a), 440.62, and 440.64, Stats.

Statutes interpreted: ss. 440.60 through 440.64, Stats.

In this order, the Department of Regulation and Licensing creates rules to regulate schools of barbering and cosmetology, aesthetics, electrology, and manicuring, specialty schools of aesthetics, electrology and manicuring and persons providing practical instruction in these schools and specialty schools. These rules are the result of changes made in the law by 1987 Wisconsin Act 265 which transferred regulation of schools and specialty schools and instructors to the Department of Regulation and Licensing. These proposed rules are needed to provide transition to the new licensing structure and to effectuate the other statutory changes.

Chapters RL 60 to 62 and 65 are created to provide for this regulation. Chapters 60 through 62 govern the licensing and regulation of schools and specialty schools. Chapter 65 governs the certification of instructors. The rules for schools and specialty schools cover license periods, fees, application requirements for an initial license, license renewal, and requirements for reinstatement of an expired license.

The rules specify the type of surety bonds necessary to be filed with the department.

Procedures are specified for a change of ownership of a school or specialty school.

Chapter RL 62 creates rules intended as standards and criteria to prevent fraud. The chapter includes specific rules on the negotiability of promissory instruments, refund standards, and disclosure of information to the department.

Rules for instructors are established in chapter RL 65. These rules cover application requirements for an initial certificate, an instructor theory training syllabus, application requirements and reinstatement of an expired certificate.

TEXT OF RULE

**CHAPTER RL 60
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
AUTHORITY, SCOPE, PURPOSE AND DEFINITIONS**

RL 60.01 AUTHORITY.

RL 60.02 DEFINITIONS.

**CHAPTER RL 61
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
LICENSING OF SCHOOLS AND SPECIALTY SCHOOLS**

RL 61.01 LICENSE PERIODS.

RL 61.02 FEES.

RL 61.03 APPLICATION REQUIREMENTS FOR AN INITIAL LICENSE.

RL 61.04 APPLICATION REQUIREMENTS FOR LICENSE RENEWAL.

RL 61.05 APPLICATION REQUIREMENTS FOR REINSTATEMENT OF AN EXPIRED LICENSE.

RL 61.06 REQUIREMENTS FOR SURETY BONDS.

RL 61.07 CHANGE OF OWNERSHIP.

**CHAPTER RL 62
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
REGULATION OF SCHOOLS AND SPECIALTY SCHOOLS**

RL 62.01 REQUIRED CONTENTS FOR SCHOOL AND SPECIALTY SCHOOL CATALOGS.

RL 62.02 REQUIRED CONTENTS FOR STUDENT CONTRACTS WITH SCHOOLS AND SPECIALTY SCHOOLS.

RL 62.03 DECEPTIVE TRADE NAMES PROHIBITED.

- RL 62.04 DECEPTIVE SALES PRACTICES PROHIBITED.
- RL 62.05 ADMISSION OF UNQUALIFIED STUDENTS PROHIBITED.
- RL 62.06 NEGOTIABILITY OF PROMISSORY INSTRUMENTS.
- RL 62.07 REFUND STANDARDS.
- RL 62.08 DISCLOSURE OF INFORMATION TO THE DEPARTMENT.
- RL 62.09 INSPECTION OF FACILITIES AND RECORDS.
- RL 62.10 SPECIALTY TOPIC INSTRUCTION PRIVILEGES AND REQUIREMENTS FOR SCHOOLS OF BARBERING AND COSMETOLOGY.
- RL 62.11 PROHIBITED CONDUCT AND DISCIPLINE.
- RL 62.12 FORFEITURES TO THE DEPARTMENT.

CHAPTER RL 65

RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
PERSONS PROVIDING PRACTICAL INSTRUCTION IN SCHOOLS

- RL 65.01 APPLICATION REQUIREMENTS FOR AN INITIAL CERTIFICATE.
- RL 65.02 RENEWAL OF INSTRUCTOR CERTIFICATION.
- RL 65.03 INSTRUCTOR THEORY TRAINING SYLLABUS.
- RL 65.04 APPLICATION REQUIREMENTS FOR REINSTATEMENT OF AN EXPIRED CERTIFICATE.
- RL 65.05 ADMINISTRATION OF EXAMINATION FOR INSTRUCTOR'S CERTIFICATION.
- RL 65.06 INSTRUCTOR'S COMPETENCY TESTED.
- RL 65.07 FORM OF EXAMINATION.
- RL 65.08 PASSING SCORES.
- RL 65.09 UNAUTHORIZED ASSISTANCE.
- RL 65.10 FAILURE OF PRACTICAL EXAMINATION.
- RL 65.11 CLAIM OF EXAMINATION ERROR.
- RL 65.12 PROHIBITED CONDUCT AND DISCIPLINE.
- RL 65.13 FORFEITURES TO THE DEPARTMENT.

SECTION 1. RL 60 to 62 are created to read:

**CHAPTER RL 60
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
AUTHORITY, SCOPE, PURPOSE AND DEFINITIONS**

RL 60.01 AUTHORITY. The rules in chs. RL 60 to 62 and 65 are adopted by the department of regulation and licensing under the authority of ss. 227.11(2)(a), 440.62, and 440.64, Stats. to govern the licensing and regulation of schools of barbering and cosmetology, aesthetics, electrology, and manicuring, and specialty schools of aesthetics, electrology, and manicuring.

RL 60.02 DEFINITIONS. As used in chs. RL 60 to 62 and 65:

(1) "Aesthetician," "aesthetics," "apprentice," "barbering and cosmetology," "barber and cosmetologist," "electrologist," "electrology," "establishment," "examining board," "manager," "manicuring," "manicurist," "practical instruction," "school," "specialty school," "student," "theoretical instruction," and "training hour" have the meanings given under s. 440.60, Stats.

(2) "Certificate" means an instructor certificate issued under s. 440.63, Stats.

(3) "Class day" means any day on which instruction is provided by the school or specialty school and the student is scheduled to attend.

NOTE: Holidays, scheduled vacation periods, other days on which instruction is not provided by the school, and periods for which the student is granted a leave of absence are not class days.

(4) "Department" means the department of regulation and licensing.

(5) "Enrollee" means an individual who has signed an application to attend a school or specialty school but has not started classes.

(6) "Licensee" means an owner who has received a school license or specialty school license.

(7) "Location" means the premises described in the floor plan submitted under s. RL 61.03 (1) (c).

(8) "Owner" means an individual, partnership, firm, company, corporation, or other entity which controls the finances, management, or both, of any location of a school or specialty school.

(9) "Ownership" means the legal right to possession or control of the finances, management, or both, of any location of a school or specialty school.

(10) "Total cost of the course of instruction" means the sum of all charges made by the school for tuition, books, materials, supplies and any other charges made by the school which are required to be paid by the student as the result of enrollment in a specific course of instruction.

(11) "Unqualified" means a student who has neither a high school diploma, or a General Educational Development certificate ("GED"), nor has demonstrated, through testing, an aptitude to successfully complete the course of instruction offered by the school or specialty school.

**CHAPTER RL 61
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
LICENSING OF SCHOOLS AND SPECIALTY SCHOOLS**

RL 61.01 LICENSE PERIODS. All licenses issued under ch. 440, subch. V., shall expire on July 1 unless renewed. Licenses issued under ch. 440, subch. V., may be renewed for a one year period.

RL 61.02 FEES. The following fee schedule applies to all licenses issued to schools and specialty schools:

(1) Fee for initial license:

- (a) Schools of barbering and cosmetology: \$300.
- (b) Schools of aesthetics, electrology, and manicuring: \$200.
- (c) Specialty schools of aesthetics, electrology and manicuring: \$100.

(2) Fee for license renewal:

- (a) Schools of barbering and cosmetology: \$250.
- (b) Schools of aesthetics, electrology, and manicuring: \$125.
- (c) Specialty schools of aesthetics, electrology and manicuring: \$75.

(3) Fee for Change of Ownership:

- (a) Schools of barbering and cosmetology: \$100.
- (b) Schools of aesthetics, electrology, and manicuring: \$75.
- (c) Specialty schools of aesthetics, electrology and manicuring: \$50.

(4) In addition to the amount specified in sub. (2), the fee for renewal of a license shall include the following late renewal fee if a completed application and fee are not received by the department prior to the expiration of the license:

(a) Schools of barbering and cosmetology: \$100.

(b) Schools of aesthetics, electrology, and manicuring: \$75.

(c) Specialty schools of aesthetics, electrology and manicuring: \$50.

RL 61.03 APPLICATION REQUIREMENTS FOR AN INITIAL LICENSE. (1) An application for initial licensure as a school, or for an additional location of a school, shall be made by the owner of the school on the form provided by the department. The department shall grant or deny the license application within 45 business days following receipt of the application. A separate application shall be made for each location and contain all of the following information:

(a) The names and addresses of all owners. If the owner is a corporation, a copy of the articles of incorporation and most recent annual report filed with the Secretary of State, together with a list of the names and addresses of the incorporators, officers, directors, and shareholders of the corporation shall be submitted. No identification is required of any shareholder owning or controlling fewer than 10 percent of the shares of the corporation. If the owner is a partnership, the names and addresses of all partners and a copy of the partnership agreement.

(b) A statement that a certified public accountant has completed financial statements, consisting of a balance sheet, a profit and loss statement, and a cash flow statement, and that a copy of those statements will be made available for inspection by the department on request at any time. The department may require an audit of the finances of a school, at the applicant's expense, if the licensing application contains information which reasonably gives rise to concern that the school is not financially sound or is not otherwise stable.

(c) A detailed floor plan of the premises to be used by the school which identifies the site of the school and includes a description of fixtures and equipment.

(d) A list of the names and addresses of all schools of any description whatsoever currently or previously owned or operated by any of the owners of the school applying for licensure. If the owner of the school applying for licensure is a corporation or partnership, a list of the names and addresses of all schools of any description whatsoever which are currently or were previously owned or operated by any of the incorporators, officers, directors, or shareholders of the corporation or partners. No report is required for any shareholder owning or controlling fewer than 10 percent of the shares of the corporation.

(e) For every school required to be listed by par. (d), a detailed statement with all pertinent details indicating:

1. Whether the school was ever denied accreditation by any accrediting agency;

2. Whether the school was ever denied a license or had a license suspended, limited, restricted, or revoked;

3. Whether the school was ever subject to any form of receivership; and,

4. Whether the school was ever the subject of or named in any lawsuit alleging fraud, misrepresentation or any violation of law.

(f) A copy of the printer's proof of the catalog or bulletin described in s. RL 62.01.

(g) A copy of any contract form used by the school or which the school intends to use in enrolling students.

(h) A list of the names and applicable license or certificate numbers of the instructors the school has hired to provide practical and theory instruction to its students.

(i) The number of students anticipated to be enrolled during the license period.

(j) The name and Wisconsin address of a designated agent upon whom any process, notice, demand or other document may be served.

(2) An application for initial licensure as a specialty school, or for an additional location of a specialty school, may be made for any establishment at which no more than one person will be trained at any time, and for which training no tuition will be charged. The application shall be made by the owner of the specialty school on the form provided by the department. The department shall grant or deny the license application within 45 days of receipt of the application. A separate application shall be made for each location and contain all of the following information:

(a) The names and addresses of all owners. If the owner is a corporation, a copy of the articles of incorporation and most recent annual report filed with the Secretary of State, together with a list of the names and addresses of the incorporators, officers, directors, and shareholders of the corporation shall be submitted. No identification is required of any shareholder owning or controlling fewer than 10 percent of the shares of the corporation; if the owner is a partnership, the names and addresses of all partners and a copy of the partnership agreement.

(b) A statement that a certified public accountant has completed financial statements, consisting of a balance sheet, a profit and loss statement, and a cash flow statement, and that the statements will be made available for inspection by the department on request at any time. The

department may require an audit of the finances of a specialty school, at the applicant's expense, if the licensing application contains information which reasonably gives rise to concerns that the specialty school is not financially sound or is not otherwise stable.

(c) A list of the names and addresses of all schools of any description whatsoever currently or previously owned or operated by any of the owners of the specialty school applying for licensure. If the owner of the specialty school applying for licensure is a corporation or partnership, a list of the names and addresses of all schools of any description whatsoever which are currently or were previously owned or operated by any of the incorporators, officers, directors, or shareholders of the corporation or partners. No report is required for any shareholder owning or controlling fewer than 10 percent of the shares of the corporation.

(d) A list of the names and applicable license or certificate numbers of the managers the specialty school has hired to provide practical and theory instruction to its students.

RL 61.04 APPLICATION REQUIREMENTS FOR LICENSE RENEWAL (1) Application for the renewal of a license for a school or specialty school shall be filed on or before May 31. The department shall grant or deny the application for license renewal within 45 business days following receipt of the application.

(2) A renewal application shall be filed together with the fee required by s. RL 61.02 (2), and shall contain the following information:

(a) All the information required for an initial license under s. RL 61.03;

(b) A copy of every advertisement used by the school or specialty school in the 12 months preceding the date of the application for license renewal, including the script for every radio or television advertisement;

(c) The number of students currently enrolled in the school or specialty school and the number anticipated to be enrolled during the license period; and,

(d) A statement that a certified public accountant has completed financial statements, consisting of a balance sheet, a profit and loss statement, and a cash flow statement, for the school or specialty school, and that the report is on file at the school or specialty school and will be available for inspection by the department on request at any time during regular business hours. The department may require an audit of the finances of a school or specialty school, at the applicant's request, if the licensing application contains information which reasonably gives rise to concerns that the school or specialty school is not financially sound or is not otherwise stable.

RL 61.05 APPLICATION REQUIREMENTS FOR REINSTATEMENT OF AN EXPIRED LICENSE. To apply for reinstatement of a license expired for one year or longer, the owner of a school or specialty school shall file an application for an initial license. To apply for reinstatement of a license expired for less than one year, the owner of a school or specialty school shall file an application for renewal, as required by s. RL 61.04, together with the application fee and late fee required by ss. RL 61.02 (2) and 61.02 (4). The department shall grant or deny the application for reinstatement within 45 business days of receiving the application. The application shall include the following additional material:

(1) The dates on which any form of instruction was provided to students at the school or specialty school applying for license reinstatement during the period following the expiration of the license to the time the application for reinstatement is filed.

(2) The names and addresses of the instructors who provided any instruction to any student at the school or specialty school during the period following expiration of the license, the names and addresses of the students in attendance during the period following expiration of the license, and the number of hours of training in each topic each named student received during the period following expiration of the license.

RL 61.06 REQUIREMENTS FOR SURETY BONDS. (1) BOND REQUIREMENT. Before the department issues or renews a license for any school or specialty school, the school or specialty school shall provide the department with a surety bond acceptable to the department and executed by the applicant as principal and by a surety company qualified and authorized to do business in the state of Wisconsin.

(2) AMOUNT OF BONDS. The amount of the bond required shall not be less than reflected in Figure 61.06, and may be increased if the department determines that a larger bond is required to protect students of the school or specialty school, and their parents, guardians, and sponsors from risk of economic loss. A school which exceeds the enrollment upon which its bonding amount is based shall increase the amount of its bond accordingly. The increased bond shall be filed with the department within 30 days of the day the school first exceeds the enrollment on which its bonding amount is based.

FIGURE 61.06

<u>ANTICIPATED ENROLLMENT</u>	<u>AMOUNT OF SURETY BOND</u>
0-50 Students or Enrollees	\$25,000
51-100 Students or Enrollees	\$40,000
Over 100 Students or Enrollees	\$50,000

(3) CONDITIONS OF BONDS. (a) The surety bond shall be conditioned to provide indemnification to any student or enrollee of the school or specialty school, or the parent, guardian, or sponsor of such a student or enrollee who suffers any loss or damage as a result of any of the following:

1. Fraud or misrepresentation by the school or specialty school;

2. Violation of any state administrative rule, statute or school policy relating to the licensing or operation of a school or specialty school;

3. A student or enrollee's inability to complete the course or courses of instruction because the school or specialty school failed to perform its contractual obligations to the student or enrollee; or

4. A student or enrollee being refused a tuition refund to which he or she is entitled.

(b) The surety bond shall be conditioned to provide indemnification to the department for the amount of any forfeitures assessed by the department under s. 440.64, Stats.

(c) In no case shall indemnification to any individual student or enrollee, or the parent, guardian, or sponsor of an individual student or enrollee, be less than the greater of either:

1. The total of the advanced tuition, book fees, supply fees, equipment fees, and administration fees paid by or on behalf of the individual student or enrollee; or,

2. The greater of the total of the student loans owed by the student or enrollee as a consequence of enrolling at the school or specialty school, or the total of the direct costs to the student or enrollee to complete and graduate from an equivalent course of instruction at another school or specialty school chosen by the student or enrollee as a substitute for the school or specialty school.

(d) The aggregate liability of the surety shall not exceed the penal sum of the bond, and the surety bond may be continuous.

(4) CANCELLATION OF SURETY BOND. A surety on a bond may be released from the bond on 90 days written notice to the Secretary of the Department. The Secretary shall forthwith notify the school or specialty school named as principal on that bond that the school's or specialty school's license shall be suspended if satisfactory evidence of a replacement bond has not been presented within 15 business days of the date of the Secretary's notice to the school or specialty school. A school or specialty school which has its license suspended under this subsection shall provide written notice of the suspension and the reason therefor together with the identifying information of the bond from which the surety has sought release to its students and enrollees within 5 days of the suspension, and shall thereupon cease all operations as a school or specialty school under subchapter V of ch. 440, Stats.

RL 61.07 CHANGE OF OWNERSHIP. Any change of ownership of a school or specialty school shall be reported to the department within 5 calendar days of the change of ownership, on the form provided by the department, and shall

be accompanied by the fee specified in s. RL 61.02 (3) and the surety bond required by s. 440.62 (2) (a), Stats. The bond accompanying the change of ownership report shall be in the same form as, and in an amount at least equal to, the bond filed by the previous owners of the school or specialty school. The department shall immediately suspend the license of any school or specialty school for which a change of ownership is reported unless it is accompanied by a surety bond in the specified form and amount, naming the new owners as principals.

CHAPTER RL 62
RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS
REGULATION OF SCHOOLS AND SPECIALTY SCHOOLS

RL 62.01 REQUIRED CONTENTS FOR SCHOOL AND SPECIALTY SCHOOL CATALOGS. A school or specialty school catalog or bulletin shall contain:

(1) Identifying data, including volume number, dates of publication and reprinting.

(2) Name of school or specialty school and its governing body and officials.

(3) A calendar showing dates of instruction for each course and vacation periods.

(4) The school or specialty school policy and regulations regarding specific entrance and graduation requirements for each course.

(5) The school or specialty school policy and regulations governing enrollment dates, leave, absences, tardiness, make-up work, and interruption or suspension for unsatisfactory work or attendance, and the conditions under which a student dismissed or suspended for unsatisfactory progress, conduct, or attendance may resume the course of instruction.

(6) The school's or specialty school's policy and regulations governing standards of progress required of the student, the grading system of the school or specialty school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, and a description of the probationary period, if any, as well as a description of the student progress records kept by the school or specialty school and furnished to the students.

(7) The school or specialty school policy and regulations governing student conduct and conditions of dismissal for unsatisfactory conduct.

(8) A detailed description of charges for tuition and a schedule of fees for student activities, laboratory fees, rentals, deposits and all other charges which are referred to or included in the contract. The school's or specialty school's refund policy shall be fully described in the catalog or bulletin.

(9) An outline for each course describing the subject of the course, the type of work or skill to be learned, the length of the course and the number of credits or clock hours to be earned towards licensing eligibility. In addition, the school or specialty school shall disclose any requirements imposed by the school or specialty school for graduation which exceed minimums required by the state to be eligible for the licensure examination. If graduation is required before a student is eligible to take the licensure examination, the catalog or bulletin shall so state.

(10) A statement of the school or specialty school policy and regulations under which it will grant credit for hours of previous education and training.

(11) A description of the school or specialty school placement services and other resources made available to assist students.

(12) A description of the surety bond under s. RL 61.06 and an explanation of how a student may make a claim on the bond.

RL 62.02 REQUIRED CONTENTS FOR STUDENT CONTRACTS WITH SCHOOLS AND SPECIALTY SCHOOLS. A contract between a school or specialty school and a student shall contain:

(1) Complete identifying information of both the school or specialty school and the student, including the address of the school or specialty school location and its administrative offices; and the name, local address and permanent address of the student. Other identifying information may be included.

(2) A statement of the total cost and the unit costs of the contract for which the student will be responsible, including tuition, all fees, and the charges for books, materials, and equipment.

(3) A detailed statement of obligations of the school or specialty school to the student.

(4) A clear reference identifying the specific edition of the school's or specialty school's catalog or bulletin which was given to the student to provide the student with information about the school or specialty school prior to entering into the contract with the school or specialty school.

(5) The anticipated starting and ending dates for the student's course of instruction.

(6) A clear statement of the educational requirements for licensing in s. 454.06, Stats., and any requirements for graduation from the school or specialty school which exceed the requirements for eligibility to take the state licensing examination, and whether graduation from the school or specialty school is required before the student will be allowed to take the state licensing examination.

(7) A clear, simple description of the rules, policies, regulations, and laws governing the rights and responsibilities of the school or specialty school and the student or enrollee in regard to any loans, financial aid, or credit extended to or on behalf of the student or enrollee by or through the school or specialty school. To the extent the details are known at the time the contract is signed, the description shall include the details of the amount of any loan, financial aid, or credit extended to or on behalf of the student or enrollee by or through the school or specialty school, and the nominal and effective interest rate, the payment terms, the default provisions, and the defenses to default, which are or may be applicable to the loan, financial aid or credit extended. When any details of an enrollee's financial aid package are not known at the time the contract is signed, the contract shall identify those details which remain to be determined, and what effect, if any, the final determination of those details will have on the enrollee's contract.

(8) A clear statement of the refund policy used by the school or specialty school.

(9) A clear statement of conditions the school or specialty school considers to be breach of the contract, and a description of the possible remedies to be pursued against the student.

(10) Notice that an enrollee has the right to cancel the contract until midnight of the third business day following receipt by the enrollee of a notice of right to cancel. In this paragraph, "business day" has the meaning given under s. 421.301 (6), Stats.

(a) The notice shall be printed in letters of not less than 12-point boldface type under the caption: **"ENROLLEE'S RIGHT TO CANCEL"** and read as follows:

You may cancel this agreement by mailing or delivering a notice to (insert name and mailing address of agent of school or specialty school) before midnight of the third business day after you signed this agreement. "Business day" means any calendar day except Saturday and Sunday, and except the following business holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving and Christmas. If you wish, you may use this page as that written notice by writing "I hereby cancel" and adding your name and address. A duplicate of this page is provided to you by the school for your records.

(b) If the principal language of the enrollee is other than English, the school or specialty school shall give the enrollee written notice of the right to cancel in English and in the principal language of the enrollee.

(c) The school or specialty school shall deliver 2 copies of the notice of a right to cancel after the enrollee has signed the enrollment contract, but not before.

RL 62.03 DECEPTIVE TRADE NAMES PROHIBITED. (1) No school or specialty school shall use a trade or business name, label, insignia, or designation which has the capacity and tendency or effect of misleading or deceiving prospective students with respect to the nature of the school or specialty school, its accreditation, programs of instruction or methods of teaching, or any other material fact.

(a) A school or specialty school shall not falsely represent directly or by implication through the use of a trade or business name or in any other manner that it is part of or connected with a branch, bureau, or agency of the United States government, or any state or local government or civil service commission.

(b) A school or specialty school shall not falsely represent directly or by implication through the use of a trade or business name or in any other manner that it is affiliated with or otherwise connected with a public or private religious or charitable organization, or any public or private college, university, or other institution of higher education.

RL 62.04 DECEPTIVE SALES PRACTICES PROHIBITED. (1) No school or specialty school shall engage in any deceptive sales practices. The term "deceptive sales practice" includes, but is not limited to:

(a) The use of "help wanted" or other employment columns in a newspaper or other publication to contact prospective students in such a manner as to lead such prospective students into the belief that a job is offered.

(b) The use of "blind" advertisements or sales literature to attract prospective students when the advertisements or literature fails to set forth that courses of instruction or other educational services are being offered for sale.

(c) The making of false or deceptive statements or representations or any statements or representations which have the tendency or capacity to mislead or deceive students, prospective students, or the public regarding actual or probable earnings or opportunities in any field or vocation. It is an unfair and deceptive sales practice to represent or imply in any way that persons employed in a particular field or position earn a stated income or that persons completing a training course will earn the stated income or "up to" the stated income unless:

1. The salary or income is equal to or less than the average salary or income of persons employed in the indicated field or position for less than 5 years and the advertisement or representation indicates the basis for calculation of the average salary or income; and,

2. The advertisement or representation also states clearly and conspicuously that no guarantee is made that a person who purchases the advertised services will earn the stated salary or income, unless the guarantee is actually offered by the school or specialty school.

(d) The making of false or deceptive statements or representations, or any statements or representations which have the tendency or capacity to mislead or deceive prospective students, students, or the public regarding any opportunities in any vocation or field of activity as a result of the completion of any given course of instruction or educational service.

(e) The use of terms or titles such as "registrar", "counselor", "advisor", or words of similar import to describe or refer to a school's or specialty school's salesmen, agents, representatives, or other employees in a manner which misrepresents the training, qualifications, experience, status, or position of the person to whom reference is made.

(f) The use of any illustration in any catalog, sales literature, or otherwise which tends to convey a false impression of the size, importance, location, or facilities of a school or specialty school.

(g) The making of any false or deceptive statement or representation which has the capacity or tendency to deceive or mislead any prospective student, student, or the public regarding the amount or nature or terms of a prospective student's or student's financial obligation to the school or specialty school or any third party as a result of any agreement between the prospective student or student, or on behalf of a prospective student or student, and the school or specialty school.

RL 62.05 ADMISSION OF UNQUALIFIED STUDENTS PROHIBITED. No school or specialty school may admit any applicant as a student who does not have a high school diploma or General Educational Development ("GED") certificate unless that applicant passes a nationally recognized, standardized, or industry developed test, subject to criteria developed by an appropriate accrediting association, measuring the applicant's aptitude to successfully complete the program for which the applicant has applied.

NOTE: This testing requirement is drawn from the "ability to benefit" criteria of 20 U.S.C. 1091(d).

RL 62.06 NEGOTIABILITY OF PROMISSORY INSTRUMENTS. (1) Every assignee of an enrollment agreement takes the enrollment agreement subject to all claims and defenses of the student or successors in interest under the enrollment agreement.

(2) No school or specialty school may enter into any enrollment agreement in which the student waives the right to assert against the school or specialty school or any assignee any claim or defense the student may have against the school or specialty school. Any provision in an enrollment agreement by which the student agrees to a waiver is void.

(3) (a) No school or specialty school may use a promissory note or instrument, other than a check, unless it bears the following statement in contrasting boldface type: This is an enrollment agreement instrument and is non-negotiable. Every holder takes the enrollment agreement subject to all other claims and defenses of the maker or obligor.

(b) Compliance with requirements of federal and state statutes, regulations and rules governing the form of notice of preservation of consumers' claims and defenses shall be deemed to satisfy the requirements of par. (a).

RL 62.07 REFUND STANDARDS. (1) FULL REFUND. A school's or specialty school's refund policy shall provide for a full refund of all money paid by a student, except for a non-refundable application fee of no more than \$10, if:

(a) The student cancels the enrollment agreement or enrollment application within 3 business days after receipt of notice of acceptance from the school or specialty school; or,

(b) The student was accepted for enrollment but was unqualified for entrance; or,

(c) The student's enrollment was procured as the result of any written or oral misrepresentations made by the school or specialty school or its agents.

(2) PARTIAL REFUND. (a) In this subsection, "percentage of enrollment time" means the number of class days elapsed from the start of the student's attendance until the student's last date of attendance divided by the total number of class days required to complete the course of instruction.

(b) If, for any reason, a student withdraws or is dismissed by the school or specialty school prior to the commencement of classes, the charge may not exceed 15 percent of the total cost of the course of instruction or \$100, whichever is less.

(c) If, for any reason, a student withdraws or is dismissed by the school or specialty school after the commencement of classes, the school's or specialty school's refund policy may not permit any charge to the student which exceeds \$150 plus the amount shown on the "Partial Refund Chart," in Table 62.07 (2). In no case may the charge to the student exceed the total cost of the course of instruction.

TABLE 62.07 (2) PARTIAL REFUND CHART

PERCENTAGE OF ENROLLMENT TIME		MAXIMUM PERCENTAGE OF TOTAL COST OF COURSE OF INSTRUCTION MAY BE CHARGED
GREATER THAN	LESS THAN OR EQUAL TO	
0%	5%	20%
5	10	30
10	15	40
15	25	45
25	50	70
50	100	100

NOTE: Schools and specialty schools are encouraged to adopt a policy wherein the refund to the student may exceed the amounts set forth above when mitigating circumstances are in evidence.

(3) EQUIPMENT FEES. A school or specialty school shall reimburse the cost of the unused equipment or supplies that a student was required to purchase as a condition of enrollment or continued participation in the course of instruction to a student who, for any reason, withdraws or is dismissed by the school or specialty school and who, within 15 days of withdrawal or dismissal, tenders for reimbursement the equipment and supplies in their original condition.

(4) SCHOOL CLOSING. If a school or specialty school closes or terminates a program and no longer offers instruction in a program in which a person is enrolled, the person shall be entitled to a pro rata refund of the total cost of the course of instruction. No such refund may defeat any person's claim to indemnification to which he or she is otherwise entitled under the bond required by s. RL 61.06.

(5) REFUND DEADLINE. A school or specialty school shall make any refunds due to a student or enrollee within 30 days of the date the school or specialty school dismisses the student or enrollee or receives notice of withdrawal, or of the school or specialty school closing.

RL 62.08 DISCLOSURE OF INFORMATION TO THE DEPARTMENT. Within 10 days of any request by the department, a school or specialty school shall furnish the department with any information requested concerning the school's or specialty school's facilities, curricula, instructors, registration and

enrollment policies, enrollment rosters, student training hours and contracts, financial records, tuition and other charges, refund policies and policies concerning the negotiability of promissory instruments received in payment of tuition and other charges.

RL 62.09 INSPECTION OF FACILITIES AND RECORDS. A school or specialty school shall permit the department to inspect its facilities and its records at any time during the school's or specialty school's regular business hours upon the request of a representative of the department.

RL 62.10 SPECIALTY TOPIC INSTRUCTION PRIVILEGES AND REQUIREMENTS FOR SCHOOLS OF BARBERING AND COSMETOLOGY. A licensed school of barbering and cosmetology may offer a specialty training program in aesthetics or in manicuring, or both, without being licensed as a specialty school or paying license fees beyond those required to maintain licensure as a school of barbering and cosmetology.

RL 62.11 PROHIBITED CONDUCT AND DISCIPLINE. (1) No owner, director, officer, shareholder, or managing employee of any school or specialty school may permit or engage in any of the following conduct:

(a) Holding classes without a current license for the school or specialty school.

(b) Engaging in false, misleading, or deceptive advertising, recruitment of students, enrollment procedures, or record keeping practices.

(c) Falsifying or misrepresenting any information on any application for an initial or renewal license.

(d) Being convicted of any crime involving fraud or other circumstances which substantially relate to the operation of a school or specialty school.

(e) Allowing an unlicensed person to provide practical instruction to any student.

(f) Harassing or discriminating against any enrollee or student because of age, race, creed, color, ancestry, national origin, marital status, sex, or sexual orientation.

(g) Violating subchapter V of chapter 440 or chapter 454, Stats., or this chapter in the operation of a school or specialty school or establishment associated with a school or specialty school.

(h) Engaging in any promises or threats to students or employees of a school, specialty school, or establishment associated with a school or specialty school to obtain sexual or social contact or anything of value.

(i) Distributing or using school or specialty school student catalogs or contracts which do not comply with this chapter.

(j) Engaging in any conduct which could reasonably be detrimental to the health, safety, or welfare of the public, or the students or staff of any school, specialty school, or establishment associated with a school or specialty school.

(k) Failing to comply with the terms of any contract with a student of the school or specialty school.

(l) Holding classes at any location other than that identified in the school's or specialty school's latest application for licensure.

(m) Denying the department the opportunity to inspect, or obstructing the department in the inspection of, the school's or specialty school's facilities or records at any time during regular business hours.

(n) Using any deceptive trade name, contrary to s. RL 62.03.

(o) Engaging in any deceptive sales practices, contrary to s. RL 62.04.

(2) The department may limit, suspend, or revoke the license of any school or specialty school whose owner, director, officer, shareholder, or managing employee permits or participates in any of the conduct prohibited by this rule, except that no school or specialty school shall be disciplined for the action of only one shareholder who owns or controls fewer than 10 percent of the shares of the corporation owning the school or specialty school.

RL 62.12 FORFEITURES TO THE DEPARTMENT. In addition to or in lieu of discipline imposed against any school or specialty school pursuant to s. RL 62.07, and in addition to any costs assessed pursuant to s. 440.22, Stats., the department may assess a forfeiture of not less than \$100 nor more than \$5000 for each violation of s. RL 62.07. All forfeitures shall be paid to the department. In any case in which the department assesses both a forfeiture pursuant to this section and costs pursuant to s. 440.22, Stats., payments received by the department shall be applied first to the costs assessed.

SECTION 2. RL 65 is created to read:

CHAPTER RL 65

RULES FOR BARBERING AND COSMETOLOGY SCHOOLS AND INSTRUCTORS PERSONS PROVIDING PRACTICAL INSTRUCTION IN SCHOOLS

RL 65.01 APPLICATION REQUIREMENTS FOR AN INITIAL CERTIFICATE. The department shall issue an instructor's certificate in the fields of barbering and cosmetology, aesthetics, manicuring, or electrology to any person who meets the requirements of s. 440.63 (3), Stats. Application shall be made on a form supplied by the department, and shall be submitted with the fee required by s. 440.05 (1), Stats.

RL 65.02 RENEWAL OF INSTRUCTOR CERTIFICATE. (1) The department shall renew an instructor's certificate in the fields of barbering and cosmetology, aesthetics, manicuring or electrology to any person who applies for renewal of an instructor's certificate not more than 2 years after the expiration of the latest period for which the certificate was valid.

NOTE: Certificates expire on July 1 of odd numbered years.

(2) Applications for renewal of an instructor's certificate shall be made on a form supplied by the department. Applications for renewal received by the department before the expiration of the certificate shall be accompanied by the fee specified in s. 440.05 (3) (c) 4, Stats. Applications for renewal received by the department less than 30 days after the expiration of the certificate shall be filed together with the fee specified in s. 440.05 (3) (c) 4, Stats., and the penalty specified by s. 440.05 (4), Stats. Applications for renewal received by the department more than 29 days but less than 2 years after the expiration of the certificate shall be filed together with the fee specified in s. 440.05 (3) (c) 4, Stats., and the penalty specified in s. 440.05 (5), Stats.

RL 65.03 INSTRUCTOR THEORY TRAINING SYLLABUS. (1) The instructor training required by ss. 440.63 (3) (a) 3, 440.63 (3) (b) 2, 440.63 (3) (c) 2, and 440.63 (3) (d) 2, Stats., is satisfied by successful completion of a course approved by the department in accordance with the syllabus set forth in Figure 65.03, below. A person shall complete the 150 hours of training within 2 years of commencing the training.

(2) A school offering training for an instructor's certificate may grant credit counting towards the 96 hours required for successful completion of college level courses in teaching skills and facilitating/managing skills.

(3) A school offering training for an instructor's certificate may allow another institution to teach the 96 hours on teaching skills and facilitating/managing skills in the established curriculum and certify an instructor student's eligibility for the examination for an instructor's certificate.

FIGURE 65.03
INSTRUCTOR TRAINING COURSE SYLLABUS

1. Orientation	14 hours
Goals, rules and review of curriculum	
2. Teaching Skills	64 hours
Objectives, competencies, methods, lesson planning, teaching techniques of the practical laboratory, interpersonal relations, evaluation and grading principles	

3. Facilitating/Managing Skills

32 hours

Classroom Management, communications, counseling
record keeping and safety/first-aid

4. Supervised Teaching (prerequisite: 1, 2 & 3)

40 hours

Practical applications on the clinic floor and
basic skills of practical teaching techniques

TOTAL TRAINING PROGRAM

150 hours

RL 65.04 APPLICATION REQUIREMENTS FOR REINSTATEMENT OF AN EXPIRED CERTIFICATE. Applications for reinstatement of an instructor's certificate which are received by the department more than 2 years after the expiration date of the certificate for which reinstatement is requested shall be considered as applications for an initial instructor's certificate and shall be made on the form for and in the manner of an application for an initial instructor's certificate.

RL 65.05 ADMINISTRATION OF EXAMINATION FOR INSTRUCTOR'S CERTIFICATION.

(1) The department attempts to schedule applicants for examination at or near a requested examination site or date but may schedule at any site and date where space is available. Admission cards are mailed to applicants at the address provided by the applicant.

(2) The applicant shall present an admission card at the door of the examination room with the identification specified on the admission card.

(3) Applicants shall follow the rules of conduct for the examination provided at the beginning of the examination. Definite time limits may be placed on each portion of the examination.

(4) Issuance of a license may be denied if the department determines that the applicant violated the rules of conduct for the examination.

(5) During practical examinations, applicants shall wear a numeric identification tag. The number shall be used in lieu of the applicant's name on examination papers.

RL 65.06 INSTRUCTOR'S COMPETENCY TESTED. (1) Examinations shall test entry level competency to practice as an instructor.

(2) The department shall furnish to individuals upon request general information describing the competencies upon which the examination is based.

RL 65.07 FORM OF EXAMINATION. An applicant for a certificate as an instructor shall pass a practical examination of the applicant's competency to instruct students in a school of barbering and cosmetology, or in a school or specialty school of aesthetics, manicuring, and electrology.

RL 65.08 PASSING SCORES. An applicant for a certificate as an instructor who achieves a score of no less than 75 on the practical examination shall receive a license.

RL 65.09 UNAUTHORIZED ASSISTANCE. The department may withhold the score of an applicant who gives or receives unauthorized assistance during the examination and may schedule the applicant for reexamination at a future time.

RL 65.10 FAILURE OF PRACTICAL EXAMINATION. (1) If it appears at the conclusion of a practical examination that an applicant will receive a failing score, 2 examiners shall confer on the applicant's performance. An applicant shall not receive a failing score on a practical examination unless 2 examiners award a failing score and each signs the score sheet.

(2) A written description of the reasons for failure shall be provided to applicants failing practical examinations.

RL 65.11 CLAIM OF EXAMINATION ERROR. (1) To claim examination error, an applicant shall file a written request for department review with the Bureau of Business and Design Professions within 30 days of the date the examination was reviewed. The request shall include:

- (a) The applicant's name and address;
- (b) The type of certificate for which the applicant applied;
- (c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error; and,
- (d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The department shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the department's decision and any resulting score changes.

(3) The department shall take action on a claim of examination error within 90 days of receiving the written appeal.

(4) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the department issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

RL 65.12 PROHIBITED CONDUCT AND DISCIPLINE. (1) The department may take disciplinary action against any person holding an instructor's certificate who has:

- (a) Made any false statement or given any false information in connection with an application for a certificate, or for renewal or reinstatement of a certificate.

(b) Been issued a certificate through error.

(c) Been adjudicated mentally incompetent by a court.

(d) Been found guilty of an offense the circumstances of which substantially relate to the practice of an instructor in a school or specialty school.

(e) Violated chapter 440 or chapter 454, Stats., chs. RL 60-62, this chapter, or chs. BC 1-9.

(f) Practiced as an instructor in a school or specialty school while the person's ability to practice was impaired by alcohol or other drugs, or physical or mental disability or disease.

(g) Participated in false, misleading, or deceptive advertising on the part of any school or specialty school, or knowingly distributed or used school or specialty school student catalogs or contracts which do not comply with these rules.

(h) Engaged in conduct which evidenced a lack of knowledge or ability to apply principles or skills of barbering and cosmetology, aesthetics, manicuring, or electrology, in which the person holds an instructor's certificate.

(i) Engaged in unprofessional conduct. "Unprofessional conduct" includes, but is not limited to:

1. Engaging in any practice which constitutes a danger to the health, welfare, or safety of a student or the public.

2. Engaging in any promises or threats to any student to obtain sexual or social contact or anything of value.

3. Harassment of a student because of the student's age, race, color, creed, marital status, sex, sexual orientation, ancestry, national origin, or physical or mental disability.

4. Intentionally falsifying student records.

5. Practicing or attempting to practice beyond the scope of the instructor's certificate.

6. Having a license to practice as a barber and cosmetologist, or aesthetician, or manicurist, or electrologist limited, suspended, or revoked, or being subject to any other disciplinary action by any licensing authority regulating the practice of barbering and cosmetology, aesthetics, manicuring, or electrology.

(2) The department may reprimand the holder of an instructor's certificate, or may limit, suspend, or revoke the instructor's certificate of any person who has engaged in any conduct prohibited by this chapter.

RL 65.13 FORFEITURES TO THE DEPARTMENT. In addition to or in lieu of discipline imposed against any person pursuant to s. RL 65.05, and in addition to any costs assessed pursuant to s. 440.22, Stats., the department may assess a forfeiture of not less than \$100 nor more than \$5000 for each violation of s. RL 65.05. All forfeitures shall be paid to the department. In any case in which the department assesses both a forfeiture pursuant to this section and costs pursuant to s. 440.22, Stats., payments received by the department shall be applied first to the costs assessed.

Dated 11/1/89

Agency Marlene A. Cummings
Marlene A. Cummings, Secretary
Department of Regulation
and Licensing

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: November 1, 1989 **FILE REF:**

TO: Gary Poulson,
Assistant Revisor of Statutes

FROM: Pamela Haack
Department of Regulation and Licensing

SUBJECT: Final Rulemaking Order

RECEIVED
NOV 1 1989
Revisor of Statutes
Bureau

Agency: DEPARTMENT OF REGULATION AND LICENSING
Clearinghouse Rule: 89-102

Attached is a copy and a certified copy of a final order adopting rules.
Would you please publish these rules in the code. Thanks, Gary.