

STATEMENT OF SCOPE

Cosmetology Examining Board

Rule No.: COS 1-11

Relating to: Cosmetology licensure, continuing education, and practice outside of a licensed establishment

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

2. Detailed description of the objective of the proposed rule:

The purpose of this rule is to conform current administrative code to the requirements of 2017 Wisconsin Act 81 and 2017 Wisconsin Act 82 and to update the rules in these chapters to make them consistent with current industry, regulatory, and academic practices.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapters COS 1-11 currently contain all the administrative codes relating to the practice of cosmetology, aesthetics, electrology, and manicuring. 2017 Wisconsin Act 81 eliminated all continuing education requirements for licensed cosmetologists, aestheticians, electrologists, and manicurists but allows the Cosmetology Board to require continuing education for a licensee as a part of a disciplinary process. The Act eliminates the required 4,000 hours of experience for applicants who have a credential in another jurisdiction and apply for a Wisconsin license. Under the Act, a currently licensed out-of-state applicant is now required to complete a one-hour course educating them on the Wisconsin statutes and administrative rules that apply to their practice. The Act also requires notification to all current Wisconsin license holders of the changes to the statutes and rules.

Wisconsin Act 82 eliminates the cosmetologist, aesthetician, electrologist, and manicurist manager license. Act 82 also allows the practice of cosmetology, aesthetics, electrology, and manicuring outside of a licensed establishment under certain circumstances.

Not updating these rules would leave the administrative code in a state of non-conformity to current statutory requirements.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., discusses the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rule interpreting provisions of statute, but a rule is not valid if it exceeds the bounds of correct interpretation. . .” This section allows an agency to promulgate administrative rules

which interpret the statutes it enforces or administers as long as the proposed rule does not exceed proper interpretation of the statute.

Section 454.08 (1) (ag) 1, Stats., The examining board shall promulgate rules permitting the practice of electrology outside of a licensed establishment. (2) The examining board shall promulgate rules permitting the use of a chemical process in the practice of cosmetology, aesthetics, or manicuring outside of a licensed establishment, except that the examining board may not promulgate any rule that restricts the use of a chemical process in cutting or styling hair in the practice of cosmetology or applying cosmetics, oils, lotions, clay, creams, antiseptics, powders, or tonics in the practice of aesthetics.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule :

Licensed cosmetologists, aestheticians, electrologists, and manicurists and those seeking Wisconsin licensure from another state.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There are no existing or proposed federal requirements.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

None to minimal.

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