

CHAPTER 454

BARBERING AND COSMETOLOGY EXAMINING BOARD

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Cross-reference: See definitions in s. 440.01.

454.01 Definitions. In this chapter:

- (1) “Aesthetician” means a person who practices aesthetics.
- (2) “Aesthetics” means, for compensation, caring for or beautifying the skin of the human body, including but not limited to cleaning, applying cosmetics, oils, lotions, clay, creams, antiseptics, powders or tonics to or massaging, stimulating, wrapping or exercising the skin of the human body.
- (3) “Apprentice” means a person who is learning the practice of barbering or cosmetology under s. 454.10.
- (5) “Barbering or cosmetology” means, for compensation, performing any one or a combination of the following practices:
- (a) Arranging, styling, dressing, shampooing, cleansing, curling, dyeing, tinting, coloring, bleaching, waving, cutting, shaving, trimming, relaxing, singeing or performing similar work upon the hair or beard of any person by any means.
- (b) Massaging, cleansing, stimulating, manipulating, wrapping, exercising, beautifying or applying cosmetic preparations, antiseptics, powders, oils, tonics, clay or lotion to or performing other similar work upon the skin of any person.
- (c) Manicuring.
- (d) The removal of hair of any person, except by use of an electric needle.
- (6) “Barber or cosmetologist” means a person who practices barbering or cosmetology.
- (7) “Compensation” means direct or indirect payment, including the expectation of payment whether or not actually received.
- (8) “Electrologist” means a person who practices electrology.
- (9) “Electrology” means, for compensation, removing hair from the human body by use of an electric needle.
- (10) “Establishment” means any place in which barbering or cosmetology, aesthetics, electrology or manicuring is performed.
- (11) “Examining board” means the barbering and cosmetology examining board.
- (12) “Manager” means a person who practices barbering or cosmetology and who is responsible for supervising and managing the operation of an establishment and ensuring that the establishment operates in compliance with this chapter and rules promulgated by the examining board.
- (13) “Manicuring” means, for compensation, cleansing, cutting, shaping, beautifying or massaging limited to the hands, feet or nails of the human body.
- (14) “Manicurist” means a person who practices manicuring.
- (15) “Student” means a person who is not licensed to practice barbering or cosmetology and who is engaged in learning the practice of barbering or cosmetology, aesthetics, electrology or manicuring at a school licensed under s. 440.62 (3) or exempted under s. 440.61 or a specialty school licensed under s. 440.62 (4).
- (16) “Training hour” means at least 50 minutes but not more than 60 minutes of instruction.

History: 1987 a. 265.

454.02 Limitations and exceptions. (1) Licenses to 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 in s. 454.01 (5) or under the direction of a licensed and practicing physician.

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

(a) Services performed by a person licensed, certified or registered under the laws of this state as a physician, physician assistant, podiatrist, physical therapist, nurse or funeral director if those services are within the scope of the license, certificate or registration.

(b) Personal care services performed in correctional institutions, hospitals and licensed nursing homes under the supervision of a person responsible for inmate or patient care.

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

(a) Services performed by masseurs or masseuses.

(b) Applying cosmetics preparatory to a public performance.

(c) Aesthetics, if performed on the face to demonstrate a product without compensation from a patron other than the sale of the product.

History: 1987 a. 265; 1993 a. 105.

454.04 Practice. (1) (a) Except as permitted under pars. (b) and (d), 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, manager license or temporary permit issued by the examining board or is an apprentice under s. 454.10 or a student in a barbering or cosmetology course of instruction.

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

(c) No person may engage in electrology unless the person holds a current electrologist license, temporary permit or training permit issued by the examining board or is a student in an electrology course of instruction.

(d) No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, barber or cosmetologist license, manager license, temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.

(2) (a) No person may use the title “barber cosmetologist”, “barber”, “cosmetologist” or “hairstylist” or any other similar title unless the person holds a current barber or cosmetologist license or manager license issued by the examining board.

(b) No person may use the title “aesthetician” or any other similar title unless the person holds a current aesthetician license, bar-

ber or cosmetologist license or manager license issued by the examining board.

(c) No person may use the title “electrologist” or any other similar title unless the person holds a current electrologist license issued by the examining board.

(d) No person may use the title “manicurist” or any other similar title unless the person holds a current manicurist license, barber or cosmetologist license or manager license issued by the examining board.

History: 1987 a. 265; 1995 a. 231.

454.06 Licensure. (1) APPLICATION. All applications for licenses under this section shall be filed with the examining board. No initial license may be issued under this section unless all of the following conditions are satisfied:

(a) The applicant pays the fee specified in s. 440.05 (1), except as provided in s. 454.13 (1).

(b) Subject to ss. 111.321, 111.322 and 111.335, the applicant presents evidence satisfactory to the examining board that the applicant has not been convicted of a felony committed while engaged in the practice of barbering or cosmetology.

(c) The applicant has graduated from high school or has attained high school graduation equivalency as determined by the department of education; is participating in a program approved by the examining board; or is at least 18 years old and meets the ability to benefit rule under 20 USC 1091 (d).

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) The applicant has graduated from high school or has attained high school graduation equivalency as determined by the department of public instruction; is participating in a program approved by the examining board; or is at least 18 years old and meets the ability to benefit rule under 20 USC 1091 (d).

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

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

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

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

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

(a) Holds a barber or cosmetologist license.

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

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

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

(4) AESTHETICIAN LICENSE. The examining board shall issue an aesthetician license to any person who does all of the following:

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

(b) Completes either of the following:

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

2. At least 450 training hours of training in not less than 11 weeks and not more than 30 weeks under the supervision of a barber or cosmetologist instructor or aesthetics instructor certified under s. 440.63 (3) (a) or (b) or a licensed manager, in a licensed

establishment that is also licensed as a specialty school of aesthetics under s. 440.62 (4) (a).

(c) Passes an examination conducted by the examining board to determine fitness to practice as an aesthetician.

(5) ELECTROLOGIST LICENSE. The examining board shall issue an electrologist license to any person who does all of the following:

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

(b) Completes either of the following:

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

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

(c) Passes an examination conducted by the examining board to determine fitness to practice as an electrologist.

(6) MANICURIST LICENSE. The examining board shall issue a manicurist license to any person who does all of the following:

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

(b) Completes either of the following:

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

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

(c) Passes an examination conducted by the examining board to determine fitness to practice as a manicurist.

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

(8) EXPIRATION AND RENEWAL. The renewal date and renewal fee for licenses issued under subs. (2) to (6) are specified under s. 440.08 (2) (a).

(9) TRAINING PERMIT. A person shall obtain a training permit from the examining board before beginning training under sub. (4) (b) 2., (5) (b) 2. or (6) (b) 2. The examining board shall issue a training permit to a person who satisfies the conditions in sub. (1) (b) and (c) and who pays a \$10 fee.

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

(b) The examining board may issue a temporary permit to practice as an aesthetician without examination if the applicant meets all of the requirements of sub. (4) for licensure except passage of an examination and if the applicant is scheduled to take the examination for licensure.

(c) The examining board may issue a temporary permit to practice as an electrologist without examination if the applicant meets all of the requirements of sub. (5) for licensure except passage of an examination and if the applicant is scheduled to take the examination for licensure.

(d) The examining board may issue a temporary permit to practice as a manicurist without examination if the applicant meets all of the requirements of sub. (6) for licensure except passage of an examination and if the applicant is scheduled to take the examination for licensure.

(e) A temporary permit issued under this subsection is valid for not more than 6 months and may not be renewed. The fee for a temporary permit issued under this subsection is specified in s. 440.05 (6).

History: 1987 a. 265; 1989 a. 31; 1991 a. 39; 1995 a. 27 s. 9145 (1); 1995 a. 231.

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

(2) Examinations of applicants for licenses issued under s. 454.06 (2) to (6) shall consist of written tests and practical demonstrations requiring applicants to demonstrate minimum competency in services and subjects substantially related to practice and public health and safety.

(3) A person is not eligible for examination for a license unless the person has completed the requirements for licensure under s. 454.06 except passing the examination.

(4) An applicant shall file an application for examination in the office of the examining board at least 3 weeks before the examination. If an applicant fails to file the application within the required time, the examining board may postpone the applicant's examination to the date of the next available regular examination. The examining board may require an applicant who fails to appear for or to complete an examination to reapply for examination. An applicant who fails an examination may request reexamination and shall pay a fee for reexamination, according to the procedures and fees established under s. 440.06.

History: 1987 a. 265.

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

(b) Except as permitted by rule promulgated under par. (a), no person may practice barbering or cosmetology, aesthetics, electrology or manicuring in an establishment unless the establishment is licensed to provide that practice under sub. (2).

(2) The examining board shall issue the following establishment licenses:

(a) A barber or cosmetologist establishment license which authorizes the practice of barbering or cosmetology, aesthetics, electrology and manicuring in the licensed establishment.

(b) An aesthetician establishment license which authorizes the practice of aesthetics in the licensed establishment.

(c) An electrologist establishment license which authorizes the practice of electrology in the licensed establishment.

(d) A manicurist establishment license which authorizes the practice of manicuring in the licensed establishment.

(3) The examining board shall issue an establishment license to any person who pays the fee specified in s. 440.05 (1) and who satisfies the requirements established by the examining board by rule, including proof of ownership of the business. Any change of ownership shall be reported to the examining board by the new owner within 5 days after the change of ownership.

(4) The examining board shall, by rule, establish minimum standards concerning the maintenance, equipment, plans and specifications for licensed establishments as they relate to the public health and safety. The examining board may not license an

establishment under this section unless it meets the standards established by the examining board. A person proposing to open an establishment in a new location shall apply to the examining board for an inspection and approval of the establishment, submitting an exact description and floor plan of the proposed location of the establishment on a form prescribed by the examining board.

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

(6) A person who owns one or more barber or cosmetologist establishments shall employ at least one person as a manager who holds a manager license and works full time in the establishments.

(7) Commercial businesses and practices other than barbering or cosmetology may be operated within a licensed establishment, except that a business or practice which poses a sanitation or health hazard may not be conducted within a licensed establishment.

(8) The examining board shall furnish a certificate to the owner of a licensed establishment, certifying that the establishment is licensed by the examining board. The owner shall post the certificate in a conspicuous place in the establishment.

(9) The renewal date and renewal fee for licenses issued under this section are specified under s. 440.08 (2) (a).

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

454.10 Apprenticeship. (1) All apprentices shall be indentured and shall be governed by s. 106.01, the apprenticeship rules of the department of industry, labor and job development and the rules of the examining board.

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

(3) No apprentice may practice barbering or cosmetology except under the supervision of a licensed manager. Apprentices shall be trained in all branches of practical work and in all subjects required to be taught in schools of barbering or cosmetology as prescribed by the examining board by rule.

(4) A person who has successfully completed the requirements of sub. (2) may not continue to practice as an apprentice but may apply for a temporary permit under s. 454.06 (10) (a).

History: 1987 a. 265; 1995 a. 27 s. 9130 (4); 1995 a. 231.

454.12 Continuing education. The examining board may impose continuing education requirements on licensees either:

(1) As a part of the disciplinary process to ensure competency; or

(2) By rule, if necessary to preserve the public health, safety or welfare.

History: 1987 a. 265.

454.13 Licensees of other jurisdictions. (1) Upon application and payment of the fee specified in s. 440.05 (2), the examining board may issue a license to practice barbering or cosmetology, aesthetics, electrology or manicuring or to practice as a manager to an applicant who is licensed in another state or territory of the United States or in another country to perform services which are substantially the same as those performed by licensees in this state and to whom either of the following applies:

(a) The applicant has at least 4,000 hours of experience in licensed practice, has never been disciplined by the licensing authority of another jurisdiction and is not a party to a proceeding before the licensing agency in which it is alleged that the applicant was negligent in the licensed practice or violated the law relating to the licensed practice.

(b) The applicant meets the requirements established in a reciprocal agreement under sub. (2) between the examining board and the licensing authority in the state where the applicant is licensed.

(2) The examining board may enter into reciprocal agreements with officials of other states for licensing barbers or cosmetologists, aestheticians, electrologists, manicurists and managers and grant licenses to persons licensed in other states according to the terms of such an agreement.

History: 1987 a. 265.

454.14 Inspections. (1) The department shall appoint inspectors under the classified service to inspect licensed establishments.

(2) An inspector appointed under sub. (1) may enter and inspect any licensed establishment at any time during business hours.

History: 1987 a. 265.

454.145 Disclosure of temporary permit status. A person practicing under a temporary permit issued under s. 454.06 (10) shall, before performing a service that he or she is authorized to perform by the temporary permit, inform the person who is receiving the service that he or she is practicing under a temporary permit and that he or she has satisfied all requirements except passage of an examination for a license for the applicable occupation.

History: 1995 a. 231.

454.15 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations or conduct hearings to determine whether a person has violated this chapter or any rule promulgated under this chapter.

(2) Subject to the rules promulgated under s. 440.03 (1) and this chapter, the examining board may revoke, limit, suspend or refuse to issue or renew, in accordance with the severity of the violation, a license or permit issued under this chapter or reprimand the holder of a license or permit issued under this chapter if it finds that the holder or applicant has done any of the following:

(a) Made a material misstatement in an application for license or permit or renewal.

(b) Failed to correct or take substantial steps approved by the examining board to correct a violation of any sanitary or other rule of the examining board within the time limit stated by the examining board in a notification of violation.

(c) Engaged in conduct in the practice of barbering or cosmetology, aesthetics, electrology or manicuring which evidences a lack of knowledge or ability to apply professional principles or skills.

(d) Subject to ss. 111.321, 111.322 and 111.335, been convicted of a felony committed while engaged in the practice of barbering or cosmetology, aesthetics, electrology or manicuring.

(e) Continued practice while knowingly having an infectious, contagious or communicable disease.

(f) Advertised in a manner which is false, deceptive or misleading.

(g) Advertised, practiced or attempted to practice under another's name or another's trade name.

(h) Subject to ss. 111.321, 111.322 and 111.34, been addicted to alcohol or other drugs to an extent related to the individual's ability to adequately undertake the job-related responsibilities of that individual's licensure.

(i) Violated this chapter or any rule promulgated under this chapter.

(3) The examining board may, in addition to or in lieu of a reprimand or revocation, limitation, suspension or denial of a license or permit, assess against a person who has done any of the things under sub. (2) (a) to (i) a forfeiture of not more than \$1,000 for each separate offense. Each day of continued violation constitutes a separate offense.

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

454.16 Penalties. Any person who violates this chapter or any rule promulgated under this chapter shall be fined not less than \$100 nor more than \$5,000 or imprisoned for not less than 10 days nor more than 90 days or both.

History: 1987 a. 265.