

Report From Agency

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DEPARTMENT OF SAFETY AND : CR 23-055
PROFESSIONAL SERVICES :
:**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

Not applicable.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The proposed rule addresses changes prompted by the passage of legislation. 2017 Wisconsin Act 81 eliminated continuing education requirements for barbers yet allowed the department to require continuing education for a licensee as part of the disciplinary process. 2017 Wisconsin Act 81 eliminated the required 4,000 hours of experience for applicants who have a credential in another jurisdiction and apply for a Wisconsin reciprocal 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 any changes to the statutes and rules relating to barbering prior to the renewal of a barbering license.

Wisconsin Act 82 eliminated the barbering manager license and allowed for the practice of barbering outside of a licensed establishment under certain circumstances. The Act also eliminated the requirement that an individual providing practical instruction in barbering hold a barbering or cosmetology instructor license; the requirement now only reflects the instructor be licensed as a barber or cosmetologist.

The proposed rule makes various modifications to the existing code to ensure consistency with the updated statutory provisions.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on November 2, 2023. The following people either testified at the hearing, or submitted written comments:

Tracy Gamsky (Written Comments)

The Department of Safety and Professional Services summarizes the comments received either by hearing testimony or by written submission as follows:

Written comments were received related to the changes implemented by 2017 WI Act 81 and 82, sanitation issues, and issues related to tax evasion and fraud.

The Department of Safety and Professional Services explains modifications to its rule-making proposal prompted by public comments as follows:

The Department of Safety and Professional Services has not modified the rule in response to the comments received relating to the changes implemented by 2017 WI Act 81 and 82, because the associated provisions in the rule are mandated by statute and the Department does not have authority to either reject or modify the updated statutory requirements.

The Department of Safety and Professional Services has not modified the rule in response to the comments received relating to sanitation issues or tax evasion and fraud as those issues are beyond the scope of the rule project.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 3d. In SECTION 23, s. SPS 65.01 is amended to change the name of the certificate from initial certificate to instructor’s certificate. In SECTION 24, s. SPS 65.02 is repealed to remove renewal requirements for instructor’s certificates. However, s. SPS 65.04 is not aligned with these changes because it contemplates reinstating an expired instructor’s certificate. If the certificate can expire, the agency should explain how the certificate can expire and rename the certificate under this section to be consistent with the rest of the chapter. Otherwise, if the certificate cannot expire, should the agency repeal this section?

Response: The Department rejects this comment because while a newly issued instructor certificate does not expire, there may be existing instructor certificates that are in expired status that may be renewed at some point in the future.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

Not applicable.