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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Public Safety, and Urban Affairs (SC-LPSUA)

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (July/2012)



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**STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER ADOPTING
PROCEEDINGS BEFORE THE : PERMANENT RULES CHS. BC 9, 11
BARBERING AND COSMETOLOGY : (CLEARINGHOUSE RULE 11-011)
EXAMINING BOARD : :

TO: Senator Van Wanggaard
 Chair, Senate Committee on Labor, Public Safety, and Urban Affairs
 Room 220 South, State Capitol
 Madison, Wisconsin 53707-7882

PLEASE TAKE NOTICE that on today's date, November 22, 2011, the WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD attaches to this e-mail transmission and hereby submits its modified rule-making proposal for chs. BC 9, 11, Wis. Admin. Code, CR 11-011, relating to late renewal and continuing education for barbering and cosmetology licensees. The modifications in this proposal reflect the requests made by the Senate Committee on Labor, Public Safety, and Urban Affairs.

Please confirm your receipt of this proposal by e-mailing me to that effect.

If you have any questions concerning this modified rule-making proposal or desire additional information, please contact Kris Anderson by phone at 261-2385, or by e-mail at Kristine1.Anderson@Wisconsin.gov.

Thank you.

STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	BARBERING AND COSMETOLOGY
BARBERING AND COSMETOLOGY	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 11-011)

PROPOSED ORDER

An order of the Barbering and Cosmetology Examining Board to amend ss. BC 1.01 (intro.), 9.01 (3) and 9.02; and to repeal and recreate ch. BC 11, relating to late renewal and continuing education.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 454.12, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 454.12, Stats.

Explanation of agency authority:

The Barbering and Cosmetology Examining Board is granted the authority under s. 454.12 Stats. to promulgate rules that establish continuing education requirements for licensure.

Plain language analysis:

This proposed rule-making modifies continuing education requirements for licensure. It also modifies the criteria for the approval of continuing education programs and the types of programs required to be taken for license renewal.

SECTION 1 Section 1 contains a cross-reference change.

SECTION 2 Section 2 contains a cross-reference change.

SECTION 3 sets out the maximum number of credits that must be completed for late renewal applicants whose license has not been expired greater than 5 years. This section also contains a cross-reference change.

SECTION 4 repeals and recreates ch. BC 11. Section BC 11.01 identifies the authority and purpose for ch. BC 11, Continuing Education. Section BC 11.02 provides definitions for certain terms.

Section BC 11.03 provides the continuing education requirements for license renewal.

Section BC 11.04 creates standards for approval of programs and courses.

Section BC 11.05 requires licensees to obtain certificates of completion or proof of attendance from program providers.

Section BC 11.06 requires licensees to retain completion certificates for a specified period.

Section BC 11.07 specifies provisions by which the CE requirements may be waived.

SECTION 5 contains the initial applicability clause.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Continuing education requirements are as follows: Ten hours are required for estheticians, 14 hours for cosmetologists, and 10 hours for nail technicians for each biennial renewal. There are no requirements for barbers. www.ilga.gov/legislation/ilcs/ilcs.asp. Note: Barbers and Cosmetologists in Illinois are not governed by the same board as they are two separate licenses.

Iowa:

Continuing education requirements for each biennial reporting period are 8 hours each for barbers, cosmetologists, nail technicians, and estheticians. www.idph.state.ia.us

Michigan:

There are no continuing education requirements for barbering or cosmetology. www.michigan.gov/dleg

Minnesota:

Cosmetologists, manicurists, and estheticians must provide documentation that they have practiced for a certain amount of hours in the previous 3-year period or have taken an approved 40-hour refresher course. This requirement does not exist for barbers. These professions do not have continuing education requirements. www.bceboard.state.mn.us

Summary of factual data and analytical methodologies:

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states. In addition, the Barbering and Cosmetology Examining Board examined models of continuing education from national organizations related to their profession, as well as from other Wisconsin regulatory boards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Internet research, as well as telephone surveys were conducted regarding the availability and costs related to continuing education in the cosmetology profession. Continuing education credits are available at an average cost range of \$10-\$25 per credit hour, and are available in a wide array of modes (online, video correspondence, workshops, etc.). That data was compared with the requirements outlined in the proposed rules and based thereon. It appears that while individual licensees will see a slight increase in the cost associated with doing business as a result of these rules, the rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Division of Enforcement, Division of Management Services, and the Office of Exams. The total one-time salary and fringe costs are estimated at \$26,172. The total on-going salary and fringe costs are estimated at \$40,228.

Effect on small business:

These proposed rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Kristine Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 117, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at kristine.anderson@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kristine Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 117, P.O. Box 8935, Madison, WI 53708-8935, or by email to kristine.anderson@wisconsin.gov. Comments must be received on or before April 4, 2011 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. BC 1.01 (intro.) is amended to read:

BC 1.01 Definitions. For the purposes of chs. BC 1 to ~~4011~~:

SECTION 2. BC 9.01 (3) is amended to read:

(3) Certification on the application for renewal that the licensee has, during the biennial reporting period immediately preceding application, completed the continuing education requirements in s. BC ~~44.04~~11.03.

SECTION 3. BC 9.02 is amended to read:

BC 9.02 Late renewal. If the application for renewal is filed less than 5 years after the expiration of the applicant's last license, the applicant shall comply with the continuing education requirements in s. BC ~~44.04~~ 11.03, and pay the late renewal fee in s. 440.08 (3) (a), Stats.

SECTION 4. Ch. BC 11 is repealed and recreated to read:

Chapter BC 11

CONTINUING EDUCATION

BC 11.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 454.12, Stats., and govern biennial continuing education for aesthetics, barbering and cosmetology practitioner and manager, electrology and manicuring licenses.

BC 11.02 Definitions. As used in this chapter:

(1) "Biennium" or "biennial reporting period" means a 2-year period beginning April 1 of each odd-numbered year and ending on March 31 of the next odd-numbered year, during which a licensee shall satisfy the continuing education requirements under this chapter.

(2) "Continuing education" means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills or knowledge of the licensees in the practice of barbering and cosmetology, manicuring, aesthetics and electrology.

(3) "Continuing education credit hour" means a unit of credit for continuing education courses, where one continuing education credit hour equals 50 minutes of actual instruction in a continuing education training program.

(4) "Continuing education training program" means any course, program or activity approved under s. BC 11.04 having a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee's professional practice.

(5) "Safety, sanitation and infection control" means any topics or subjects which pertain to all of the barbering and cosmetology professions and which are designed to safeguard the public health, safety and welfare by providing instruction on and increasing knowledge and awareness of the identification, assessment, management, control and prevention of factors that may adversely affect the health, comfort, safety or well-being of individuals. This could include courses dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, and proper techniques for cleaning, disinfection and sterilization of equipment in accordance with acceptable state and federal standards.

BC 11.03 Continuing education requirements for license renewal. (1) Except as provided in sub. (3), every licensee shall complete a minimum of 5 continuing education credit hours during each biennial reporting period.

(2) The continuing education credit hours required under sub. (1) shall consist of all of the following:

(a) Two continuing education credit hours reviewing the laws governing the barbering and cosmetology professions and establishments.

(b) Three continuing education credit hours in safety, sanitation and infection control.

(c) Licensees holding more than one license need to fulfill the requirements listed in pars. (a) and (b) one time only regardless of how many licenses they hold.

(3) A licensee is not required to complete continuing education credit hours between initial licensure and the first license renewal period.

(4) If a licensee fails to complete the continuing education requirements within a biennial reporting period, continuing education credit hours acquired on or after April 1 of any

odd-numbered year will be first applied to the preceding biennium until the requirement is fulfilled. Continuing education credit hours may not apply to more than one biennium.

(5) Continuing education credit hours may be obtained through any of the following means:

(a) Attending seminars, corporate in-house courses, workshops, professional or technical presentations made at meetings, conventions, or conferences approved by the board under s. BC 11.04. Attendance may be in person or via remote classroom where a qualified provider is available to the participant to comment and answer questions.

(b) Teaching a continuing education program. A person who teaches may only receive credit for the initial offering or presentation of a course or program during a biennium. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. A maximum of 3 credit hours may be obtained by teaching in any biennial reporting period. Full-time faculty may not claim continuing education credits for teaching done as part of their regular duties.

(c) Distance education, including completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM or the internet or correspondence courses. Distance education courses shall meet the following criteria:

1. The course or program is offered by a provider approved under s. BC 11.04 and the program meets the requirements of s. BC 11.03.

2. The course or program requires assignments that are completed or prepared by the licensee and submitted to the provider for correction, grading, or both.

3. The course or program includes a written examination designed to ensure that the licensee actively participated in the presentation of the material and derived a measurable benefit from participation. A score of 75% or higher shall be considered a passing examination score.

4. The course or program contains a reasonable procedure for verifying the enrollees' identities.

5. The course or program contains a minimum of 50 minutes of actual instruction for each credit hour offered. For purposes of calculating actual instruction time, the time spent for testing and assessment purposes shall not be included.

6. All corrected or graded lessons and examinations are maintained by the provider for no less than 5 years and submitted to the board or its designee upon request for auditing purposes.

BC 11.04 Standards for approval. (1) To be approved as a continuing education training program, the program shall:

(a) Include instruction in an organized method of learning contributing directly to the professional competency of the licensee and pertaining to subject matters which integrally relate to the practice of the profession.

(b) Be conducted by individuals or entities that have specialized education, training or experience, and that are considered qualified in the subject matter of the program as determined by the board.

(c) Fulfill pre-established goals and objectives as determined by the board.

(d) Provide attendance or completion verification records in the form of completion certificates or other documents evidencing attendance at, or completion of, the continuing education training program.

(2) Except as provided in sub. (4), continuing education programs offered by the following providers qualify for continuing education credit hours with no prior approval from the board necessary:

(a) Universities, technical colleges and schools licensed by the appropriate authority for the state in which the program is offered.

(b) The Wisconsin barbering and cosmetology examining board and the Wisconsin department of safety and professional services.

(c) State or national professional organizations recognized by the board.

(3) The board may approve programs by the following providers:

(a) State licensed or certified instructors who have not had any disciplinary actions taken against them in the 3-year period preceding their planned instruction.

(b) Product distribution companies, national salon chains or other providers that offer programs with significant professional educational benefits for licensees as determined by the board.

(4) Each biennium, the board shall approve a curriculum for the continuing education credit hours required under s. BC 11.03 (2) (a) regarding the laws governing the barbering and cosmetology professions and establishments. All providers except those approved under s. BC 11.04 (2) (a) and (b), shall submit the content of their s. BC 11.03 (2) (a) courses for review and approval by the board or its designee.

(5) An application for approval of a continuing education program shall:

(a) Be on a form approved by the board or its designee.

(b) Be completed as prescribed by the board or its designee and filed with the board no later than 45 working days prior to the program or course date.

(c) Contain a provision by which the program provider agrees to comply with rule provisions applicable to providers.

(6) The approval of a provider or a program under this section may be withdrawn in the sole discretion of the board or its designee based upon a determination that the program fails to comply with the requirements of this chapter.

BC 11.05 Certificate of completion, proof of attendance. (1) Each licensee shall certify on the license renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The board may conduct a random audit of its licensees on a biennial basis for compliance with these requirements. It is the responsibility of each licensee to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is requested by the board or its designee, the licensee shall submit the requested information or documentation within 30 days of receiving the written notice. Failure to do so may result in disciplinary action.

BC 11.06 Recordkeeping. A licensee shall obtain a certificate of completion from the program provider for each continuing education training program completed. The licensee shall retain the certificates and any other required documentation for a minimum of 5 years.

BC 11.07 Waiver of continuing education requirement. (1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary and extreme hardship, as determined by the board, may submit a written request for a waiver. The board or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a written statement setting forth the basis of the request, shall be deemed to be licensed and in good standing until the final decision on the application is issued by the board or its designee. If a finding of extreme hardship is not made, the applicant shall immediately discontinue engaging in the practice of barbering and cosmetology until the applicant meets the requirements of s. BC 11.03 and submits evidence of compliance to the board or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennia.

(4) Except as provided in sub. (2), a licensee who fails to meet the continuing education requirements by the renewal date, as specified in s. 440.08 (2) (a), Stats., may not engage in the practice of a barbering and cosmetology profession until the license is renewed.

SECTION 5. INITIAL APPLICABILITY. This rule first applies to credential renewal applications submitted on or before March 31, 2015 for the biennial reporting period commencing April 1, 2013 and ending March 31, 2015.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

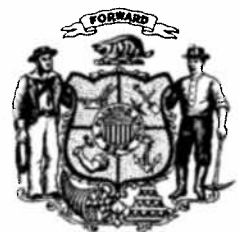
Chairperson
Barbering and Cosmetology
Examining Board

BC 9, 11 CR 11-011 (Renewal, continuing education) 11-21-11





WISCONSIN STATE LEGISLATURE



**STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
BARBERING AND COSMETOLOGY : **CR 11-011**
EXAMINING BOARD :

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

The only new form referenced in the proposed rules is the application form for continuing education providers to use to obtain the board's approval of a course or program. The board will provide a form for provider applications closer to the 2013-2015 effective date of these rules.

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

The barbering and cosmetology examining board is authorized under s. 454.12 (2), Wis. Stats. to promulgate rules establishing continuing education (CE) requirements for its licensees. The purpose of such rules is to preserve the public health, safety, and welfare by ensuring the competency of those licensed by the board to practice the barbering and cosmetology professions. The board first implemented CE requirements by creating ch. BC 11, Wis. Admin. Code, which became effective on April 1, 2010. The need for CE was well demonstrated by the high number of complaints the board received from the consuming public against licensees. Many of those complaints arose from licensee violations of the laws and rules governing these professions, and many prompted full-blown disciplinary proceedings. Requiring CE on the governing laws, and on sanitation, safety and infection control will increase licensees' knowledge and understanding in those areas, and will help prevent such violations. Requiring continuing education in courses related to a licensee's particular practice will promote the licensee's increased competency in that practice. Both of those objectives serve the statutory purpose of preserving the public health, safety and welfare.

With the amendments proposed in the instant rule-making, the barbering and cosmetology board fleshes out the existing CE requirements, and responds to feedback the board has received from licensees, course providers, and others since the April 2010 institution of those requirements.

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

The barbering and cosmetology examining board held a public hearing regarding the proposed amendments to chs. BC 9, 11 on April 4, 2011. The following people either testified at the hearing, or submitted written comments:

- John Murray
- Cheryl Rebolz
- Kristen Allison
- Lauri Thomas
- Brett Hallongren
- John Waldhuether
- Jenny Vance
- Jerry Gardner

The board summarizes the comments received either by hearing testimony or by written submission as follows:

John Murray, the executive assistant for the department of regulation and licensing, presented the department's recommendations that the board reduce the proposed total credit hours required per biennium from 12 to 6, and that the effective date of the new rules be delayed until the start of the 2013-2015 biennium, April 1, 2013. Mr. Murray noted that a large number of licensees had not completed their CE requirements for the 2009-2011 biennium. This was evidenced by the significant percentage of licensees who had not submitted their renewal applications by the March 31, 2011 deadline for lack of CE compliance. Based on that widespread lack of compliance, the department concluded that licensees have not fully embraced the CE requirement for licensure renewal. Maintaining the total number of credit hours at 6 per biennium, instead of increasing it to 12 as indicated in this rule-making proposal, addresses that issue. Moreover, delaying the effective date of the proposal will allow the board to receive more feedback from stakeholders, and to continue to fine tune the requirements in response to such feedback.

Of the seven others who testified at the public hearing on this rule-making proposal, five expressly favored reducing the number of continuing education credit hours required per biennium to 6, while two did not directly address that point. One of the latter two supports requiring 2 credits on the governing laws and 4 on safety, sanitation, and infection control. One person suggested the following break-down for 6 credits: 1 hour on governing law, 2 on safety, sanitation, and infection control, and 3 elective. The same person added that if the board keeps the 12-credit rule, CPR/First Aid should be part of the total requirement, and also supports standardizing the written examination referenced in proposed new rule s. BC 11.03 (5). Another person noted that Wisconsin is one of only a few jurisdictions that do not require CPR/First Aid training of its barbering and cosmetology licensees. One person opined that 2 hours of law and 4 of safety, sanitation, and infection control are both excessive. Two oppose requiring domestic violence victim referral training. Another expressed concern about the costs, quality, and consistency of

CE programs, and pointed to a need for a means of verifying the identities of attendees. The same person asked about how enforcement of these rules will be accomplished. Finally, two of the seven specifically oppose delaying the effective date of this rule-making proposal, both citing confusion amongst licensees and providers as the reason.

The board explains modifications to its rule-making proposal prompted by public comments as follows:

The board adopts the department's recommendation, as expressed by Mr. Murray, to reduce the number of mandatory credits to a minimum of six, not twelve, noting that the majority of the seven members of the public who testified support the same. The board also adopts the suggestion of public members to require 1 credit on the governing laws, 2 on safety, sanitation, and infection control, and to allow licensees to fulfill the other three required hours with courses of their choosing that are directly related to their particular profession. The board also removed the requirements related to domestic violence-related courses and chose not to mandate CPR/First Aid training. Because the board reduces the total number of CE credits required from 12 to 6, it removes the 6-credit exemption for 30-year licensees in proposed s. BC 11.03 (3) (b). In addition, because it will be moot by the time these permanent rules become effective, the board eliminates the provision in proposed s. BC 11.03 (3) (c) specifying the CE requirement for the biennium that ended on March 31, 2011. The board concludes that the concerns about costs, consistency, and quality of CE programs, and for verification of program attendees' identities are adequately addressed in proposed s. BC 11.04.

Finally, the board decided to adopt the department's recommendation to delay the effective date of the proposed permanent rules until the start of the 2013-2015 biennial reporting period, although it noted public comment in opposition to the same. Accordingly, these rules will first apply to licensure renewal applications submitted on or before March 31, 2015 for the biennium ending on that date. The board concurred with Mr. Murray's assessment that the delay will provide the board with the opportunity to carefully consider all of the issues raised regarding the CE rules first established by the board in April 2010, along with the emergency rules that became effective on December 23, 2010.

V. CHANGES TO THE ANALYSIS PREPARED UNDER s. 227.14 (2), STATS., OR TO THE FISCAL ESTIMATE PREPARED UNDER s. 227.14 (4), STATS.

None

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5.b.: Simplify the plain language analysis section of the proposed order.

Response: Accepted in part, rejected in part. The board made all specifically suggested changes except for the suggestion in Comment 5.b.(2), which reiterates the simplifying comment with specific respect to SECTION 2 of the plain language analysis. The board

otherwise found it unnecessary to implement such a change in the current proposal, and that doing so would take scarce staff time and delay the promulgation process.

Comment 5.e.(1): Clarify the definition of “biennium” in s. BC 11.02 (1), and use that word or the definition’s synonymous term, “biennial reporting period,” consistently throughout the proposed new rules. Also, review s. BC 9.01 for consistency with the definition.

Response: Accepted in part, rejected in part. The board clarified the definition of “biennium,” and made changes throughout the rule for consistency with that definition. The board determined that s. BC 9.01 is consistent with the definition of “biennium,” and therefore made no changes to that section.

Comment 5.e.(2) Determine whether defining the term “continuing education” is necessary. If retained, rewrite the end of the first sentence as suggested.

Response: Accepted in part, rejected in part. The board retains the definition of the term “continuing education,” because it is aware of a need for clarity in these rules. The board otherwise made the suggested change in the first sentence of the definition.

Comment 5.e.(4): Eliminate definition of “safety, sanitation and infection control,” and incorporate it into s. BC 11.03 (2) (b).

Response: Rejected in whole. As with the definition of “continuing education,” the board retains the definition of “safety, sanitation and infection control,” due to a need for clarity in these rules.

Comment 5.g.: Replace the term “credit hours” in s. BC 11.03 (2) (a), (b), and (c) with “continuing education credit hours” per the suggestion in Comment 5.e.(3).

Response: Accepted in part, rejected in part. The board made the suggested change in s. BC 11.03 (2) (a) and (b), but found it unnecessary to do so in s. BC 11.03 (2) (c).

Comment 5.h.: Clarify the meaning of s. BC 11.03 (2) (c) as to whether licensees holding multiple credentials must obtain separate credit hours under s. BC 11.03 (2) (a) and (b) for each profession in which they are licensed. Consider whether the approach in par. (c) conflicts with the note following the provision.

Response: Accepted in part, rejected in part. The board reduced the number of required elective credit hours from 6 to 3, eliminated the language regarding domestic violence victim referral training, and eliminated the note following the provision. With respect to elective credit hours required of licensees holding more than one license, the board simplified the language, and concluded that the requirement is clear as modified.

Comment 5.i.: Insert the word “license” before the word “renewal” in the introduction to s. BC 11.01 (3) (a). Rewrite par. (b) as indicated.

Response: Accepted in part, rejected in part. The board added the word “license” before the word “renewal” in the provision regarding CE requirements for new licensees. However, because the board reduced the total number of required CE credits to 6, it eliminated the provision regarding licensees of 30 years or more. In addition, the board omitted the provision in s. BC 11.03 (3) (c), as it will be moot by the time these rules become effective.

Comment 5.k.: Replace the term “continuing education requirement” in s. BC 11.03 (4) with the phrase “continuing education credit hours required under this section” for consistency with Comment 5.e.(3). Specify the time period referred to in the phrase “any other period.”

Response: Accepted in part, rejected in part. The board concluded that the term “continuing education requirement” is sufficiently clear, especially given the definition of “continuing education” in s. BC 11.02 (2). The board rephrased the second sentence clarifying the meaning of “any other period.”

Comment 5.l.: Remove the word “one” from s. BC 11.03 (5) (intro.), and replace the term “continuing education” with the phrase “continuing education credit hours.”

Response: Accepted in whole. The board also added the word “means” at the end of the introduction.

Comment 5.p.: Replace the phrase “for CECs” in s. BC 11.04 (1) (intro.) with “as a continuing education program” for consistency with the definition of the latter term. Replace the phrase “a continuing education program or course” with “the program.”

Response: Accepted in part. The board replaced the phrase “for CECs” as suggested. To simplify the entire subsection, the board restructured the introduction, and used the phrase “the program shall:” as the ending. The board then modified the beginnings of pars. (a) through (d) accordingly.

Comment 5.x.: Add the word “requirement” to the end of the title to s. BC 11.07. Replace the word “biennium” in sub. (3) with “licensing periods.”

Response: Accepted in part, rejected in part. The board added the word “requirement” to the end of the title of s. BC 11.07. However, instead of replacing the word “biennium” in sub. (3) as suggested, the board simply changed the word biennium to its plural form, maintaining consistency with the definition of that term.

All other recommendations in the clearinghouse report were accepted in whole.

STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : BARBERING AND COSMETOLOGY
BARBERING AND COSMETOLOGY : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 11-011)

PROPOSED ORDER

An order of the Barbering and Cosmetology Examining Board to amend ss. BC 1.01 (intro.), 9.01 (3) and 9.02; and to repeal and recreate ch. BC 11, relating to late renewal and continuing education.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 454.12, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 454.12, Stats.

Explanation of agency authority:

The Barbering and Cosmetology Examining Board is granted the authority under s. 454.12, Stats., to promulgate rules that establish continuing education requirements for licensure.

Plain language analysis:

This proposed rule-making modifies continuing education requirements for licensure. It also modifies the criteria for the approval of continuing education programs and the types of programs required to be taken for license renewal.

SECTION 1 Section 1 contains a cross-reference change.

SECTION 2 Section 2 contains a cross-reference change.

SECTION 3 sets out the maximum number of credits that must be completed for late renewal applicants whose license has not been expired greater than 5 years. This section also contains a cross-reference change.

SECTION 4 repeals and recreates ch. BC 11. Section BC 11.01 identifies the authority and purpose for ch. BC 11, Continuing Education. Section BC 11.02 provides definitions for “biennium,” “continuing education,” “continuing education credit hour,” “course” or “program,” and “safety, sanitation and infection control.”

Section BC 11.03 provides the continuing education requirements for license renewal.

Section BC 11.04 creates standards for approval of programs and courses. The rule specifies the criteria necessary for a course to meet requirements for approval. Additional provisions designate specific entities that will not need prior approval of their programs. Other entities may become approved providers upon application on prescribed department forms and approval.

Section BC 11.05 requires licensees to obtain certificates of completion or proof of attendance from program providers.

Section BC 11.06 requires licensees to retain completion certificates for a minimum of five years.

Section BC 11.07 specifies provisions by which a licensee may obtain a waiver of the CE requirements

SECTION 5 contains the initial applicability clause.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Continuing education requirements are as follows: Ten hours are required for estheticians, 14 hours for cosmetologists, and 10 hours for nail technicians for each biennial renewal. There are no requirements for barbers. www.ilga.gov/legislation/ilcs/ilcs.asp.

Iowa:

Continuing education requirements for each biennial reporting period are 8 hours each for barbers, cosmetologists, nail technicians, and estheticians. www.idph.state.ia.us

Michigan:

There are no continuing education requirements for barbering or cosmetology. www.michigan.gov/dleg

Minnesota:

Cosmetologists, manicurists, and estheticians must provide documentation that they have practiced for a certain amount of hours in the previous 3-year period or have taken an approved 40-hour refresher course. This requirement does not exist for barbers. These professions do not have continuing education requirements. www.bceboard.state.mn.us

Summary of factual data and analytical methodologies:

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states. In addition, the Barbering and Cosmetology Examining Board examined models of continuing education from national organizations related to their profession, as well as from other Wisconsin regulatory boards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Internet research, as well as telephone surveys were conducted regarding the availability and costs related to continuing education in the cosmetology profession. Continuing education credits are available at an average cost range of \$10-\$25 per credit hour, and are available in a wide array of modes (online, video correspondence, workshops, etc.). That data was compared with the requirements outlined in the proposed rules and based thereon. It appears that while individual licensees will see a slight increase in the cost associated with doing business as a result of these rules, the rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Division of Enforcement, Division of Management Services, and the Office of Exams. The total one-time salary and fringe costs are estimated at \$26,172. The total on-going salary and fringe costs are estimated at \$40,228.

Effect on small business:

These proposed rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at kristine.anderson@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 E. Washington Ave., Room 152, P.O. Box 8935, Madison, WI 53708-8935, or by email to kristine.anderson@wisconsin.gov. Comments must be received on or before April 4, 2011 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. BC 1.01 (intro.) is amended to read:

BC 1.01 Definitions. For the purposes of chs. BC 1 to ~~10~~11:

SECTION 2. BC 9.01 (3) is amended to read:

(3) Certification on the application for renewal that the licensee has, during the biennial reporting period immediately preceding application, completed the continuing education requirements in s. BC ~~11.04~~11.03.

SECTION 3. BC 9.02 is amended to read:

BC 9.02 Late renewal. If the application for renewal is filed less than 5 years after the expiration of the applicant's last license, the applicant shall comply with the continuing education requirements in s. BC ~~11.04~~ 11.03, and pay the late renewal fee in s. 440.08 (3) (a), Stats.

SECTION 4. Ch. BC 11 is repealed and recreated to read:

Chapter BC 11

CONTINUING EDUCATION

BC 11.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 454.12, Stats., and govern biennial continuing education for aesthetics, barbering and cosmetology practitioner and manager, electrology and manicuring licenses.

BC 11.02 Definitions. As used in this chapter:

(1) "Biennium" or "biennial reporting period" means a 2-year period beginning April 1 of each odd-numbered year and ending on March 31 of the next odd-numbered year, during which a licensee shall satisfy the continuing education requirements under this chapter.

(2) "Continuing education" means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills or knowledge of the licensees in the practice of barbering and cosmetology, manicuring, aesthetics and electrology.

(3) "Continuing education credit hour" means a unit of credit for continuing education courses, where one continuing education credit hour equals 50 minutes of actual instruction in a continuing education training program.

(4) "Continuing education training program" means any course, program or activity approved under s. BC 11.04 having a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee's professional practice.

(5) "Safety, sanitation and infection control" means any topics or subjects which pertain to all of the barbering and cosmetology professions and which are designed to safeguard the public health, safety and welfare by providing instruction on and increasing knowledge and awareness of the identification, assessment, management, control and prevention of factors that may adversely affect the health, comfort, safety or well-being of individuals. This could include courses dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, and proper techniques for cleaning, disinfection and sterilization of equipment in accordance with acceptable state and federal standards.

BC 11.03 Continuing education requirements for license renewal. (1) Except as provided in sub. (3), every licensee shall complete a minimum of 6 continuing education credit hours during each biennial reporting period.

(2) The continuing education credit hours required under sub. (1) shall consist of all of the following:

(a) One continuing education credit hour reviewing the laws governing the barbering and cosmetology professions and establishments.

(b) Two continuing education credit hours in safety, sanitation and infection control.

(c) Three elective credit hours directly related to the provision of services that are permitted under the license held by the licensee, including courses related to business management concepts. Licensees holding more than one license shall complete a minimum of 3 elective credit hours for each license held. Such multiple credential holders need to fulfill the requirements listed in pars. (a) and (b) one time only regardless of how many licenses they hold.

(3) A licensee is not required to complete continuing education credit hours between initial licensure and the first license renewal period.

(4) If a licensee fails to complete the continuing education requirements within a biennial reporting period, continuing education credit hours acquired on or after April 1 of any odd-numbered year will be first applied to the preceding biennium until the requirement is fulfilled. Continuing education credit hours may not apply to more than one biennium.

(5) Continuing education credit hours may be obtained through any of the following means:

(a) Attending seminars, corporate in-house courses, workshops, professional or technical presentations made at meetings, conventions, or conferences approved by the board under s. BC 11.04. Attendance may be in person or via remote classroom where a qualified provider is available to the participant to comment and answer questions.

(b) Teaching a continuing education program. A person who teaches may only receive credit for the initial offering or presentation of a course or program during a biennium. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. A maximum of 3 credit hours may be obtained by teaching in any biennial reporting period. Full-time faculty may not claim continuing education credits for teaching done as part of their regular duties.

(c) Distance education, including completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM or the internet or correspondence courses. Distance education courses shall meet the following criteria:

1. The course or program is offered by a provider approved under s. BC 11.04 and the program meets the requirements of s. BC 11.03.
2. The course or program requires assignments that are completed or prepared by the licensee and submitted to the provider for correction, grading, or both.
3. The course or program includes a written examination designed to ensure that the licensee actively participated in the presentation of the material and derived a measurable benefit from participation. A score of 75% or higher shall be considered a passing examination score.
4. The course or program contains a reasonable procedure for verifying the enrollees' identities.
5. The course or program contains a minimum of 50 minutes of actual instruction for each credit hour offered. For purposes of calculating actual instruction time, the time spent for testing and assessment purposes shall not be included.
6. All corrected or graded lessons and examinations are maintained by the provider for no less than 5 years and submitted to the board or its designee upon request for auditing purposes.

BC 11.04 Standards for approval. (1) To be approved as a continuing education training program, the program shall:

(a) Include instruction in an organized method of learning contributing directly to the professional competency of the licensee and pertaining to subject matters which integrally relate to the practice of the profession.

(b) Be conducted by individuals or entities that have specialized education, training or experience, and that are considered qualified in the subject matter of the program as determined by the board.

(c) Fulfill pre-established goals and objectives as determined by the board.

(d) Provide attendance or completion verification records in the form of completion certificates or other documents evidencing attendance at, or completion of, the continuing education training program.

(2) Except as provided in sub. (4), continuing education programs offered by the following providers qualify for continuing education credit hours with no prior approval from the board necessary:

(a) Universities, technical colleges and schools licensed by the appropriate authority for the state in which the program is offered.

(b) The Wisconsin barbering and cosmetology examining board and the Wisconsin department of regulation and licensing.

(c) State or national professional organizations recognized by the board.

(3) The board may approve programs by the following providers:

(a) State licensed or certified instructors who have not had any disciplinary actions taken against them in the 3-year period preceding their planned instruction.

(b) Product distribution companies, national salon chains or other providers that offer programs with significant professional educational benefits for licensees as determined by the board.

(4) Each biennium, the board shall approve a curriculum for the continuing education credit hours required under s. BC 11.03 (2) (a) regarding the laws governing the barbering and cosmetology professions and establishments. All providers except those approved under s. BC 11.04 (2) (a) and (b), shall submit the content of their s. BC 11.03 (2) (a) courses for review and approval by the board or its designee.

(5) An application for approval of a continuing education program shall:

(a) Be on a form approved by the board or its designee.

(b) Be completed as prescribed by the board or its designee and filed with the board no later than 45 working days prior to the program or course date.

(6) The approval of a provider or a program under this section may be withdrawn in the sole discretion of the board or its designee if the program, as implemented, fails to comply with the requirements of this chapter.

BC 11.05 Certificate of completion, proof of attendance. (1) Each licensee shall certify on the license renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The board may conduct a random audit of its licensees on a biennial basis for compliance with these requirements. It is the responsibility of each licensee to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is requested by the board or its designee, the licensee shall submit the requested information or documentation within 30 days of receiving the written notice. Failure to do so may result in disciplinary action.

BC 11.06 Recordkeeping. A licensee shall obtain a certificate of completion from the program provider for each continuing education training program completed. The licensee shall retain the certificates and any other required documentation for a minimum of 5 years.

BC 11.07 Waiver of continuing education requirement. (1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary and extreme hardship, as determined by the board, may submit a written request for a waiver. The board or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a written statement setting forth the basis of the request, shall be deemed to be licensed and in good standing until the final decision on the application is issued by the board or its designee. If a finding of extreme hardship is not made, the applicant shall immediately discontinue engaging in the practice of barbering and cosmetology until the applicant meets the requirements of s. BC 11.03 and submits evidence of compliance to the board or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennia.

(4) Except as provided in sub. (2), a licensee who fails to meet the continuing education requirements by the renewal date, as specified in s. 440.08 (2).(a), Stats., may not engage in the practice of a barbering and cosmetology profession until the license is renewed.

SECTION 5. INITIAL APPLICABILITY. This rule first applies to credential renewal applications submitted on or before March 31, 2015 for the biennial reporting period commencing April 1, 2013 and ending March 31, 2015

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

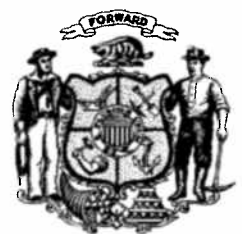
Agency _____

Chairperson
Barbering and Cosmetology
Examining Board

BC 9, 11 CR 11-011 (Renewal, continuing education) Final to legislature 5-6-11



WISCONSIN STATE LEGISLATURE



Clearinghouse Rule 11-011

STATE OF WISCONSIN
BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	BARBERING AND COSMETOLOGY
BARBERING AND COSMETOLOGY	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 10-)

PROPOSED ORDER

An order of the Barbering and Cosmetology Examining Board to amend BC 9.02; and to repeal and create ch. BC 11, relating to late renewal and continuing education.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 454.12, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 454.12, Stats.

Explanation of agency authority:

The Barbering and Cosmetology Examining Board is granted the authority under s. 454.12, Stats., to promulgate rules that establish continuing education requirements for licensure.

Plain language analysis:

This proposed rule-making modifies continuing education requirements for licensure. It also modifies the criteria for the approval of continuing education programs and the types of programs required to be taken for license renewal.

SECTION 1 sets out the maximum number of credits that must be completed for late renewal applicants whose license has not been expired greater than 5 years. The requirements for late renewal is clarified to reflect that if the total number of delinquent continuing education credits exceed 30, then 30 shall be the maximum required for late renewal.

SECTION 2 repeals and recreates ch. BC 11. Section BC 11.01 identifies the authority and purpose for ch. BC 11, Continuing Education. Section BC 11.02 provides definitions for

“biennium,” “continuing education,” “continuing education credit” or “CEU,” “course” or “program,” and “safety, sanitation and infection control.”

Section BC 11.03 provides the continuing education requirements for license renewal. This section clarifies the requirement that applicants for renewal licenses must have obtained a minimum of 12 credits of continuing education during the 2-year period immediately preceding the license renewal date. A licensee must continue to obtain the following types and number of credit hours: 2 credit hours reviewing the laws governing their profession; 4 credit hours in safety, sanitation and infection control, and 6 elective credit hours. However, in addition to credits directly related to the provision of services allowed under the applicant’s license, credit may also be had for courses related to identifying and reporting domestic abuse. It also clarifies that applicable licensees must complete 6 elective credits for each license held. A Note is added to explain that courses may count under more than one license, and that licensees may be granted credit for business management class.

Section BC 11.04 creates standards for approval of programs and courses. The rule specifies the criteria necessary for a course to meet requirements for approval which include: programs organized and structured to contribute to licensee’s professional competency; a program conducted by individuals or entities that have specialized education, training or experience and are considered qualified concerning the subject matter of the program; a program that fulfills pre-established goals and objectives and provides attendance or completion verification records.

Additional provisions designate universities, technical colleges, state licensed schools, the Wisconsin Barbering and Cosmetology Examining Board, the Department of Regulation and Licensing, and state or national professional organizations recognized by the board as approved providers who will not need prior approval of its programs. Other entities may become approved providers upon application on prescribed department forms and approval. All providers will have to have their law course approved by the department, and may have their approvals revoked at the discretion of the board.

Section BC 11.05 requires certificates of completion or proof of attendance that must be retained and submitted to the department upon request for audit purposes.

Section BC 11.06 outlines the requirement that completion certificates be retained for a minimum of five years.

Section BC 11.07 specifies the waiver provisions. It limits waivers to licensees who are actively practicing in the profession and are temporarily unable to comply with the continuing education requirements. The board will have the discretion of granting a full or partial waiver, or granting an extension of time to the applicant. It spells out that applicants must make a written request for waiver and pay the renewal fee prior to the expiration of their license. It further provides that a licensee may not receive a waiver, partial waiver or extension for two consecutive biennium. Lastly, the provision outlines that if a waiver is denied, the licensee may not practice, or must cease practicing, until he or she comes into compliance.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Continuing education requirements are as follows: Ten hours are required for estheticians, 14 hours for cosmetologists, and 10 hours for nail technicians for each biennial renewal. There are no requirements for barbers.

Iowa:

Continuing education requirements are 8 hours each for barbers, cosmetologists, nail technicians, and estheticians. www.idph.state.ia.us

Michigan:

There are no continuing education requirements for barbering or cosmetology. www.michigan.gov/dleg

Minnesota:

Cosmetologists, manicurists, and estheticians must provide documentation that they have practiced for a certain amount of hours in the previous 3 year period or have taken an approved 40 hour refresher course. This requirement does not exist for barbers. These professions do not have continuing education requirements. www.bceboard.state.mn.us

Summary of factual data and analytical methodologies:

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states. In addition, the Barbering and Cosmetology Examining Board examined models of continuing education from national organizations related to their profession, as well as from other Wisconsin regulatory boards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Internet research, as well as telephone surveys were conducted regarding the availability and costs related to continuing education in the cosmetology profession. Continuing education credits are available at an average cost range of \$10-\$25 per credit hour, and are available in a wide array of modes (online, video correspondence, workshops, etc.). That data was compared with the requirements outlined in the proposed rules and based thereon, appears that while individual licensees will see a slight increase in the cost associated with doing business as a

result of these rules, the rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Division of Enforcement, Division of Management Services, and the Office of Exams. The total one-time salary and fringe costs are estimated at \$26,172. The total on-going salary and fringe costs are estimated at \$40,228.

Effect on small business:

These proposed rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at kristine.anderson@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 E. Washington Ave., Room 152, P.O. Box 8935, Madison, WI 53708-8935, or by email to kristine.anderson@wisconsin.gov. Comments must be received on or before April 4, 2011 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. BC 9.02 is amended to read:

BC 9.02 Late renewal. If the application for renewal is filed less than 5 years after the expiration of the applicant’s last license, the applicant shall comply with the continuing

education requirements in s. BC ~~44.04~~ 11.03, and pay the late renewal fee in s. 440.08 (3) (a), Stats.

SECTION 2. Ch. BC 11 is repealed and recreated to read:

Chapter BC 11

CONTINUING EDUCATION

BC 11.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 454.12, Stats., and govern biennial continuing education for aesthetics, barbering and cosmetology practitioner and manager, electrology and manicuring licenses.

BC 11.02 Definitions. As used in this chapter:

(1) "Biennium" means a 2-year period beginning April 1 of each odd-numbered year.

(2) "Continuing education" means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills or knowledge of the licensees in the practice of barbering and cosmetology, manicuring, aesthetics and electrology.

(3) "Continuing education credit" or "CEC" means a unit of credit for continuing education courses. Fifty minutes of actual instruction equals one continuing education credit hour.

(4) "Course" or "program" means any qualifying course, program or activity with a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.

(5) "Safety, sanitation and infection control" means any topics or subjects which pertain to all of the barbering and cosmetology professions and which are designed to safeguard the public health, safety and welfare by providing instruction on and increasing knowledge and awareness of the identification, assessment, management, control and prevention of factors that may adversely affect the health, comfort, safety or well-being of individuals. This could include courses dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, proper techniques for cleaning, disinfection and sterilization of equipment in accordance with acceptable state and federal standards.

BC 11.03 Continuing education requirements for license renewal. (1) Except as provided in sub. (3), every licensee shall complete a minimum of 12 continuing education credit hours during the 2-year period immediately preceding the license renewal date of March 31 of every odd-numbered year.

(2) The required credit hours of continuing education shall consist of all of the following:

(a) Two credit hours reviewing the laws governing licensees and establishments.

(b) Four credit hours in safety, sanitation and infection control.

(c) Six elective credit hours directly related to the provision of services that are permitted under the license held by the licensee, except up to 2 elective credits may be counted for courses designed to aid licensees in the recognition of domestic abuse or violence and referrals of victims to the appropriate agencies for assistance. Licensees holding more than one license shall complete a minimum of 6 credits in each area of practice in which they are licensed to meet the requirements under this subsection. These credits are in addition to any other continuing education credits required under this chapter.

Note: Credit may be counted for courses related to business management concepts relating specifically to delivery of services to a consumer. A course on a particular topic may count toward the elective credits for more than one license where appropriate and applicable.

(3) (a) A licensee is not required to complete continuing education credit hours between initial licensure and the first renewal period.

(b) A licensee who has held an active Wisconsin license for 30 or more years shall complete only 6 credit hours of continuing education during the 2-year period immediately preceding the license renewal date of March 31 of every odd-numbered year. The licensee shall complete the credit hours listed in sub. (2) (a) and (b).

(c) Except as provided in par. (a), a licensee shall complete 6 credit hours of continuing education to qualify for license renewal on March 31, 2011. The licensee shall complete the credit hours listed in sub. (2) (a) and (b).

(4) If a licensee fails to complete the continuing education requirement within a 2-year licensing period, continuing education credit hours acquired on or after April 1 of any odd-numbered year will be first applied to the preceding 2-year period until the requirement is fulfilled. Those credit hours will not apply to any other period.

(5) Continuing education may be obtained through any one of the following means:

(a) Attending qualifying seminars, corporate in-house courses, workshops, professional or technical presentations made at meetings, conventions, or conferences. Attendance can be in person or via remote classroom where a qualified provider is available to the participant to comment and answer questions.

(b) Teaching a continuing education program. A person who teaches may only receive credit for the initial offering or presentation of a course or program. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. A maximum of 6 credit hours may be obtained by teaching in any biennial registration period. Full-time faculty may not claim continuing education credits for teaching done as part of their regular duties.

(c) Distance education, including completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM, internet or correspondence courses that meet the following criteria:

1. Is offered by a provider approved under s. BC 11.04 and the program meets all continuing education requirements.
2. Requires assignments that are completed or prepared by the licensee and submitted to the provider for correction, grading, or both.
3. The course or program includes a written examination designed to ensure that the licensee actively participated in the presentation of material and derived a measurable benefit from participation. A score of 75% or higher shall be considered a passing examination score.
4. The program or course shall contain a reasonable security procedure to assure that the licensee enrolled is the actual participant.
5. The course or program contains a minimum of 50 minutes of actual instruction for each credit hour offered. For purposes of calculating actual instruction time, the time spent for testing and assessment purposes shall not be included.
6. All corrected or graded lessons and examinations are to be maintained by the provider for no less than 5 years and submitted to the board or its designee upon request for auditing purposes.

BC 11.04 Standards for approval. (1) To be approved for CECs, a continuing education program or course shall meet all of the following criteria:

- (a) The program includes instruction in an organized method of learning contributing directly to the professional competency of the licensee and pertaining to subject matters which integrally relate to the practice of the profession.
- (b) The program is conducted by individuals or entities that have specialized education, training or experience and are considered qualified concerning the subject matter of the program as determined by the board.
- (c) The program fulfills pre-established goals and objectives as determined by the board.

(d) The program provides attendance or completion verification records in the form of completion certificates or other documents supporting evidence of attendance at, or completion of, the program or course.

(2) Except as provided in sub. (4), the following providers are approved by the board for purposes of offering programs for continuing education credit hours:

(a) Universities, technical colleges and schools licensed by the appropriate authority for the state in which the program is offered.

(b) The Wisconsin barbering and cosmetology examining board and the Wisconsin department of regulation and licensing.

(c) State or national professional organizations recognized by the board.

(d) For the providers approved under sub. (2) (a) to (c), no prior approval of programs is necessary.

(3) The board may approve programs by the following providers:

(a) State licensed or certified instructors who have not had any disciplinary actions taken against them in the 3 year period preceding their planned instruction.

(b) Product distribution companies, national salon chains or other providers that offer programs with significant professional educational benefits for licensees as determined by the board.

(4) The board shall approve a curriculum for the law program every biennium. All providers except those approved under s. BC 11.04 (2) (a) and (b), shall submit law courses for review and approval by the board or its designee.

(5) An application for approval of a continuing education program shall:

(a) Be on a form approved by the board or its designee.

(b) Be completed as prescribed by the board or its designee and filed with the board no later than 45 working days prior to the program or course date.

(6) Provider and program approval may be withdrawn in the sole discretion of the board or its designee if it finds the course, as implemented, fails to comply with the requirements of this chapter.

BC 11.05 Certificate of completion, proof of attendance. (1) Each licensee shall certify on the renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The board may conduct a random audit of its licensees on a biennial basis for compliance with these requirements. It is the responsibility of each licensee to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is requested by the board or its designee, the licensee shall submit the requested information or documentation within 30 days of receiving the written notice. Failure to do so may result in disciplinary action.

BC 11.06 Recordkeeping. Licensees shall obtain a certificate of completion from the program provider for each continuing education course completed. It shall be the responsibility of the licensee to retain the certificates and any other required documentation for a minimum of 5 years.

BC 11.07 Waiver of continuing education. (1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary and extreme hardship, as determined by the board, may submit a written request for a waiver. The board or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a written statement setting forth the basis of the request, shall be deemed to be licensed and in good standing until the final decision on the application is issued by the board or its designee. If a finding of extreme hardship is not made, the applicant shall immediately discontinue engaging in the practice of barbering and cosmetology until the applicant meets the requirements of s. BC 11.03 and submits evidence of compliance to the board or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennium.

(4) Except as provided in sub. (2), a licensee who fails to meet the continuing education requirements by the renewal date, as specified in s. 440.08 (2) (a), Stats., may not engage in the practice of a barbering and cosmetology profession until the license is renewed.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____
Chairperson
Barbering and Cosmetology

Examining Board

BC 9, 11 CR10- (Renewal, continuing education) Draft to CH 2-25-11

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : NOTICE OF PUBLIC HEARING
BARBERING AND COSMETOLOGY :
EXAMINING BOARD :

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 15.08 (5) (b), 51.30, 146.82, 227.11 (2) and 440.04, Stats., and interpreting s. 440.03, Stats., the Barbering and Cosmetology Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend BC 9.02; and to repeal and create ch. BC 11, relating to late renewal and continuing education.

Hearing Date, Time and Location

Date: April 4, 2011
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 121AB
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by March 31, 2011, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 454.12, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 454.12, Stats.

Explanation of agency authority:

The Barbering and Cosmetology Examining Board is granted the authority under s. 454.12, Stats., to promulgate rules that establish continuing education requirements for licensure. Prior

to promulgation of this emergency rule, the board made the determination that this rule-making was necessary to preserve the public health, safety or welfare.

Plain language analysis:

This proposed rule-making modifies continuing education requirements for licensure. It also modifies the criteria for the approval of continuing education programs and the types of programs required to be taken for license renewal.

SECTION 1 sets out the maximum number of credits that must be completed for late renewal applicants whose license has not been expired greater than 5 years. The requirements for late renewal is clarified to reflect that if the total number of delinquent continuing education credits exceed 30, then 30 shall be the maximum required for late renewal.

SECTION 2 repeals and recreates ch. BC 11. Section BC 11.01 identifies the authority and purpose for ch. BC 11, Continuing Education. Section BC 11.02 provides definitions for "biennium," "continuing education," "continuing education credit" or "CEU," "course" or "program," and "safety, sanitation and infection control."

Section BC 11.03 provides the continuing education requirements for license renewal. This section clarifies the requirement that applicants for renewal licenses must have obtained a minimum of 12 credits of continuing education during the 2-year period immediately preceding the license renewal date. A licensee must continue to obtain the following types and number of credit hours: 2 credit hours reviewing the laws governing their profession; 4 credit hours in safety, sanitation and infection control, and 6 elective credit hours. However, in addition to credits directly related to the provision of services allowed under the applicant's license, credit may also be had for courses related to identifying and reporting domestic abuse. It also clarifies that applicable licensees must complete 6 elective credits for each license held. A Note is added to explain that courses may count under more than one license, and that licensees may be granted credit for business management class.

Section BC 11.04 creates standards for approval of programs and courses. The rule specifies the criteria necessary for a course to meet requirements for approval which include: programs organized and structured to contribute to licensee's professional competency; a program conducted by individuals or entities that have specialized education, training or experience and are considered qualified concerning the subject matter of the program; a program that fulfills pre-established goals and objectives and provides attendance or completion verification records.

Additional provisions designate universities, technical colleges, state licensed schools, the Wisconsin Barbering and Cosmetology Examining Board, the Department of Regulation and Licensing, and state or national professional organizations recognized by the board as approved providers who will not need prior approval of its programs. Other entities may become approved providers upon application on prescribed department forms and approval. All providers will have to have their law course approved by the department, and may have their approvals revoked at the discretion of the board.

Section BC 11.05 requires certificates of completion or proof of attendance that must be retained and submitted to the department upon request for audit purposes. Section BC 11.06 outlines the requirement that completion certificates be retained for a minimum of five years.

Section BC 11.07 specifies the waiver provisions. It limits waivers to licensees who are actively practicing in the profession and are temporarily unable to comply with the continuing education requirements. The board will have the discretion of granting a full or partial waiver, or granting an extension of time to the applicant. It spells out that applicants must make a written request for waiver and pay the renewal fee prior to the expiration of their license. It further provides that a licensee may not receive a waiver, partial waiver or extension for two consecutive biennium. Lastly, the provision outlines that if a waiver is denied, the licensee may not practice, or must cease practicing, until he or she comes into compliance.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states:

Illinois:

Continuing education requirements are as follows: Ten hours are required for estheticians, 14 hours for cosmetologists, and 10 hours for nail technicians for each biennial renewal. There are no requirements for barbers.

Iowa:

Continuing education requirements are 8 hours each for barbers, cosmetologists, nail technicians, and estheticians. www.idph.state.ia.us

Michigan:

There are no continuing education requirements for barbering or cosmetology. www.michigan.gov/dleg

Minnesota:

Cosmetologists, manicurists, and estheticians must provide documentation that they have practiced for a certain amount of hours in the previous 3 year period or have taken an approved 40 hour refresher course. This requirement does not exist for barbers. These professions do not have continuing education requirements. www.bceboard.state.mn.us

Summary of factual data and analytical methodologies:

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates

that the proposed rules are substantially consistent with the rules in those states. In addition, the Barbering and Cosmetology Examining Board examined models of continuing education from national organizations related to their profession, as well as from other Wisconsin regulatory boards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Internet research, as well as telephone surveys were conducted regarding the availability and costs related to continuing education in the cosmetology profession. Continuing education credits are available at an average cost range of \$10-\$25 per credit hour, and are available in a wide array of modes (online, video correspondence, workshops, etc.). That data was compared with the requirements outlined in the proposed rules and based thereon, appears that while individual licensees will see a slight increase in the cost associated with doing business as a result of these rules, the rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Division of Enforcement, Division of Management Services, and the Office of Exams. The total one-time salary and fringe costs are estimated at \$26,172. The total on-going salary and fringe costs are estimated at \$40,228.

Effect on small business:

These proposed rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 E. Washington Ave., Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at kristine.anderson@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kristine Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 E. Washington Ave., Room 152, P.O. Box 8935, Madison, WI 53708-8935, or by email to kristine.anderson@wisconsin.gov. Comments must be received on or before _____ to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. BC 9.02 is amended to read:

BC 9.02 Late renewal. If the application for renewal is filed less than 5 years after the expiration of the applicant's last license, the applicant shall comply with the continuing education requirements in s. BC ~~11.01~~ 11.03, and pay the late renewal fee in s. 440.08 (3) (a), Stats.

SECTION 2. Ch. BC 11 is repealed and recreated to read:

Chapter BC 11

CONTINUING EDUCATION

BC 11.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 454.12, Stats., and govern biennial continuing education for aesthetics, barbering and cosmetology practitioner and manager, electrology and manicuring licenses.

BC 11.02 Definitions. As used in this chapter:

(1) "Biennium" means a 2-year period beginning April 1 of each odd-numbered year.

(2) "Continuing education" means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills or knowledge of the licensees in the practice of barbering and cosmetology, manicuring, aesthetics and electrology.

(3) "Continuing education credit" or "CEC" means a unit of credit for continuing education courses. Fifty minutes of actual instruction equals one continuing education credit hour.

(4) "Course" or "program" means any qualifying course, program or activity with a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.

(5) "Safety, sanitation and infection control" means topics or subjects which pertain to all of the barbering and cosmetology professions and which are designed to safeguard the public health, safety and welfare by providing instruction on and increasing knowledge and awareness of the identification, assessment, management, control and prevention of factors that may adversely affect the health, comfort, safety or well-being of individuals. This could include courses dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, proper techniques for cleaning, disinfection and sterilization of equipment in accordance with acceptable state and federal standards.

BC 11.03 Continuing education requirements for license renewal. (1) Except as provided in sub. (3), every licensee shall complete a minimum of 12 continuing education credit hours during the 2-year period immediately preceding the license renewal date of March 31 of every odd-numbered year.

(2) The required credit hours of continuing education shall consist of all of the following:

(a) Two credit hours reviewing the laws governing licensees and establishments.

(b) Four credit hours in safety, sanitation and infection control.

(c) Six elective credit hours directly related to the provision of services that are permitted under the license held by the licensee, except up to 2 elective credits may be counted for courses designed to aid licensees in the recognition of domestic abuse or violence and referrals of victims to the appropriate agencies for assistance. Licensees holding more than one license shall complete a minimum of 6 credits in each area of practice in which they are licensed to meet the requirements under this subsection. These credits are in addition to any other continuing education credits required under this chapter.

Note: Credit may be counted for courses related to business management concepts relating specifically to delivery of services to a consumer. A course on a particular topic may count toward the elective credits for more than one license where appropriate and applicable.

(3) (a) A licensee is not required to complete continuing education credit hours between initial licensure and the first renewal period.

(b) A licensee who has held an active Wisconsin license for 30 or more years shall complete only 6 credit hours of continuing education during the 2-year period immediately preceding the license renewal date of March 31 of every odd-numbered year. The licensee shall complete the credit hours listed in sub. (2) (a) and (b).

(c) Except as provided in par. (a), a licensee shall complete 6 credit hours of continuing education to qualify for license renewal on March 31, 2011. The licensee shall complete the credit hours listed in sub. (2) (a) and (b).

(4) If a licensee fails to complete the continuing education requirement within a 2-year licensing period, continuing education credit hours acquired on or after April 1 of any odd-numbered year will be first applied to the preceding 2-year period until the requirement is fulfilled. Those credit hours will not apply to any other period.

(5) Continuing education may be obtained through any one of the following means:

(a) Attending qualifying seminars, corporate in-house courses, workshops, professional or technical presentations made at meetings, conventions, or conferences. Attendance can be in person or via remote classroom where a qualified provider is available to the participant to comment and answer questions.

(b) Teaching a continuing education program. A person who teaches may only receive credit for the initial offering or presentation of a course or program. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. A maximum of 6 credit hours may be obtained by teaching in any biennial registration period. Full-time faculty may not claim continuing education credits for teaching done as part of their regular duties.

(c) Distance education, including completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM, internet or correspondence courses that meet the following criteria:

1. Is offered by a provider approved under s. BC 11.04 and the program meets all continuing education requirements.
2. Requires assignments that are completed or prepared by the licensee and submitted to the provider for correction, grading, or both.
3. The course or program includes a written examination designed to ensure that the licensee actively participated in the presentation of material and derived a measurable benefit from participation. A score of 75% or higher shall be considered a passing examination score.
4. The program or course shall contain a reasonable security procedure to assure that the licensee enrolled is the actual participant.
5. The course or program contains a minimum of 50 minutes of actual instruction for each credit hour offered. For purposes of calculating actual instruction time, the time spent for testing and assessment purposes shall not be included.
6. All corrected or graded lessons and examinations are to be maintained by the provider for no less than 5 years and submitted to the board or its designee upon request for auditing purposes.

BC 11.04 Standards for approval. (1) To be approved for CECs, a continuing education program or course shall meet all of the following criteria:

(a) The program includes instruction in an organized method of learning contributing directly to the professional competency of the licensee and pertaining to subject matters which integrally relate to the practice of the profession.

(b) The program is conducted by individuals or entities that have specialized education, training or experience and are considered qualified concerning the subject matter of the program as determined by the board.

(c) The program fulfills pre-established goals and objectives as determined by the board.

(d) The program provides attendance or completion verification records in the form of completion certificates or other documents supporting evidence of attendance at, or completion of, the program or course.

(2) Except as provided in sub. (4), the following providers are approved by the board for purposes of offering programs for continuing education credit hours:

(a) Universities, technical colleges and schools licensed by the appropriate authority for the state in which the program is offered.

(b) The Wisconsin barbering and cosmetology examining board and the Wisconsin department of regulation and licensing.

(c) State or national professional organizations recognized by the board.

(d) For the providers approved under sub. (2) (a) to (c), no prior approval of programs is necessary.

(3) The board may approve programs by the following providers:

(a) State licensed or certified instructors who have not had any disciplinary actions taken against them in the 3 year period preceding their planned instruction.

(b) Product distribution companies, national salon chains or other providers that offer programs with significant professional educational benefits for licensees as determined by the board.

(4) The board shall approve a curriculum for the law program every biennium. All providers except those approved under s. BC 11.04 (2) (a) and (b), shall submit law courses for review and approval by the board or its designee.

(5) An application for approval of a continuing education program shall:

(a) Be on a form approved by the board or its designee.

(b) Be completed as prescribed by the board or its designee and filed with the board no later than 45 working days prior to the program or course date.

(6) Provider and program approval may be withdrawn in the sole discretion of the board or its designee if it finds the course, as implemented, fails to comply with the requirements of this chapter.

BC 11.05 Certificate of completion, proof of attendance. (1) Each licensee shall certify on the renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The board may conduct a random audit of its licensees on a biennial basis for compliance with these requirements. It is the responsibility of each licensee to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is requested by the board or its designee, the licensee shall submit the requested information or documentation within 30 days of receiving the written notice. Failure to do so may result in disciplinary action.

BC 11.06 Recordkeeping. Licensees shall obtain a certificate of completion from the program provider for each continuing education course completed. It shall be the responsibility of the licensee to retain the certificates and any other required documentation for a minimum of 5 years.

BC 11.07 Waiver of continuing education. (1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary and extreme hardship, as determined by the board, may submit a written request for a waiver. The board or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the license submits a request for a waiver, pays the renewal fee and provides a written statement setting forth the basis of the request, shall be deemed to be licensed and in good standing until the final decision on the application is issued by the board or its designee. If a finding of extreme hardship is not made, the applicant shall immediately discontinue engaging in the practice of barbering and cosmetology until the applicant meets the requirements of s. BC 11.03 and submits evidence of compliance to the board or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennium.

(4) Except as provided in sub. (2), a licensee who fails to meet the continuing education requirements by the renewal date, as specified in s. 440.08 (2) (a), Stats., may not engage in the practice of a barbering and cosmetology profession until the license is renewed.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect upon publication in the Wisconsin State Journal, pursuant to s. 227.24, Stats.

Dated _____

Agency _____

Chairperson
Barbering and Cosmetology
Examining Board

BC 9, 11 CR10- (Renewal, continuing education) Notice of Public Hearing 2-25-11