

Report From Agency

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 ~~40~~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 ~~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 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