



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **15-020**

AN ORDER to amend Cos 5.01; and to repeal and recreate Cos 5.02, relating to course of instruction.

Submitted by **COSMETOLOGY EXAMINING BOARD**

03-04-2015 RECEIVED BY LEGISLATIVE COUNCIL.

04-01-2015 REPORT SENT TO AGENCY.

MSK:DM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

- a. The rule summary’s listing of statutes interpreted should include s. 454.075, Stats.
- b. The rule summary’s listing of statutory authority should identify the specific statutes that authorize promulgation, rather than citing generally to 2013 Wisconsin Act 356. In this case, the specific citation is s. 454.075, Stats. [s. 1.02 (2m) (a), Manual.]
- c. In the plain language analysis portion of the rule summary, the board explains that 2013 Wisconsin Act 356 “add[ed] the requirement that a school of cosmetology be accredited by an accrediting agency approved by the board”. SECTION 1 of the proposed rule then implements that stated requirement, by listing accrediting agencies that are approved by the board to provide accreditation to cosmetology schools that operate in Wisconsin.

However, 2013 Wisconsin Act 356 did not create an “additional” requirement for schools operated in the state under s. 440.62 (1) (a), Stats., to be accredited. Instead, under the structure of s. 454.06 (2) (b) and (3) (b), Stats., the clause recognizing accredited schools allows someone who has been educated at an out-of-state cosmetology school to have that education recognized for Wisconsin licensure, provided that the school was accredited by an agency approved by the board. Accordingly, the statutory language allows three types of schools to be recognized from which an applicant may receive instruction: (1) a school of cosmetology that is licensed to operate in Wisconsin; (2) a school that is exempt from needing licensure because it is regulated or approved by the technical college system board or is operated by the Department of Health Services or the

Department of Corrections; **or** (3) a school that is not operating in Wisconsin but has been accredited by an accrediting agency that has been approved by the board, by rule.

The proposed rule should be revised to reflect this distinction.

2. Form, Style and Placement in Administrative Code

a. In the introductory clause that enumerates the rule provisions treated by the proposed rule, the designation “Cos” should be inserted before the reference to “5.02”. [s. 1.02 (1) (Ex.), Manual.]

b. In the rule summary’s listing of related statutes or rules, the board could consider listing the other statutes affected by 2013 Wisconsin Act 356, for which an applicant could receive education from an out-of-state specialty school that is accredited by an agency that has been approved by the board or the department, by rule.

c. In s. Cos 5.01, consider revising the list of approved accrediting agencies to be in the format of a series of subunits after an introductory phrase that applies to “any of the following”. Such a revision would make the list more readable, and would avoid the redundancy of the phrases “any of the following” and “including”. [s. 1.03 (3), Manual.]

d. In the current rule for s. Cos 5.02, the syllabus requirements for a cosmetology license are shown in “Figure” 5.02. Current rule ss. Cos 5.03 through 5.06 also show syllabus requirements in “figures”. The proposed rule changes the reference from “figure” in s. Cos 5.02 to “table”. The board should refer consistently to these illustrations using the same term throughout the chapter. If the board maintains the reference to this illustration as a “figure”, as under the current rule, it is unnecessary to repeal and recreate s. Cos 5.02 (intro.). If the board repeals and recreates only s. Cos 5.02 (figure), the introductory clause for the proposed rule and the treatment clause for the affected SECTION should be modified accordingly.

e. The SECTION for the effective date provision should be revised as follows:

- (1) The language should be revised to apply to a proposed rule, rather than an emergency rule, with the appropriate date and publication source. [s. 1.02 (4) (a), Manual.]
- (2) The SECTION should be renumbered to follow sequentially from the preceding SECTION.

5. Clarity, Grammar, Punctuation and Use of Plain Language

In the rule summary’s comparison with rules in adjacent states, there appears to be a typographical error in the explanation of Iowa law. It seems that an extra zero may have been added to the listed number of required hours.