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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 715
HIGHER EDUCATION COORDINATING COMMISSION

FILED
08/27/2018 12:19 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Cosmetology curriculum updates to include proficiency based school standards.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/01/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97310

Filed By:
Karen Howard
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/21/2018

TIME: 1:30 PM - 2:30 PM

OFFICER: Karen Lynne Howard

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NEED FOR THE RULE(S):

Effective July 1, 2018, minimum cosmetology hours were removed from statute by HB 2314 from the 2017 Legislative Session. The legislation directed minimum cosmetology requirements be taken out of statute and set in rule only. Although current minimums set in statute are already in rule, removing the specific minimums from statute gave the opportunity for a review of those minimums and it was determined that changes needed to be made. Setting minimum requirements in rule only, also allows for an easier process for future changes, should the industry needs or licensing requirements change. It is important to note that the HECC has responsibility for setting cosmetology curriculum content and program standards, while Oregon Health Licensing (OHL) is responsible for the licensing exam and approving text books. This requires a coordination between the two agencies.

Cosmetology minimum standards (set by the HECC) have not been reviewed or updated since 2007. However, in 2014, OHL commissioned a gap analysis survey to look at what skills and knowledge those working in cosmetology fields actually needed. Salon owners and employers of cosmetology school graduates were surveyed to determine whether licensees had the necessary skills to be successful in cosmetology. The survey identified several areas where there were gaps between the OHL licensing exam and the skills licensed cosmetology professionals need in their jobs. OHL has already updated the licensing exams based on this survey. With this rule change, the HECC is bringing the minimum hours and standards in line with the licensing exam and industry standards and expectations.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Current Model Curriculum – maintained by the Office of Private Postsecondary Education, HECC
Draft Recommendations – maintained by the Office of Private Postsecondary Education, HECC
Requirements of other states – found on the internet
Skills Gap Analysis Survey – Health Licensing
Competency Pass Rates and Training Hours – Health Licensing

FISCAL AND ECONOMIC IMPACT:

COSMETOLOGY SCHOOLS: Schools may need to make program changes to comply with new curricula and hour requirements. This will require staff time to revise curriculum and program schedules/costs. Schools will need to submit revised curriculum to the HECC for approval. In cases where schools are accredited and / or approved for federal financial aid, staff will need to also submit program changes for approval by accreditors and US Department of Education. Student federal financial aid may need to be recalculated and possible return of funds may be necessary.

HECC: Staff will need to rewrite and revise some elements of the cosmetology curriculum, revise the practical exams conducted on behalf of the HECC at the school and revise cosmetology transcripts. Staff will also review the revised curricula submitted by 36 cosmetology schools, with 1 – 4 programs per school submitted.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) HECC will use existing staff to review and approve program changes. This should be completed as part of regular private career school staff duties.

(2)

(a.) Approximately 36 private cosmetology schools (7 of which are approved to offer competency-based programs) will need to revise and update their curriculum.

(b.) Schools may see increased staff costs to bring programs into compliance, initially, but once completed there should be no added economic costs. Recordkeeping and reporting will remain essentially the same; in some instances school will need to document number of practical operations in addition to hours (which are reported already).

Administratively, schools may need to obtain approval of changes from an accrediting body or US Department of Education (if approved for Title IV), as they would any change requiring approval.

(c.) The HECC cannot determine what the actual cost, in terms of dollars, will be for private cosmetology schools to implement these changes. However, any costs should be one-time initial costs incurred to bring programs into compliance with the new minimum standards. Once the program changes have been approved and once schools make adjustments, (if needed) to programs for current students, additional financial impact should be minimized. Also, the costs to implement will vary from school to school depending on how the school makes the changes and how many programs the school offers.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Working with HLO, a methodology was developed for evaluating the educational programs and a starting point for change was developed based on the current curriculum requirements. Private cosmetology career schools were notified and invited to participate in a series of workgroups to review and develop the new minimum requirements. All cosmetology schools were notified and encouraged to participate in this work. Drafts were released to all cosmetology

schools prior to each meeting, a pre-meeting phone conference was offered for those with questions or who could not attend the meetings. Workgroups meetings were held over the period of seven months. The requirements for each field of practice were reviewed, item by item, and the requirements determined. Workgroup participants determined what skills were needed in each field of practice, what practical operations students needed to demonstrate, how many times did students need to demonstrate a skill to obtain proficiency and how long each practical operation should take a student. That, in turn, informed what the minimum hours for each program should be and the minimum number of practical operations.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

715-045-0200, 715-045-0220

AMEND: 715-045-0200

RULE SUMMARY: Minimum hours and standards for cosmetology programs were established in ORS 345.400 (3) and were repealed in rule. However, 2017 legislation removed specific program minimum standards from statute as of July 1, 2018 and directed that minimum cosmetology hours and proficiency-based standards be established in rule. Additionally, the legislation directed the HECC to set, by rule, minimum hourly standards for competency-based cosmetology schools.

The proposed changes to OAR 715-045-0200 and 0220 update the minimum standards for hourly programs and establishes a minimum number of practical operations for both hourly and competency-based cosmetology programs.

CHANGES TO RULE:

715-045-0200

Barbering, Hair Design, Esthetics, and Nail Technology ¶

~~In addition to OAR 581-045-0001 through 581-045-0190, schools of (1) For purposes of this rule, a practical operation' is the demonstration and application of a relevant skill or group of skills necessary for work in barbering, hair design, esthetics, and/or nail technology shall comply with this rule and 581-045-0210.¶~~

~~(1) Minimum hourly training requirements. For the purposes of this rule, the model curriculum' is a curriculum established and maintained by the Higher Education Coordinating Commission which details mandatory curricular requirements, including, but not limited to practical operations requirements, safety and sanitation requirements, and career development requirements established in this rule. The model curriculum is available for review by all schools. No earlier than April 1, 2019 and no later than July 1, 2019, continuing to be in effect thereafter, schools must offer programs that meet the following minimum training requirements, in accordance with the model curriculum:¶~~

~~(a) For hair design, 1,45110 hours; and 455 practical operations.¶~~

~~(b) For barbering, 1,100746 hours; and 465 practical operations.¶~~

~~(c) For esthetics, 250444 hours; and 220 practical operations.¶~~

~~(d) For nail technology, 350241 hours; and¶~~

~~(e) In addition to the 70 practical operations.¶~~

~~(e) Safety and sanitation shall be incorporated in each practical experience for the fields of practice identified in subsections (1) (a) through (d), in accordance with the model curriculum.¶~~

~~(f) Schools, at their discretion, may add additional hours to any programs listed above, students are. There is no minimum or maximum number of hours that a school may add to the hours required in subsections (1) (a) through~~

~~(d). If hours are added to the minimum required, to successfully complete the following requirements hose become~~

part of the schools completion requirements. ¶

(2) In addition to the program requirements listed in subsection (1), students must successfully complete 20 hours of career development, in accordance with the model curriculum. A student who attempts multiple programs shall only be required to complete the career development component once. ¶

(A) Safety and sanitation, 150 hours; and 3) A student enrolled in a program at the time subsection (1) of this rule takes effect shall be allowed to complete the program in which they are enrolled under the terms for their original enrollment agreement, unless a rider to the enrollment agreement, signed by both the student and an authorized representative of the school, is executed, specifying that the student agrees to complete such program under different requirements. Before a rider to the enrollment agreement is executed, the school shall: ¶

(Ba) Career development, 100 hours. Review student's current program requirements in comparison to the revised program requirements. ¶

(b) Provide the student information in writing about which set of program requirements may be most beneficial to student, in terms of length of time to complete, cost, and use of federal financial aid. ¶

(c) Provide student with a program that gives credit for applicable hours already earned and practical operations completed and outlines a revised course of study that meets the minimum requirements. ¶

(d) Determine if cost differences, if any, between the student's current program and the revised program result in an overpayment on behalf of the student, and issue any necessary refund to the student, except as provided by federal law or other controlling statute or regulation. ¶

(24) Individual progress records must be regularly maintained for the purpose of monitoring each student's progress through the instructional program and verifying actual hours of instruction in each certifiable classification. Once a student completes the minimum hourly training requirements specified in subsection (1) of this section and the school's own program completion requirements, the school shall administer a Department Commission-approved written and practical exam prior to the student taking the State Board exam for licensure. The time required to take the practical exam shall be included as part of the contracted program hours included in the tuition cost. ¶

(35) The Commission, shall develop the model curriculum with the assistance of a curriculum committee, will develop minimum including minimum curriculum content standards for each certificated program or any combination of programs. ¶

(46) No student shall perform any task in a clinic lab without first having achieved verifiable minimum competence. The following hours are recommended as a guideline for classroom and laboratory instruction that students should experience prior to any assignment in the clinic lab: ¶

(a) Hair design, 160 hours; ¶

(b) Esthetics, 40 hours; ¶

(c) Nail technology, 40 hours; and ¶

(d) Barbering, 100 hours. ¶

(5, as determined and documented by the school. ¶

(7) The instructional program shall determine the type of assignments students will receive in the clinic lab. Clinic lab assignments should, as nearly as possible, reflect the emphasis of the student's current and cumulative theory and laboratory experiences. Schools shall establish a minimum and maximum number of clinic activities for each type of task required in the clinic lab. These minimums and maximums should show a comparable distribution of activities reflective of industry practice. Only when students have completed the minimum in all areas can they be assigned to clinic activities in excess of the maximums. ¶

(68) With the exception of a eCommission-approved cosmetology teacher training program, a school shall not conduct both fixed-hour and student competency-based training programs in the same school facility concurrently unless the school is in transition from one training program to another. The Commission may set a time limit in which the transition must be completed. ¶

(79) No school shall enroll a student wishing to transfer hours from a school of barbering, hair design, esthetics, and nail technology in Oregon or out-of-state without first receiving an official transcript properly signed or sealed directly from the previous schools. A school may admit a student on a temporary basis without receiving an

official transcript. In no event should a student be considered a graduate until an official transcript from all prior schools is in the graduating school's student file. Schools shall evaluate and grant appropriate credit for any education and training students received at state regulated postsecondary schools.¶

(~~810~~) Schools shall validate only their own hours of instruction provided a student but not any hours provided by other schools.¶

(~~911~~) Upon receipt and evaluation of official transcripts from schools previously attended:¶

(a) Schools shall give full credit for hours earned within the last ten years; and¶

(b) Schools may grant credit for hours earned prior to the last ten years, if approved by the Superintendent Executive Director.¶

(102) No school shall deny a student a record of hours earned. A record of hours does not infer or include the official transcript.¶

(143) The school shall have as a minimum the following staff present at all times:¶

(a) 1-15 students present - one ~~approve~~registered teacher;¶

(b) 16-30 students present - two ~~approve~~registered teachers; and¶

(c) One additional ~~approve~~registered teacher for each additional 20 students or part thereof. Teachers must be certified in all areas they teach and supervise. When only one teacher is present at the school, clinic lab operations, and classroom instruction shall not occur simultaneously. The lone teacher shall conduct and supervise one or the other but not both concurrently. Teachers who supervise the clinic lab and/or approve student practical performance must be certified in all areas they supervise or approve;¶

(d) Exceptions to the student to teacher ratios in subsection 12(a)-(c) may be granted for theory/or lecture classes only. All hands-on practical lab and clinic lab classes are required to maintain specified staffing ratios.¶

(124) The minimum teaching staff, as set forth in these rules, shall not perform administrative or financial aid or any other non-instructional duties during the time that the clinic lab and classroom instruction are taking place concurrently.¶

(135) A teacher or student teacher shall not perform any services in the school during school hours except for teaching purposes.¶

(146) All services performed by students shall take place under the supervision and direction of a certified/registered teacher.¶

(157) Premises shall be used during school hours only for instructing students and teacher trainees in barbering, hair design, esthetics, or nail technology.¶

(168) The school shall provide a minimum of 2,800 square feet of total floor space to be allocated as follows; one work station for each of the first twenty students; one additional work station for every five students in excess of twenty; and, where hair design is taught, one shampoo bowl for every five work stations. The ~~e~~Executive ~~d~~Director must approve any exception to this requirement. Classroom and clinic space are in compliance with OAR 715-045-0022. Schools must comply with ORS 345.240 relative to accessibility of programs for persons with handicapping conditions.¶

(179) The ~~e~~Executive ~~d~~Director may approve a facility of less than 2,800 square feet of floor space for schools if the school presents a written plan as to how the number of students will be served in the space provided. The plan must include how the school meets the entire model curriculum standards.¶

(~~1820~~) The school shall be separated from adjoining rooms used for another business or for domestic purposes, by means of walls or substantial partitions extending from floor to ceiling; all doors leading to the school from the aforesaid adjoining rooms must be kept closed. Access to the school shall be provided by means of an outside or separate entrance, or from a public passageway in a public building.¶

(219) Each school shall include the names of all actively employed (full-time or part-time) ~~approve~~registered teachers on its annual license renewal application.¶

(202) A licensed school of barbering, hair design, esthetics, or nail technology may offer a teacher training program if it complies with the following:¶

(a) Courses of teacher training for instruction in barbering, hair design, esthetics, and nail technology may be offered only in a school of hair design licensed under the provisions of ORS Chapter 345 or Mt. Hood Community

College. Courses of study must be submitted to the ~~Superintendent~~Executive Director for approval;¶

(b) The Standard Course of Study shall require 1,000 hours of instruction that shall include the following:¶

(A) Preparation and use of lesson plans,¶

(B) Use of audiovisual and other instructional aids,¶

(C) Development and administration of tests and evaluation of test results,¶

(D) Evaluation and recording of student progress, and recording of attendance,¶

(E) Observation of ~~practical demonstrations of~~practical skills and techniques,¶

(F) Assisting with ~~practical demonstrations of~~practical skills and techniques,¶

(G) Setting up and performance of ~~practical demonstrations of~~practical skills and techniques, and¶

(H) Practice teaching.¶

(c) The ~~Superintendent~~Executive Director shall approve teacher-training programs of 200 hours for:¶

(A) Teachers whose certification has lapsed more than three years, and¶

(B) Teachers from other states whose licensing requirements are less than the minimum requirements for Oregon.¶

(d) The school shall:¶

(A) Maintain daily records of the teacher trainee's attendance, and the subject matter covered; and¶

(B) Conduct and record the results of periodic evaluations of each teacher trainee.¶

(e) The school may evaluate and give up to 500 hours credit for professional teaching experience or any academic training received in a community college or institution of higher education when that academic training contributes to achievement of the total approved Standard Course of Study. The ~~Superintendent~~Executive Director may grant a waiver to the 500 hour limitation if sufficient evidence is submitted;¶

(f) A school shall not have more than three approved teacher trainees at one time. The school shall designate who shall have the principal supervisory responsibility for the student in the teacher-training program. Each trainee, when in the clinic lab, must be under direct supervision of an ~~approved~~registered teacher with a minimum of two years teaching experience;¶

(g) Teacher trainees shall evaluate students only under the direct supervision of a ~~certified~~registered teacher; and¶

(h) Teacher training students must be registered with the ~~Superintendent~~Executive Director prior to commencement of their training.

Statutory/Other Authority: ORS 345.400

Statutes/Other Implemented: ORS 345.400

AMEND: 715-045-0220

RULE SUMMARY: Minimum hours and standards for cosmetology programs were established in ORS 345.400 (3) and were repealed in rule. However, 2017 legislation removed specific program minimum standards from statute as of July 1, 2018 and directed that minimum cosmetology hours and proficiency-based standards be established in rule. Additionally, the legislation directed the HECC to set, by rule, minimum hourly standards for competency-based cosmetology schools.

The proposed changes to OAR 715-045-0200 and 0220 update the minimum standards for hourly programs and establishes a minimum number of practical operations for both hourly and competency-based cosmetology programs.

CHANGES TO RULE:

715-045-0220

Untitled Proficiency-based Programs ¶

(1) For purposes of this rule, a practical operation' is the demonstration and application of a relevant skill or group of skills necessary for work in barbering, hair design, esthetics, or nail technology. For the purposes of this rule, the model curriculum' is a curriculum established and maintained by the Higher Education Coordinating Commission which details mandatory curricular requirements, including, but not limited to practical operations requirements, safety and sanitation requirements, and career development requirements established in this rule. The model curriculum is available for review by all schools.¶

(2) As an alternative to the minimum hourly training requirements specified in OAR 715-045-0200, a proficiency-based training program that is self-paced may be approved by the Executive Director when the school has developed written program requirements which it administers for graduation, including:¶

(1a) Clearly defined student performance objectives that measure levels of performance at each level of instruction for each skill/task and practical operation and the knowledge required for students to successfully pass the appropriate practitioner certificate examination and successfully and safely perform on members of the public all services allowed in the certificate classifications;¶

(2b) No earlier than April 1, 2019 and no later than July 1, 2019, continuing to be in effect thereafter, a minimum number of practical operations in the student's chosen course of study, in accordance with the model curriculum as developed by the Commission:¶

(A) For hair Design: 455 practical operations.¶

(B) For barbering: 465 practical operations.¶

(C) For esthetics: 220 practical operations.¶

(D) For nail Technology: 70 practical operations.¶

(c) A student enrolled in a program at the time subsection (2)(b) of this rule takes effect shall be allowed to complete the program in which they are enrolled under the terms for their original enrollment agreement, unless a rider to the enrollment agreement, signed by both the student and an authorized representative of the school, is executed, specifying that the student agrees to complete such program under different requirements. Before a rider to the enrollment agreement is executed, the school shall:¶

(A) Review student's current program requirements in comparison to the revised program requirements.¶

(B) Provide the student information in writing about which set of program requirements may be most beneficial to student, in terms of length of time to complete, cost, and use of federal financial aid.¶

(C) Provide student with a program that gives credit for applicable hours already earned and practical operations completed and outlines a revised course of study that meets the minimum requirements.¶

(d) Determine if cost differences, if any, between the student's current program and the revised program result in an overpayment on behalf of the student, and issue any necessary refund to the student, except as provided by federal law or other controlling statute or regulation. ¶

- (e) Individual progress records maintained for the purpose of monitoring each student's progress through the instructional program and recording ~~and verifying~~ actual hours of instruction, number of practical operations and performance achievement by each student;¶
- (3f) A curriculum design, which the ~~Superintendent~~ Executive Director determines to be comparable to the ~~Board~~ Commission adopted model curriculum, showing a logical progression of academic and practical training experiences leading to the levels of student performance required for graduation and certification;¶
- (4g) The identification of specific levels of competence to be achieved by each student prior to any clinic lab experience that will ensure students have achieved sufficient skill and knowledge to successfully and safely perform assigned tasks on members of the general public;¶
- (5h) A diagnosis of each student's beginning level of competency and a prescriptive instructional program for specific competency completion with projected timelines resulting in an estimated program completion date; a copy to be given to the student on commencement of the program and on file in the student's personal file. Revisions to the prescriptive program must be based on recorded performance evaluations and as a result of negotiations between the school/ and student negotiation. Copies of revisions must be given to the student and on file in the student's academic file;¶
- (6j) Assurances that the instructional program will determine the type of assignments that students receive for the clinic lab; that, as nearly as possible, the clinic lab assignments reflect the emphasis of the student's current and cumulative theory and laboratory experiences;¶
- (7j) ~~Both or either~~ school catalogs and ~~or~~ student enrollment agreements, that show the average time for students to complete the requirements for the various certificate programs during the previous reporting period;¶
- (8k) An annual report at the time of relicensing to the ~~Department~~ Commission showing the actual total hours of instruction received by each student who has completed or left the school during the previous reporting period;¶
- (9l) Assurances that no student's competency-based prescriptive training program will be significantly altered or regulated in any way, once the student and the school administration have signed a competency-based agreement; and¶
- (10m) When the school informs a student that he/she is competent, the student may elect to leave the school with a diploma at that time or stay in school until he/she has been trained for an amount of time equal to the training hours listed in ~~section (1) of this rule~~ OAR 715-045-0200(1), and no additional tuition may be charged. The student shall notify the school of his/her decision within two weeks of notice of competency.
- Statutory/Other Authority: ORS 345.325, ORS 345.400
Statutes/Other Implemented: ORS 345.400