**02-041**

Office of Professional and Occupational Regulation

**BARBERING AND COSMETOLOGY PROGRAM**

Maine Administrative Procedure Act

2014 - 2015 Regulatory Agenda

Prepared: July 28, 2014

UMBRELLA-UNIT NUMBER: **02-041**

AGENCY NAME: Department of Professional & Financial Regulation, Office of Professional and Occupational Regulation (OPOR), **Barbering and Cosmetology Program**

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**EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:** None

**EXPECTED 2014-2015 RULE-MAKING ACTIVITY:** Rulemaking is progressing for this program. The rules adopted under the Board of Barbering and Cosmetology have remained in effect until the director adopts new rules to implement 2011 Public Law Chapter 286, Part M and 2009 Public Law Chapters 369 and 48. The rules adopted under 02-265 are repealed.

All rules currently in effect will be subject to repeal and new rules will be adopted to fully implement the new law. The following is a compilation of what will be addressed during this reporting period:

* Definitions of certain terms used throughout each rule chapter;
* Requirements for the licensure and relicensure of aestheticians, barbers, cosmetologists, limited barbers, nail technicians, demonstrators, instructors, trainees, and temporary permit workers, as well as continuing education requirements for instructors;
* Requirements for licensing of schools and approval for off-site, to include but not limited to: requirements relating to the physical structure, classrooms, practice laboratory, client-based clinics, dispensaries, rest rooms, required equipment, tools, and other related facility necessities and course delivery needs. Also, requirements for conducting school evaluations and health, safety, and sanitation inspections. The rules will address standards relating to preparation and delivery of educational courses of study to students, instructor licensing qualifications, theory, practice laboratory and clinical curriculum content and hours of study, academic and other student records and record keeping, payment on refunds, reporting requirements on student enrollment, attrition and course completion, notices and information to be provided to students, school advertisements, and credit of hours for purposes of cross over licensing and educational pursuits, including subjects that are considered substantially equivalent to applied courses offered;
* Requirements for licensing of establishments, booths, and mobile shops, and standards for the physical structure, set up, and operation of such facilities. Inspection of establishments, booths, and mobile shops;
* Requirements for the issuance of special event permits to qualified licensees on services performed outside a license establishment;
* Standards for trainee qualified supervisor and supervision responsibilities, practice specific training content, education delivery and assessment, records and record keeping and other training needs to successfully train a person to achieve licensure;
* Establishment of sanitation, health and safe practice standards and conduct, including but not limited to blood spill procedures, infection control standards and universal precautionary measures, and proper use of tools, articles, implements, equipment and electrical and nonelectrical machines and devices used in connection with the practices authorized under this chapter;
* Issuance of citations for certain violations of laws and rules;
* Handling advisory rulings; and
* Establishment of enforcement, disciplinary procedures and unprofessional conduct.

A new set of rules will be proposed to conform with the restructuring of this program that shifts the oversight responsibility from a Board to the Director of the Office of Professional and Occupational Regulation. Outdated or duplicative rules that may exist in 10 MRSA, Part 9, Chapter 901 and rules established by the Office of Professional and Occupational Regulation as authorized by 10 MRSA §8003 will be updated or repealed. The following represents the rules as they currently exist today and are subject to repeal.

**CHAPTER 1: General Information**

STATUTORY AUTHORITY: 32 MRSA §14212

PURPOSE: This rule establishes guidelines relating to meetings, examinations, advisory rulings, complaints, maintenance of records, fees and the issuance of citations and fines for noncompliance with certain laws and rules. The fee provisions of this chapter may be repealed in the event that fees are established directly by the Director of the Office of Professional and Occupational Regulation in chapter 10 of the Rules of the Office of Licensing and Registration pursuant to 10 MRSA §8003(2-A)(D).

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

**CHAPTER 2: Rules Relating to Cosmetologists, Barber, Aesthetician, and Manicurist Trainee.**

STATUTORY AUTHORITY: 32 MRSA §14212

PURPOSE: These rules establish the requirements for eligibility, training, examination, and licensing of cosmetologists, manicurists, aestheticians, and barber trainees.

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

**CHAPTER 3: Establishments, Booths where Cosmetology, Barbering, Aesthetics, Manicuring is Practiced.**

STATUTORY AUTHORITY: 32 MRSA §14212

PURPOSE: These rules pertain to the application, inspections and licensing of establishments and booth rentals, including construction and safe operation. This chapter also sets sanitation and safety standards and procedures for the practice of aesthetics, barbering, cosmetology, and manicuring, including the use of appliances, tools, equipment both electrical and non electrical in connection with the practice licensed. Rules pertaining to sanitation and safety requirements for licensed practitioners will be updated to reflect current practice needs and for the protection of the public receiving services.

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

**CHAPTER 4: Rules for Certifying Barber and Cosmetology Instructors**

STATUTORY AUTHORITY: 32 MRSA §14212

PURPOSE: These rules establish the requirements for the examination and licensing of barber and cosmetology instructors and standards for continuing professional education to be met for license renewal. The Board may set application, examination, and licensing requirements for manicuring and aesthetic instructors.

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

**CHAPTER 5: Requirements to Hold a Demonstrator License**

STATUTORY AUTHORITY: 32 MRSA §14212

PURPOSE: These rules establish the qualifications for individuals who seek licensure to demonstrate machines, articles or techniques outside a licensed establishment pertaining to practices licensed by the Board.

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated

**CHAPTER 6: Rules for Qualifying and Licensing of Schools**

STATUTORY AUTHORITY: 32 MRSA §14247

PURPOSE: Establishes requirements for the licensing and operation of schools offering student aesthetic, barbering, cosmetology, manicuring, and instructor programs. This chapter sets standards relating to each educational program, instructor qualifications, records and record keeping, health and sanitation, and safety and physical facilities. The Board may review this chapter and make needed changes to reflect current needs and requirements for the licensing and operation of schools and may include specific rules for schools offering single focused programs such as manicuring or aesthetics.

ANTICIPATED SCHEDULE FOR ADOPTION: Subject to repeal of this chapter within one year.

AFFECTED PARTIES: Licensees

CONSENSUS-BASED RULE DEVELOPMENT: Not Contemplated