Regulatory Analysis

Notice of Intended Action to be published: 481—subrule 944.2(5)
"Continuing Education for Barbering and Cosmetology Arts and Sciences"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 157 and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 157 and sections 272C.2 and 272C.2A and 2024 Iowa Acts, House File 2686

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 20, 2024	6200 Park Avenue
2 to 2:30 p.m.	Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 944 sets forth continuing education and training requirements for barbers, cosmetologists, nail technologists, estheticians, electrologists, and instructors. The intended benefit of this chapter is to ensure that licensees maintain up-to-date practice standards regarding infection control, laws, rules, and industry standards and, as a result, provide high-quality services to Iowans. The Board of Barbering and Cosmetology Arts and Sciences reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrule 944.2(5) is proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant barbers, cosmetologists, nail technologists, estheticians, electrologists, and instructors the ability to carry over up to three hours of continuing education earned in excess of the six hours required by Iowa law every two years.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Licensees are responsible for the cost of continuing education. Iowa requires six hours of continuing education every two years. Private industry organizations offer these courses, so the Board

is not privy to exact costs but, based on research, estimates the cost to be as low as $30 every two years for a licensee to meet these requirements. There are multiple entities that provide continuing education courses to licensees.

Costs to the agency are for the staff time needed to manage licensing activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this license at approximately 0.74 full-time equivalent (FTE) position. Staff salaries to support the work of the license are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- **Classes of persons that will benefit from the proposed rulemaking:**

Licensees will have increased flexibility in scheduling courses. Licensees could see a reduction in cost due to not losing excess hours earned.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Iowa Code section 272C.2A requires six hours of continuing education every two years for licensees. Private industry organizations offer these courses, so the Board is not privy to exact costs but, based on research, estimates the cost to be as low as $30 every two years for a licensee to meet these requirements. There are multiple entities that provide continuing education courses to licensees.

- **Qualitative description of impact:**

There has been a historical belief that continuing education has a public safety benefit because it ensures that licensed professionals are receiving education on up-to-date standards of care and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced by the fact that most other boards around the country require some form of continuing education.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage Board activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this Board at approximately 0.74 FTE position, which includes answering questions from the public and licensees related to topics such as practice standards, continuing education, and Board meeting administration. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- **Anticipated effect on state revenues:**

Costs associated with completing continuing education hours are paid to entities that provide continuing education opportunities, not the State. This rulemaking has no anticipated impact on state revenues.

Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Allowing licensees to carry over up to 50 percent of their excess continuing education hours will allow licensees greater flexibility and potentially cost savings. The impact on the private industry organizations that offer these continuing education programs is unknown.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

A less restrictive alternative would be to reduce the amount of continuing education required. This would require a statutory change. The Board does not recommend a change in continuing education

hours at this time. Iowa's six-hour continuing education requirement is consistent with or lower than those of a number of neighboring states, including Nebraska, Illinois, and Minnesota, depending on the type of license. For example, Illinois requires 14 hours of continuing education every two years for cosmetologists; Minnesota and Nebraska require 8 hours every two years.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Iowa Code section 272C.2A requires a minimum of six hours of continuing education for licensees. A change in this requirement would require legislative action. Staff held conversations with members of the Board inquiring whether the Board would recommend lowering the continuing education requirements. The Board does not recommend a legislative change at this time.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board did consider less restrictive alternatives, such as reducing the number of continuing education hours. This would require a legislative change. The Board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the Board would need to conduct, but the Board has not been able to analyze this correlation so is unable to submit evidence of this belief.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Continuing education requirements for a minimum of six hours biannually at the time of the practitioners' license renewal are outlined in Iowa Code section 272C.2A. This is a small business opportunity for many licensees, including owners of establishments and schools, as long as the provider meets the requirements in the rules and seeks sponsorship from one of the identified entities prior to offering the class. Presenters also earn the same number of continuing education hours provided to licensees. The cost and the number of hours are minimal. Elimination of continuing education requirements could potentially remove a revenue stream from some practitioners.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 944.2(5) as follows:

944.2(5) ~~No hours of continuing education shall be carried over into the next biennium.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of three hours from the previous renewal period in the prescribed practice discipline. Licensees may not apply any hours in the content areas of Iowa barbering and cosmetology law and rules or infection control to the following renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.