

COST-BENEFIT ANALYSIS

In performing a cost-benefit analysis (“CBA”), each rulemaking entity must provide the information requested for the cost-benefit analysis to be considered a good faith effort. The cost-benefit analysis must be submitted to the Office of Policy, Research and Regulatory Reform at least ten (10) days before the administrative hearing on the proposed rule and posted on your agency’s web site. For all questions, please attach all underlying data that supports the statements or figures stated in this cost-benefit analysis.

DEPARTMENT: Department of Regulatory Agencies (DORA) **AGENCY:** Office of Barber & Cosmetology Licensure

CCR: 4 CCR 731-1 **DATE:** October 20, 2017

RULE TITLE OR SUBJECT:

RULE 2.1 TRAINING REQUIREMENT AND RULE 2.2 MEETING THE TRAINING REQUIREMENTS IN RULE 2.1

Per the provisions of section 24-1-103(2.5)(a), Colorado Revised Statutes, the cost-benefit analysis must include the following:

1. The reason for the rule or amendment:

Rule 2.1

This amendment relocates current Rule 7 to proposed Rule 2.1. The rule was amended in accordance with HB17-1196, which reduced the training hour requirement for cosmetologist from 1800 contact hours to 50 credit hours or 1500 contact hours. See section 12-8-114, C.R.S.

The amendment also removes the assigned minimum number of hours in each subject area and defers to the minimum hours assigned by the accrediting bodies for educational institutions.

Of note, two subject areas, hair and scalp treatment (2.1) and hair coloring (2.1(A)(2)), were inadvertently omitted from the Proposed Rule 2.1 A.2 and will be corrected during rulemaking.

Rule 2.2

This amendment relocates current Rule 7 to proposed Rule 2.2. This amendment defines and clarifies an “approved program” and clarifies alternative pathways to licensure.

This amendment also removes the contact to credit hour ratios as the change to section 12-8-114, C.R.S., and removal of the assigned minimum hours for each subject area in revised Rule 2.1 obviate the need for credit hour ratios.

2. The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness:

Rule 2.1

This proposed amendment reduces the hours required for licensure as a cosmetologist from 1800 contact hours to 50 credit hours or 1500 contact hours in order to align the rule with the statutory change to section 12-8-114, C.R.S. This statutorily mandated reduction in hours may lead to economic growth by decreasing

educational burden. The decrease in educational burden may lead to an increased number of persons seeking cosmetologist education that may result in an increase in educational programs or the creation of teaching positions. This may also lead to an increased number of cosmetologist in the workforce, spurring economic growth and competitiveness.

This proposed amendment also removes the assigned minimum number of hours in each subject area and defers to the minimum hours assigned by the accrediting bodies for educational institutions. The removal of the assigned minimum hours per subject area decreases the licensure burden resulting in an increased number of persons eligible for licensure, which, in turn, may lead to an increased number of cosmetologists entering the workforce thereby stimulating economic growth and competitiveness. Economic growth and competitiveness for accrediting programs may be stimulated as unaccredited programs may seek accreditation as a result of the amendment leading to increased business for the accrediting programs and possible job creation.

Rule 2.2

This amendment clarifies additional pathways to licensure. This clarification may lead to an increase number of persons seeking to enter the workforce through these pathways, thereby stimulating economic growth for these apprentice programs through tuition dollars and the creation of new apprentice programs and jobs. Economic competitiveness may be spurred through the creation of new apprentice programs and through an increased number of cosmetologists in the workforce.

This amendment also removes the contact to credit hour ratios as the changes to section 12-8-114, C.R.S., allowing for the use of either credit or contact hours obviates the need for credit hour ratios. There is no anticipated economic benefit related to this revision.

- 3. The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to businesses and other entities required to comply with the rule or amendment:**

Rule 2.1

The agency (Division of Professions and Occupations, Office of Barber and Cosmetology Licensure) will not incur substantial direct or indirect costs to implement the proposed rule. The costs associated with implementing the proposed rule would be absorbed in the current costs the agency spends in conducting rulemaking and other administrative functions.

There may be one-time cost for unaccredited institutions or programs to align their curriculum with that of an accredited institution.

In addition, the statutorily mandated decrease in contact hours may result in indirect costs to educational institutions as it related to a potential loss of tuition.¹ Notably, the amendment merely aligns the rule with the statute, and, as such, any cost is not directly attributable to this revision of the amendment.

Rule 2.2

The agency (Division of Professions and Occupations, Office of Barber and Cosmetology Licensure) will not incur substantial direct or indirect costs to implement the proposed rule. The costs associated with implementing the proposed rule would be absorbed in the current costs the agency spends in conducting rulemaking and other administrative functions.

¹ The Office of Barber and Cosmetology Licensure does not have jurisdiction and lacks sufficient information to determine tuition costs.

There may be a cost to traditional education institutions related to loss of tuition if prospective students choose the alternative pathways to licensure.

4 Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness:

Rule 2.1

The statutorily mandated decrease in credit and contact hours for cosmetologists may result in adverse effects on private markets and small businesses due to the potential loss of tuition dollars. Adverse effects on consumers are possible given the decrease in training for cosmetologists, but seem unlikely. Notably, the amendment merely aligns the rule with the statute, and, as such, any adverse effects are not directly attributable to this revision of the amended rule.

Rule 2.2

There are no anticipated adverse effects on the economy, consumers, private markets, small businesses, job creation, or economic competitiveness as a result of this amendment.

5. At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified:

Alternative One: Do not remove the assigned minimum number of hours in each subject area.

This alternative may result in direct costs to applicants for licensure who have graduated from an accredited program but do not have the minimum hours in even one subject area. As the current rule stands, this applicant is not eligible for licensure. The costs to the applicant may include loss of income as a licensee and the cost of re-education. There would be no anticipated economic benefit as this alternative maintains the status quo. This alternative may adversely affect the economy, private markets, small businesses, job creation and economic competitiveness as it prevents qualified applicants from obtaining licensure and entering the workforce.

Alternative Two: Do not clarify the additional pathways for licensure in Rule 2.2 and instead provide outreach and education for clarification.

This alternative is not anticipated to result in any direct or indirect costs to the government, businesses, or other entities required to comply with the current rule. There would be no anticipated economic benefit as this alternative maintains the status quo. This alternative may adversely affect the economy, private markets, small businesses, job creation or economic competitiveness as fewer potential licensees may seek licensure through unclarified pathways thereby limiting the number of licensees in the training programs, many of which are small businesses, and the workforce.

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DEPARTMENT: Department of Regulatory Agencies (DORA) **AGENCY:** Office of Barber & Cosmetology Licensure

CCR: 4 CCR 731-1 **DATE:** October 20, 2017

RULE TITLE OR SUBJECT:

PROHIBITED ACTS FOR BARBERS, HAIRSTYLISTS, NAIL TECHNICIANS, ESTHETICIANS AND COSMETOLOGISTS

Per the provisions of section 24-1-103(2.5)(a), Colorado Revised Statutes, the cost-benefit analysis must include the following:

1. The reason for the rule or amendment:

This amendment relocates previous Rule 3 to Rule 8.1. The amendment is needed to further clarify requirements of sections 12-8-103(9) and (9.4), C.R.S., which prohibit acts that constitute the practice of medicine within the scope of practice of cosmetology and esthetics (Rule 8.1(B)(1)). In 2016, the Colorado Medical Board revised its Rule 800, no longer requiring physician oversight for Class II medical devices. Accordingly, the Office of Barber and Cosmetology is proposing the revision of Rule 8.1 to expand the scope of practice for cosmetologists and estheticians (licensees) to include the use of Class II devices for beautification services.

This rule amendment further clarifies (8.1(B)(3)) that live fish, leeches, snails, and any other living creature may not be used for cosmetic purposes, aligning the Colorado rules with the National Model Rules, which prohibit the use of live creatures in cosmetology due to concerns with infection control.

2. The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness:

Rule 8.1(B)(1)

Prior to this amendment neither cosmetologists nor estheticians were authorized to independently use a Class II device. This proposed amendment expands the scope of services a licensee may independently provide. This expansion of the services may spur economic growth by removing the need for the licensee to pay a fee for physician supervision to use the device, therefore lowering the cost of the service to the consumer and increasing demand for the service. Economic growth may also be stimulated through licensees opting for additional training to learn to use the device that in turn increases the need for training programs and training staff. The proposed amendment may also lead to economic growth for the licensee through increased marketability, an increase in client base, an increase in services performed, and ultimately, an increased wage. This revision may also lead to increased economic competitiveness in the industry given the increased number of persons that would be authorized to use a Class II device.

Rule 8.1(B)(3)

There is no anticipated economic benefit of this amendment.

- 3. The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to businesses and other entities required to comply with the rule or amendment:**

Rule 8.1(B)(1)

The agency (Division of Professions and Occupations, Office of Barber and Cosmetology Licensure, Department of Regulatory Agencies) will not incur substantial direct or indirect costs to implement the proposed rule. The costs associated with implementing the proposed rule would be absorbed in the current costs the agency spends in conducting rulemaking and other administrative functions.

There is a potential to incur indirect costs associated with inspecting and investigating allegations of substandard practice by Colorado consumers when and if they believe they've been harmed by a licensee using a Class II device, but such costs should be minimal.

There are no anticipated direct or indirect costs to businesses or other entities required to comply with the rule.

There could be minimal indirect cost to physicians, who will no longer be retained to provide oversight for the licensees' use of a Class II device; however, because the revised Medical Board Rule 800 adopted in 2016 removed the requirement for physician oversight, any indirect costs would be attributed to the revision of the Medical Board Rule 800.

Rule 8.1(B)(3)

The agency (Division of Professions and Occupations, Office of Barber and Cosmetology Licensure, Department of Regulatory Agencies) will not incur substantial direct or indirect costs to implement the proposed rule. The costs associated with implementing the proposed rule would be absorbed in the current costs the agency spends in conducting rulemaking and other administrative functions.

There is a potential to incur indirect costs associated with inspecting and investigating alleged rule violations, but such costs should be minimal.

This amendment may lead to direct and indirect costs to businesses and licensees. Because the amendment prohibits the use of live creatures in cosmetology, any business or licensee that currently performs the services could face a loss of business revenue or costs related to the inability to use supplies purchased for these services.

- 4. Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness:**

This amendment may result in adverse effects on the economy, private markets, small businesses, or job creation. The prohibition of this type of service may result in a loss of income for businesses, particularly small businesses that rely on these services to draw clientele. The loss of income may lead to job loss or impact the creation of jobs.

Adverse effects on consumers are possible since the service will no longer be available. Conversely, consumers will no longer be subject to a service for which infection control cannot be regulated.

5. **At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified:**

Alternative One: Do not revise the rule (8.1(B)(1) to include Class II devices within the scope of practice for cosmetologist and estheticians.

This alternative is not anticipated to result in any direct or indirect costs to the government, businesses, or other entities required to comply with the current rule. There would be no anticipated economic benefit as this alternative maintains the status quo. This alternative may adversely affect the economy, private markets, small businesses, job creation and economic competitiveness, as it does not allow for the expansion of the scope of practice of cosmetologists and estheticians to include the use of Class II devices. This in turn decreases business opportunities to develop training programs to train licensees to use the device, denies small shops the ability include these expanded esthetician services and perhaps hire additional staff, and decreases the ability for licensees to increase their marketability, their client base, the number of services performed, and ultimately their wages. In addition, this alternative limits the number of persons performing services with a Class II device, hindering competitiveness and driving up cost for consumers.

Alternative Two: Do not amend the rule (8.1(B)(3)) to prohibit the use of live creatures for cosmetic services.

This alternative is not anticipated to result in any direct or indirect costs to the government, businesses, or other entities required to comply with the current rule. There would be no anticipated economic benefit as this alternative maintains the status quo. This alternative would not adversely affect the economy, private markets, small businesses, job creation or economic competitiveness; however, this alternative may adversely affect the health, safety and welfare of the consumer as infection control cannot be ensured with the use of live creatures in cosmetology services.