



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:25:29 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Barbers And Cosmetologists**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-02**

RULE NAME **Qualifications, Training, Examination and Certification of Instructors in Barbering and
Cosmetology**

CITE AUTHORITY **30-27-6 and 30-27-16**

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 3-02



Rule Id: 10139



Document: 28848



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

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PRIMARY CONTACT

Greg Foster
S12 Quarrier St., 2nd Floor

Charleston, STATE ZIP

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CITE AUTHORITY 30-27-6 and 30-27-16

AUTHORIZING STATUTE(S) CITATION

30-27-6 and 30-27-16

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Thursday, June 23, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

n/a

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Monday, July 25, 2016

Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

Attached

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Monday, August 22, 2016

**Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
Attached

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
**Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

The cost/revenue impact of this rule is very minimal. By removing the five year requirement, more licensees are expected to become instructors, which requires a \$50 license application fee and \$50 annual renewal for a teaching license. However, the Board will no longer administer the examination (it will be done through a third party), and thus will not collect a \$50 testing fee from each applicant as it had in the past. This loss will be counterbalanced because the Board will not incur per diem costs to board members to interview instructors.

Amanda D Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES		\$1,500	\$1,500

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3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The Board estimates that 50 additional licensees per year will become instructors which equates to \$50 per person/per year for the license application and annual renewal. This will overcome the revenue lost from \$50 testing fee that the board will no longer receive because it will not administer the examination. Further, because the board is not administering the exam, it will no longer incur the per diem costs paid to board members to interview applicants. Overall, the Board estimates an additional \$1,500 in revenue will be generated.

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PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

The "teaching techniques" course is expected to be offered at WVU Institute of Technology at no additional cost to the state. It is anticipated that licensees will pay a fee for the class to cover the cost to the school for offering the class. Further, by removing the 5 year license requirement, it should result in more licensees becoming instructors, therefore allowing new schools to open because more teachers will be available. Thus, new jobs will be created.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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CITE AUTHORITY **30-27-6 and 30-27-16**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The rule removes the five year licensure and shop experience requirements to become an instructor. Instead, licensees will be able to take a "teaching techniques" course. It also removes section 3-2-3 "Additional Requirements for Certification as an Instructor" because it is obsolete. The circumstances requiring the change arise from the passage of Senate Bill 524, which amended W. Va. Code 30-27-1 et seq. The rule changes are needed to conform to the code amendments.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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TITLE 3
LEGISLATIVE RULE
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 2
QUALIFICATIONS, TRAINING, EXAMINATION AND
CERTIFICATION OF INSTRUCTORS IN BARBERING, HAIR STYLING, NAIL TECHNOLOGY, AESTHETICS AND
COSMETOLOGY

§ 3-2-1. General.

1.1. Scope. -- This legislative rule establishes the qualifications, training, examination and certification instructors in schools of barbering, hairstyling, nail technology, aesthetics or cosmetology.

1.2. Authority. -- §§ 30-27-6 and 30-27-16 *et seq.*

1.3. Filing Date. -- ~~June 16, 2011.~~

1.4. Effective Date. -- ~~July 1, 2011.~~

1.5. Sunset Date. -- Ten (10) years after effective date.

§ 3-2-2. General Qualifications for Certification as an Instructor.

2.1. An individual seeking certification must:

2.1.a. ~~Have been licensed five (5) years with five (5) years of salon/shop experience;~~
Have successfully passed a "teaching techniques" course at a post-secondary education level.

2.1.b. Be of good moral character and of temperate habits;

2.1.c. Have a high school diploma, GED, or "ability to benefit" test approved by the United States Department of Education;

2.1.d. Have graduated from a recognized school of barbering, hair styling, aesthetics, nail technology or cosmetology;

2.1.e. Have submitted an application to the Board with the appropriate fees;

2.1.f. Have passed an examination approved by the Board consisting of an NIC Instructor exam ~~written exam, oral~~ and WV State Law exam ~~demonstrative section including subject areas adopted by the Board~~ with at least an 80% pass percentage.

2.1.g. Submit an application to the Board;

2.1.h. Pay applicable certification, examination and registration fees.

~~**§ 3-2-3. Additional Requirements for Certification as an Instructor.**~~

~~3.1. All barber and cosmetology school owners who expect to employ an instructor shall properly interview the applicant and make a recommendation to the Board, in writing, concerning their knowledge of such applicant's abilities. This recommendation shall accompany the student's application for licensure as an instructor. School owners must submit annual progress reports on all instructors employed in their barber or beauty school to the Board.~~

§ 3-2-43. Renewal of Certification as an Instructor.

4.3.1. Continuing education requirements must be completed in order to receive certificate renewal.

4.3.2. The renewal requirements for instructors represent minimum standards for teacher training. In order to maintain well-trained teachers, the Board recommends that an "In-Service" training program be conducted in both the schools of barbering and of beauty culture in the art of teaching.

4.3.3. The applicant for renewal must submit the appropriate fee as specified in 3 CSR 6.

§ 3-2-54. Reciprocity.

54.1. An applicant from another state seeking certification as an instructor is eligible for certification by reciprocity if the applicant has acquired training in another state equal to the requirements established in this rule for the respective certificate requested; and has passed an NIC Instructor exam and WV State law exam with at least 80% pass percentage. Provided, that the state in which said applicant is certified extends the same privilege to certified instructors from this state.

§ 3-2-65. Revocation of Certificate.

65.1. The certificate of an instructor in barbering or beauty culture may be revoked or suspended by the Board for any reason specified in W. Va. Code § 30-27-1 *et seq.*

65.2. Any person who is certified as an instructor has been suspended or revoked may at the discretion of the Board, be entitled to continue to practice barbering or cosmetology.

§ 3-2-76. Administrative Due Process.

76.1. Those persons adversely affected by the enforcement of this rule have the right to request a hearing in a manner pursuant to the provisions of W. Va. Code § 30-27-1 *et seq.*