



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:28:24 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 **3-11**

RULE NAME **Continuing Education**

CITE AUTHORITY **30-27-6, 7, 8 and 9**

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: 3-11



Rule Id: 10171



Document: 28849



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Barbers And Cosmetologists**

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RULE NAME **Continuing Education**

CITE AUTHORITY **30-27-6, 7, 8 and 9**

PRIMARY CONTACT

Greg Foster

512 Quarrier St., 2nd Floor

Charleston, STATE ZIP

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AUTHORIZING STATUTE(S) CITATION
30-27-6, 7, 8 and 9

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Tuesday, July 05, 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, August 08, 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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CITE AUTHORITY **30-27-6, 7, 8 and 9**

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

No comments received

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

Friday, August 19, 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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CITE AUTHORITY **30-27-6, 7, 8 and 9**

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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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

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CITE AUTHORITY **30-27-6, 7, 8 and 9**

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

None

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

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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PRIMARY CONTACT

Greg Foster
S12 Quarrier St., 2nd Floor

Charleston, STATE ZIP

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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 proposed changes will have no impact on costs and revenues of State Government.

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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CITE AUTHORITY **30-27-6, 7, 8 and 9**

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	0	0	0

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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.

n/a

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CITE AUTHORITY **30-27-6, 7, 8 and 9**

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.

n/a

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, 7, 8 and 9**

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

The proposed changes allow barbers who have been licensed for 20 years or more to be exempt from continuing education requirements, provided that they must take a 3 hour sanitation class every other year up to 20 years. A section is also added regarding courses approved for continuing education. The proposed changes are necessary to conform to changes made to W. Va. Code 30-27-1 et seq. in the legislative session, as set forth in Senate Bill 524.

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: 3-11



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3CSR11

TITLE 3
LEGISLATIVE RULE

WEST VIRGINIA BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 11
CONTINUING EDUCATION

§ 3-11-1. General.

1.1. Scope. -- This legislative rule establishes requirements for continuing education to practice hair styling, barbering, cosmetology, manicuring/nail technology, and aesthetics. All persons licensed by the Board to practice beauty culture must earn a minimum of four (4) hours of continuing education credits annually. Barbers who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year up to twenty (20) years.

1.2. Authority. -- W. Va. Code §§ 30-27-6, 7, 8 and 9.

1.3. Filing Date. -- ~~April 13, 2010.~~

1.4. Effective Date. -- ~~July 1, 2010.~~

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

§ 3-11-2. Definitions.

2.1. "Approved academic course" means a formal course of study offered by an accredited post-secondary educational institution as it relates to the barbering, cosmetology, hair styling, manicuring/nail technology, and aesthetics.

2.2. "Approved provider" means a local, state or national agency, organization or association recognized by the Board.

2.3. "Audit" means the selection of licensees for verification of satisfactory completion of continuing education during a specified time period, or the selection of approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

2.4. "Beauty Culture" means the act or practice of aesthetics, ~~barbering~~, barbering crossover, barber permanent waving, cosmetology, cosmetology crossover, hair styling and nail care.

2.5. "Contact person" means a person submitting a Request for Approval Form.

3CSR11

2.6. "Continuing education" means planned, organized learning activities engaged in following initial licensure and designed to maintain, improve, or expand beauty knowledge and skills or to develop new knowledge and skills related to beauty culture practice, education, or theory development.

2.7. "Continuing education activity" means a learning activity that is planned, organized and administered to enhance the professional knowledge and skills underlying the professional performance that the licensee uses to provide services the public. To qualify as continuing education, the activity must provide sufficient depth and scope of a subject area.

2.8. "Continuing education credit" means credit earned for completing a continuing education activity, expressed in units as provided in section 3.1 of this rule.

2.9. "Continuing Education Provider License" means a licensed provider of continuing education.

2.10. "Documentation" means proof of participation in a continuing education activity.

2.11. "Formal offering" means an extension course, independent study, or other course which is offered, for college credit, by a recognized educational institution.

2.12. "Informal offering" means a workshop, seminar, institute, conference, lecture, or short term course, which is offered for credit in continuing education units.

2.13. "Objectives" means an expression in measurable and observable terms of what the participant will learn as a result of the educational activity.

2.14. "Sponsor" means an organization, including professional societies, academic institutions, individuals, corporations, or governmental agencies, which plans, organizes, supports, endorses, subsidizes and/or administers educational activities, and is responsible for the content, quality and integrity of the educational activity.

§ 3-11-3. Continuing Education.

3.1. Each applicant for renewal or reinstatement of a license shall verify that he or she has satisfactorily completed four (4) credits of continuing education during the prescribed year reporting period.

3.1.a. Units of measurement for continuing education credits are calculated as follows:

30 to 49 minutes = 0.5 CE credits

50 to 74 minutes = 1 CE credits

75 to 99 minutes = 1.5 CE credits

3CSR11

100 minutes = 2 CE credits

Activities lasting less than 30 minutes are not eligible for credit.

3.1.b. Writing an article which is published in a magazine directly related to the profession will qualify for 4 credits of continuing education within the continuing education reporting period. A copy of the article must be maintained by the licensee for a period of 3 years following the continuing education activity.

3.2. Credits may not be granted for identical continuing education activities submitted during any single year reporting period. Credits may not be accumulated for use in a future single year reporting period.

3.3. Documentation of continuing education credits must be submitted with applications for license renewal.

§ 3-11-4. Exceptions to Continuing Education Requirements.

4.1. Reciprocity applicants and newly licensed applicants are exempt from the continuing education requirements until the first renewal period after initial West Virginia licensure.

4.2. A licensee who resides outside of West Virginia and who holds a current license to practice in a state other than West Virginia shall satisfy the continuing education requirements for West Virginia in order to renew his or her license in this state.

4.3. The Board may grant a waiver to a licensee who has a physical or mental disability or illness or who is providing direct care to a member of his or her immediate family during all or a portion of the reporting period. A waiver provides for an extension of time or exception from some or all of the continuing education requirements. Any licensee may request an application for a waiver from the Board. The Board may approve or deny an application for waiver after review of the application. The Board may not grant a waiver of continuing education requirements for more than a one (1) year reporting period.

4.4 Barbers who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year up to twenty (20) years.

§ 3-11-5. Failure to Meet Requirements or Exceptions to Requirements.

5.1. The Board may place the licensee on inactive status without penalty and may waive the continuing education requirements, providing that the licensee notifies the Board in writing of his or her desire to have the Board place his or her license on inactive status before the last day of the reporting period.

5.2. The Board may suspend the license of any person who fails to notify the Board, in writing, prior to the last day of the reporting period that he or she wishes to place his or her license on the inactive status.

§ 3-11-6. Reinstatement of a License on Inactive Status or Issuance of a Probational Temporary License.

6.1. A person wishing to reinstate a license from inactive status or from suspended status shall:

6.1.a. Make application for reinstatement of the license from inactive status or suspended status;

6.1.b. Meet the continuing education requirements as set forth in this rule; and

6.1.c. Pay the fee for reinstatement of the suspended license as specified in the Board's rule, Schedule of fees for services rendered.

§ 3-11-7. Audit of Licensee.

7.1. The Board may select any licensee who holds a current license to audit for compliance with continuing education requirements no fewer than 60 days prior to the expiration of the license.

7.2. To comply with the audit request from the Board, a licensee shall submit legible copies of certificates of attendance at continuing education activities.

7.3. The licensee shall submit the required documents within thirty (30) days of the date he or she receives notification of the audit. The Board may grant an extension of time for submission of the documents, on an individual basis in cases of hardship, if the licensee makes a written request for an extension of time and provides justification for such the request.

7.4. Licensees shall keep certificates of attendance at continuing education activities, letters verifying special approval for informal offerings from non-approved providers, transcripts of courses, and documentation of compliance with exceptions for a three (3) year period following the continuing education activities.

7.5. The Board shall complete the audit within 30 days of receipt of required documentation and shall notify the licensee of the satisfactory completion of the audit.

7.6. If a person fails to submit the audit information requested by the Board, the Board may not renew the license Board before the information is received and the audit is completed.

7.7. Licensees shall notify the Board of any changes of mailing address, and are not absolved

from the audit requirements.

§ 3-11-8. Minimum Standards for Approved Provider.

8.1. All providers of continuing education shall complete an application, ~~and~~ pay the required fees, and obtain a Continuing Education Provider License, before offering to provide continuing education.

8.2. The Board shall maintain a current list of approved providers which is available to the public upon request.

8.3. The Board shall notify providers who fail to meet the minimum acceptable provider standards, in writing, of specific deficiencies and offer a reasonable period of time to correct deficiencies.

8.4. The Board may remove an approved provider who fails to meet the approved provider standards from the list of approved providers.

8.5. The providers shall provide a certificate to the licensee indicating the following information:

8.5.a. Name of licensee who attended the continuing education class;

8.5.b. The date attended;

8.5.c. The value of continuing education credits; and

8.5.d. Contact information for the continuing education provider.

8.6. The providers shall provide a list to the State Board in a Microsoft Excel format in paper and disc form within 30 days of the continuing education class. The list shall include:

8.6.a. Names of licensees;

8.6.b. License numbers of licensee;

8.6.c. Location of class;

8.6.d. The date held; and

8.6.e. Title of continuing education class or activity.

8.7. The application for a continuing education provider license shall provide detailed

descriptions of the subject areas, sponsors, speakers, instructors, training courses, events, demonstrations or shows for which the applicant seeks approval.

§ 3-11-9. Continuing Education Subjects/Events.

9.1. Continued education offerings shall consist of one or more of the following subject areas or events:

9.1.a. Product information or training;

9.1.b. Events, speakers, or shows by third party administrators held at beauty schools/conventions;

9.1.c. Tax, business, or computer training or courses;

9.1.d. Styling or application demonstrations;

9.1.e. Sanitation courses;

9.1.f. HIV/AIDS awareness and other communicable disease awareness courses;

9.1.g. Training or courses on West Virginia state laws governing the practices licensed by the board; and

9.1.h. Continuing education activities sponsored by the National Cosmetology Association (NCA), National Interstate Council of State Boards of Cosmetology (NIC), National Cosmetology Seminar, Aesthetic International Association, National Association of Barbering and Hairstyling, National Association of Barber Boards of American approved courses, seminars, and demonstrations or any other national association approved by the Board.

§ 3-11-10. Approved Continuing Education Courses

10.1 The Board has approved for continuing education credit any education course providing instruction in any curriculum, subject matter or discipline included in the education required for licensure that is submitted to the board or offered by:

10.1.a. A licensed school or instructor, outside of school instruction;

10.1.b. A manufacturer or distributor of barbering;

10.1.c. A barber or cosmetology trade organization; or

10.1.d. Any course offered at an accredited private or public university, college or

community college in this state that relates to the profession or a general business class.

§ 3-11-~~1011~~. Activities Not Acceptable for Continuing Education Credit.

~~1011~~.1. The following activities are not acceptable for continuing education credit:

~~1011~~.1.a. Job related practice;

~~1011~~.1.b. Development and presentation of programs as part of the licensee's on-going job responsibilities;

~~1011~~.1.c. Orientation to and update of policies and procedures specific to the licensee's employing facility;

~~1011~~.1.d. Activities which are part of a licensee's usual job responsibility; and/or

~~1011~~.1.e. In-house training from a regular employee, manager or owner of the facility.