



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 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 **3-05**

RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**

CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

PRIMARY CONTACT

Greg Foster
S12 Quarrier St., 2nd Floor

Charleston, STATE ZIP

**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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

AUTHORIZING STATUTE(S) CITATION
30-27-5; 30-27-6; 30-27-17

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Wednesday, July 13, 2016

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

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Friday, August 12, 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.**



Title-Series: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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.**



Title-Series: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 3)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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.



Title-Series: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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
**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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

PRIMARY CONTACT

Greg Foster
S12 Quarrier St., 2nd Floor

Charleston, STATE ZIP

**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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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

The proposed amendments 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.



Title-Series: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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

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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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

n/a

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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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.

**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: 3-05



Rule Id: 10228



Document: 28852



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/24/2016 8:38:31 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

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

AGENCY **Barbers And Cosmetologists**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **3-05**
RULE NAME **Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering
and Beauty Culture**
CITE AUTHORITY **30-27-5; 30-27-6; 30-27-17**

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

The proposed changes are needed to update the terminology. In pertinent part, to include "hair stylist" and "clean storage bin".

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: 3-05



Rule Id: 10228



Document: 28852

3CSR5

TITLE 3
LEGISLATIVE RULE
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 5
OPERATION OF BARBER, BEAUTY, NAIL, AND AESTHETIC SHOPS/SALONS,
AND SCHOOLS OF BARBERING AND BEAUTY CULTURE

§ 3-5-1. General.

1.1. Scope. -- This legislative rule governs the sanitary requirements for salons and schools licensed by the Board of Barbers and Cosmetologists.

1.2. Authority. -- W. Va. Code §§ 30-27-5 and 30-27-6. Related -- W. Va. Code §§ 30-27-1, ~~30-27-15~~ and 30-27-17 *et seq.*

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

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

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

§ 3-5-2. Sanitation and Operation Requirements.

2.1. All salons or schools must have cross ~~, or approved,~~ air ventilation before opening.

2.2. All salon's or school's respective toilets and adjoining rooms used in connection therewith must be kept clean, sanitary, well lighted and ventilated at all times. The use of chunk alum, powder puffs and styptic pencils in any such salon or school is prohibited. No pets such as cats, dogs, birds, etc., shall be kept in or allowed to inhabit salons or the entrance to such salons or schools.

2.3. Each barber, cosmetologist, aesthetician, nail technician/manicurist, instructor and student shall thoroughly cleanse his or her hands with soap and water immediately before serving any patron.

2.4. Each patron must be served with clean, freshly laundered linen which is kept in a closed cabinet used for that purpose alone. All linens immediately after being used shall be placed in a closed receptacle used for that purpose alone.

2.5. A freshly laundered towel or paper neck strip must be placed around the neck of every patron so that the chair cloth or shampoo apron does not come in contact with the patron's skin.

2.6. The wiping of hands or instruments of any kind on linen being used is prohibited.

2.7. The head rests of all barber chairs should be wiped down with an approved disinfectant or allow must possess an attachment allowing a change of paper for each customer. Used shaving papers must be deposited in a closed receptacle used for that purpose alone.

2.8. All salons must be equipped with hot and cold running water piped to hot and cold water faucets of a lavatory. For purposes of this rule, a lavatory is that plumbing fixture commonly used for

hand washing. An individual lavatory shall be provided for ~~each~~ every two barber chairs in all barber shops, and shall be located in the working area of each barber chair. Waste water must be drained through proper plumbing facilities into the public sewer system.

2.9. All rooms used for salons must be equipped with all implements, supplies, sterilizers, linen and all other equipment and requisites necessary to perform any or all of the services usually rendered in salons. Salons located in residences must have a private entrance, proper toilet facilities and must be confined strictly to rooms used exclusively for barbering or beauty culture services.

2.10. Every barber, hair stylist or cosmetologist who uses hair brushes must have at least six (6) in use. After each brush is used, it must be thoroughly washed and immersed in an approved disinfectant solution, dried and placed in a clean storage bin ~~cabinet sterilizer~~ until used again.

2.11. Every barber, hair stylist or cosmetologist must have at least twelve (12) combs in use. Every comb must be washed and thoroughly sterilized after each use.

2.12. All razors, scissors, tweezers, needles, blades and other instruments shall be thoroughly cleaned and disinfected by immersion in an approved disinfecting solution, after they have been in use, and such tools, instruments and appliances shall, when not in use, be kept in a clean storage bin ~~dry cabinet sterilizer~~. Massage cups, glass applicators and metallic accessories must be detached after each use and thoroughly washed, disinfected and then placed in a clean storage bin ~~dry sterilizer~~. The bottom blade of all clippers shall be sponged with a small pledget of cotton that has been dipped in an approved disinfectant before each use.

2.13. Waving fluid, or other liquid preparations, must be applied to the hair only through a sanitary dispenser, or by dripping, pouring, or spraying on the hair.

2.14. All rollers must be cleaned and sterilized after each patron and, when not in use, kept in a closed cabinet or clean storage bin used for that purpose only.

2.15. The advertised price of a permanent wave must include a shampoo and all other preparations necessary prior to giving the wave, and every act necessary to complete the permanent wave excluding a haircut. The manager of each salon will be held responsible for seeing that the salon has on hand at all times all supplies required to give each individual permanent wave advertised, by name, by that particular salon.

2.16. Each licensee and student shall be held responsible for keeping his or her individual chair, work stand, mirror, drawers, individual sterilizers and entire booth or stand clean and neat during working hours. Each such licensee practicing in any capacity must keep his or her entire personal appearance clean and neat, and above reproach at all times.

2.17. Every licensee must have adequate cabinet space for storing tools and accessories only. Each barber, hair stylist or cosmetologist must have an approved, compartment-type, individual dip sterilizer, which must be of sufficient size to allow combs to be completely submerged. Dip sterilizers may be made of glass, or other non-corrosive materials, and must contain, at all times, an adequate fresh supply of an approved disinfectant. Combs, brushes and other implements shall be washed in soap and water prior to being placed in the dip sterilizer, and shall be dried before being placed in the cabinet sterilizer.

2.18. No person practicing barbering or beauty culture, in any capacity, is permitted to remove warts, moles or skin blemishes. Cosmetologists and aestheticians can perform extraction of skin blemishes. No person may attempt to treat any disease of the skin or scalp. Persons desiring, or in need of treatment of any disease, must be referred to a licensed physician.

2.19. Floors and base boards must be kept clean and free from hair, and where possible, mopped each day. ~~Where cuspidors are used, they must be cleaned at least once a day, and a disinfectant solution left in them at all times.~~

2.20. Any member of the Board, or its inspectors may enter or inspect any barber, beauty, nail, and aesthetic shops/salons or school of barbering, ~~or beauty culture~~ cosmetology, hair styling, aesthetics or nail technology during business hours to check any part of the premises in order to ascertain whether or not any part of these rules are being violated, and to take any other action necessary to properly enforce the law.

2.21. A copy of this rule must be framed and posted in a conspicuous place in every salon and school ~~of barbering or beauty culture~~. Licenses must be framed and posted at each work station at which the individual is currently working.

2.22. Failure on the part of the owner, manager or employee to comply with this rule is a violation of law and sufficient cause for the Board to revoke, or decide not to renew any applicable license.

2.23. For the purposes of this rule, an approved disinfectant means a one-thousandth (1/1000) solution of quaternary ammonium salts of high germicidal activity, or its equivalent.

2.24. All salons or schools opened after the effective date above must have an inspection completed by a licensed electrician stating the electrical wiring within the shop is adequate to the proposed usage of the facility.

2.25. No barber, beauty, nail and aesthetic shops/salons may operate equipment primarily used for a service that is governed by this board that the salon or its licensed workers are not licensed to operate.

2.26. All salon and shop owners and/or managers must present annual records of all booth renters on July 1st of each year. The record should include: name of renter, renter's license number, name of salon, salon's license number, and length of current rental or lease agreement.

2.27. All salons and school ceilings, ceiling tiles, floors, flooring tiles, base boards, and walls shall be in good repair without signs of excessive dirt, suspect mold or mildew, or any damage that is considered a threat to public safety and/or sanitation.

§ 3-5-3. Duty to Carry Out Rules, Reporting and Complaints.

3.1. It shall be the duty of the proprietors of all salons and ~~barber or beauty~~ schools, and all certificate holders, licensees, students, and others to assist in carrying out the provisions of this rule by reporting any violation to the Board or any of its duly authorized agents.

3.2. Complaints may be presented to an inspector at the time of inspection or may be mailed to the Board. Complaints will be investigated as promptly as possible.

§ 3-5-4. Administrative Due Process.

4.1. Those persons adversely affected by the enforcement of this rule shall have the right to request a hearing in a manner pursuant to the provisions of W. Va. Code § 30-27-~~120~~ *et seq.*