

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

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SECRETARY OF STATE
STATE OF WEST VIRGINIA

Form #3

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

AGENCY: Board of Barbers and Cosmetologists TITLE NUMBER: 3

CITE AUTHORITY: 30-27-5 & 30-27-6

AMENDMENT TO AN EXISTING RULE: YES NO

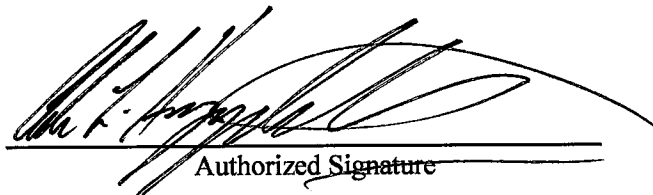
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Qualifications, Training, Examination, and Licensure of Instructors in
Barbering and Beauty Culture

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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.


Authorized Signature

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Qualifications, Training, Examination, and Licensure of Instructors in Barbering and Beauty Culture

Type of Rule: Legislative Interpretive Procedural

Agency: Board of Barbers and Cosmetologists

Address: 1716 Pennsylvania Ave. Suite 7
Charleston, WV 25302

Phone Number: 304-558-2924 Email: adam.l.higginbotham@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

NA

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: Qualifications, Training, Examination, and Licensure of Instructors in Barbering

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

NA

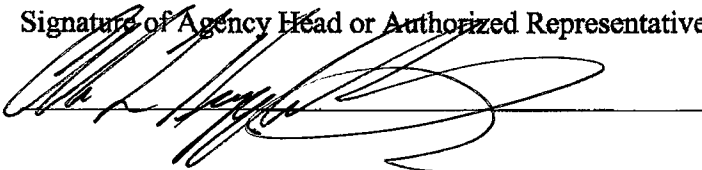
MEMORANDUM

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.

This rule change is to update the language and clarify the rules and regulations of schools in the barbering or beauty culture.

Date: 7/30/2009

Signature of Agency Head or Authorized Representative





**State of West Virginia
Board of Barbers and Cosmetologists**

**1716 Pennsylvania Avenue, Suite 7
Charleston, West Virginia 25302
Telephone: 304-558-2924
Fax: 304-558-3450**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

**Adam L. Higginbotham
Director**

Date : July 30, 2009

To: Administrative Law Division of Secretary of State's Office

From: Adam L. Higginbotham, Director, Board of Barbers and Cosmetologists

Re: Qualifications, Training, Examination, and Licensure of Instructors in Barbering and Beauty Culture

SUMMARY OF PROPOSAL

The changes to this rule update the terminology of the Board and make the rule compatible and in agreement with new code 30-27.

This rule also clarifies the instructor requirements and increases the hours of student instructor training from 250 to 375.

X

**Adam L. Higginbotham
Executive Director**

TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 2
QUALIFICATIONS, TRAINING, EXAMINATION AND
LICENSURE OF INSTRUCTORS IN BARBERING AND BEAUTY CULTURE

§ 3-2-1. General

1.1. Scope - This legislative rule establishes the qualifications, training, examination and licensure of both ~~student~~ instructors and master instructors in schools of barbering or beauty culture which have been promulgated by the Board of Barbers and Cosmetologists (hereinafter Board).

1.2. Authority - W. Va. Code § ~~30-27-8~~ 30-27-5. Related § ~~30-27-1~~ 30-27-6 et seq.

1.3. Filing Date - ~~May 11, 1992~~

1.4. Effective Date - ~~July 1, 1992~~

§ 3-2-2. General Qualifications for Licensure as an ~~Student~~ or ~~Master~~ Instructor

2.1. An individual seeking licensure as an ~~student~~ instructor in a school of barbering and/or beauty culture as an instructor of barbering, cosmetology, nail technology, or aesthetics must:

2.1.1. Be at least nineteen (19) years of age;

2.1.2. Be of good moral character and of temperate habits;

2.1.3. ~~Have completed the twelfth grade of public school or its equivalent~~ Have a high school diploma, GED, or "ability to benefit" test offered by the United States Department of Education;

2.1.4. Have graduated from a recognized school of barbering or beauty culture;

2.1.5. Have submitted an application to the Board with the appropriate fees. All material attached to the application becomes the property of the Board;

2.1.6. Have passed an examination administered by the Board consisting of a written, oral and demonstrative section including subject areas adopted by the Board with at least a 70% pass percentage.

2.1.7. Have completed 375 hours of instructor's training as stated in Table 3-2A in this rule.

- 2.1.8. Submit an application to the Board to include, but not limited to Name, address, email, telephone number, education background, professional background, professional recommendation from school owner/manager, and any other document to establish identity or professional capabilities.
- 2.1.9. Letter from school owner or manager stating and certifying 375 hours of instructor training and professional capabilities.
- 2.1.10. Present a portfolio to include, but not limited to photos of hairstyles performed or created, lesson plans, letters of past students or instructors, list of goals or ambitions, and other information pertaining to the industry.
- 2.1.11. Must have passed a practical presentation, written, and oral skills test with a 70% or higher pass rate and have trained under a master instructor.
- 2.1.12. Must have an active license in the subject or specialty wishing to teach.
- 2.1.13. Pay all applicable license, examination, and registration fees.

3-2-3 General Qualifications for Licensure as a Master Instructor

3.1 An individual seeking licensure as a master instructor in a school of barbering and/or beauty culture must:

- 3.1.1. Be at least twenty-two (22) years of age with all prerequisites mentioned in the Qualifications for Licensure as an Instructor.
- 3.1.2. Complete fifteen (15) hours of college credits from a degree granting institution or junior college in collaboration with Table 3-2C.
- 3.1.3. Complete 375 hours of instructor training.
- 3.1.4. Have three (3) years experience as an instructor in beauty culture.
- 3.1.5. Submit an application to the Board to include, but not limited to Name, address, email, telephone number, education background, professional background, professional recommendation from school owner/manager, and any other document to establish identity or professional capabilities.
- 3.1.6. Letter from school owner or manager stating and certifying 375 hours of instructor training and professional capabilities and employment and instructing experience.
- 3.1.7. Present a portfolio to include, but not limited to photos of hairstyles performed or created, lesson plans, and other information pertaining to the industry.

3.1.8. Must have passed a practical presentation, written, and oral skills test with a 70% or higher pass rate and have trained under a master instructor.

3.1.9 Must have an active license in the subject or specialty wishing to teach.

3.1.10 Pay all applicable license, examination, and registration fees.

3.1.11. Meet any other applicable and reasonable request of the Board or the Director of the Board in direct relation to teaching or practical knowledge set forth by the Board or the Director.

~~2.23.2.~~ All instructor's licenses expire annually or biennially from date of issue on December 31.

~~2.33.3.~~ Every person registered in any capacity as an instructor student or master instructor in this State must keep his or her original or renewed license posted conspicuously in the school wherein they are employed.

§ 3-2-4. Additional Requirements for Licensure as an Student Instructor.

~~3.1. All applicants, before seeking licensure as a student instructor, must have been employed at least one (1) year in an existing, licensed beauty or barber shop. Following that one (1) year of employment, the applicant must complete an additional two hundred and fifty (250) of instructor's training as specified in Table 3-2A of this rule and pass an examination administered by the Board. The curriculum shown in Table 3-2A must be taught by a master instructor, or an instructor certified with a degree in education, and taught at the respective school of employment.~~

~~3.2. During the applicant's training period for a master instructor, he or she must complete a minimum of fifteen hours (15) college credits (a minimum of two hundred and fifty (250) clock hours on assigned subjects or subjects with the equivalent subject content under the minimum college requirements for licensure as a master instructor in Table 3-2C of this rule.~~

~~3.3~~ 4.1. All barber and beauty school owners who expect to employ an student 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 student instructor. School owners must submit annual progress reports on all student instructors employed in their barber or beauty school to the Board.

~~§ 3-2-4.~~ Additional Experience Requirements for Licensure as a Master Instructor

~~4.1. An applicant for licensure as a master instructor must~~

be at least twenty-two (22) years of age.

4.2. — Applicants seeking licensure as a master instructor must have been employed as a student instructor for a minimum of three (3) years. Applicants who have a minimum of five (5) years shop experience, prior to employment as a student instructor, may be licensed as a master instructor after two (2) years experience as a student instructor. All applicants seeking licensure as a master instructor shall secure the required and prerequisite training necessary to qualify for examination and licensure during employment as a student instructor and shall at all times be under the supervision of a licensed master instructor.

4.3. — Applicants seeking licensure as a master instructor in barbering or beauty culture must, during their prescribed training period, secure a hairstyling certificate from an advanced hairstyling school approved by the Board. A certificate, or a copy thereof, shall become a part of their application for examination as a master instructor.

4.4. — An applicant for licensure as a master instructor who has practiced barbering or beauty culture for a period of five (5) years prior to making application for licensure; who possesses the required college credits indicated in this rule; and who has acquired an acceptable certificate in advanced hairstyling, may secure licensure as a student instructor and qualify for examination as a master instructor after serving two (2) years as a student instructor in a duly licensed school of barbering or beauty culture.

§ 3-2-5. Additional Educational Requirements for Licensure as a Master Instructor

5.1. The minimum required college subjects and hours for master instructors are specified in Table 3-2C of this rule. A minimum of ~~two hundred and fifty (250)~~ three hundred seventy five (375) clock hours is required.

5.2. All applicants to become master barber instructors must complete an additional one hundred (100) hours of training in permanent waving and pass an examination administered by the Board. The curriculum which is specified in Table 3-2B must be taught by a master beauty instructor or a master barber instructor who has the required one hundred (100) hours. This rule applies to only 1800 hour barber graduates.

5.3. The first five (5) courses listed in Table 3-2C of this rule may be taken in any junior college, or degree-granting institution approved by the West Virginia State Board of Trustees. These courses may be taken either on campus or as extension courses or any other means officially approved by the degree-granting institution. ~~Students who do not meet the prerequisites for admission in these courses may audit the courses.~~ The student shall report the credit received to the Board by evidence of an official school transcript.

5.4. — ~~If a student audits a course, he or she shall present to~~

~~the Board a statement by the instructor of the course, indicating that the student has participated in all class activities; the number of hours for which the class was scheduled, and that the student performed satisfactorily. The student shall be responsible for the presentation of the instructors statement to the Board.~~

§ 3-2-6. Renewal of Licensure as an Instructor Student or Master Instructor

~~6.1. To renew an applicant's initial license as a student or master instructor, an applicant must have been employed full-time for at least three (3) months within the preceding twelve (12) month period as a student or master instructor in an approved school of barbering or beauty culture. If the applicant has not been employed for the requisite time period, the Board may allow the applicant to pass an oral examination administered by the Board and complete a six (6) month "in-service" training program at a state-approved barber or beauty college.~~

~~6.2. Within each two (2) year period, each licensee must acquire a minimum of three (3) hours additional credits in approved subjects relating to the art of teaching: Provided, that applicants~~

~~who have renewed their license as a master instructor for seven (7) years over a nine (9) year period, are exempt from this requirement. These credits may be obtained in any state college or university approved for the original training of instructors, or in seminars endorsed by the Board. Hours and credits earned for attending annual and semiannual seminars will be established by the Board in cooperation with various state educational agencies in or out of the state where such seminars may be held.~~

~~6.3. Within each two (2) year period, each licensee must renew their certificate indicating proficiency in advanced hairstyling from a Board approved school of advanced hairstyling. The Board shall provide a list of those schools approved for the teaching of advanced hairstyling upon request.~~

6.1 Instructor or Master Instructor licenses must be renewed annually or biennially on January 1st of each year renewal is required.

6.2 Continuing education requirements must be completed in order to receive license renewal.

6.43. 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.

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

§ 3-2-7. Reciprocity

7.1. An applicant from another state seeking licensure as a

student or master instructor is eligible for licensure by reciprocity if the applicant has acquired training in another state equal to the requirements established in this rule for the respective license requested: Provided, that the state in which said applicant is licensed extends the same privilege to licensed instructors from this State.

§ 3-2-8. Revocation of License

8.1. The license of a student or master 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.

8.2. Any person whose license as a student or master instructor has been suspended or revoked for good and sufficient reasons, including incompetency or gross neglect in teaching barbering or beauty culture, may at the discretion of the Board, be entitled to practice barbering or beauty culture in this State.

§ 3-2-9. Administrative Due Process

9.1. Those persons adversely affected by the enforcement of this rule have the right to request a contested case hearing in a manner pursuant to the provisions of W. Va. Code § ~~29A-5-1~~ 30-27-20 et seq.

~~§ 3-2-10. Severability~~

~~10.1. If any provision of this rule or the application thereof to any person or circumstance is determined to be invalid, such invalidity shall not affect the provisions or applications of this rule which can be given effect without the invalid provision or application, and to this end, the provisions of this rule are severable.~~

<u>SUBJECTS</u>	<u>HOURS</u>
1. Orientation	10
2. Psychology of Student Training	15
3. Introduction to Teaching	40 20
4. Good Grooming and Personality Development	10
5. Course Outlining and Development	15
6. Lesson Planning	20 30
7. Teaching Techniques (Methods)	30 40
8. Teaching Aids - Audio-Visual Techniques	20
9. Demonstration Techniques	20 30
10. Examination and Analysis	20
11. Classroom Management	15
12. Record Keeping	10
13. Teaching Observation	15 40
14. Teacher Assistant	20 40
15. Pupil Teaching (Practice Teaching)	20 60
	250 375

TABLE 3-2B. 100 Hour Curriculum for Barber Instructors to Qualify to Teach Permanent Waving

	<u>THEORY & LECTURE</u>	<u>DEMONSTRATION</u>	<u>PRACTICE</u>	<u>TOTAL HOURS</u>
1. Hair Structure	2			2
2. Chemistry: Physical & Chemical Action	4			4
3. Permanent Waving Scalp & Hair Analysis	10	10	20	40
4. Razor Shaping & Procedures	4	4	10	18
5. Hairstyling	$\frac{10}{30}$	$\frac{8}{22}$	$\frac{18}{48}$	$\frac{36}{100}$

TABLE 3-2C. Required College Subjects and Hours for Master Instructors

<u>SUBJECTS</u>	<u>SEMESTER HOURS</u>	<u>CLOCK HOURS</u>
*Psychology of Learning	2-3	30-45
*Methods of Teaching	2-3	30-45
*Methods of Examination	2-3	30-45
*Public Speaking	2-3	30-45
English Composition	2-3	30-45
Teacher Education Orientation	2-3	30-45
Introduction to Vocational Education	2-3	30-45
Occupational Analysis	2-3	30-45
Course Construction	2-3	30-45
Safety in Vocational Education	2-3	30-45
Organization and Management	2-3	30-45
**Summer Short Course		30
**Seminar <u>50</u>		
TOTAL	410-575	

*Required courses
 **Requires prior approval of the Board

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/30/2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* Board of Barbers and Cosmetologists

1716 Pennsylvania Ave. Suite 7

Charleston, WV 25302

LEGISLATIVE RULE TITLE: Qualifications, Training, Examination, and Licensure of Instructors in Barbering and Beauty Culture

1. Authorizing statute(s) citation 30-27-5 & 30-27-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
6/30/2009

b. What other notice, including advertising, did you give of the hearing?
Posted on web site.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
7/30/2009

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

NA

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Adam L. Higginbotham, Director

1716 Pennsylvania Ave. Suite 7, Charleston, WV 25302

304-558-2924/304-558-3450/adam.l.higginbotham@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. 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.

NA

b. Date of hearing or comment period:

NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned below the text of item d.

120 SOUTH THIRD STREET
CLARKSBURG WV 26301
FAX: 304 624-6465
PHONE: 304 624-6475

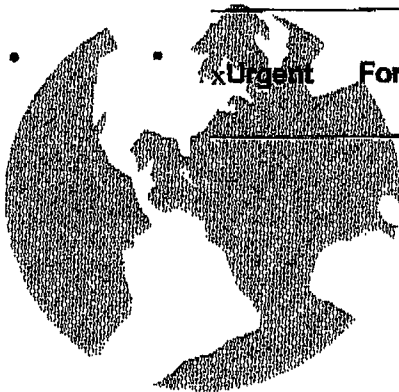
CLARKSBURG BEAUTY ACADEMY

To: Adam Higgenbotham **Fax:** 304 558-3450

From: Angela Policano **Date:** 07/23/2009

RE: Response to proposed rules **Pages:**3 (including cover)

Urgent **For Review** **Please Comment** **Please Reply**



Clarksburg Beauty Academy's Response to Proposed Rule Changes

To: Adam Higginbotham, Director
State Board of Barbers & Cosmetology
From: Angela Policano
Clarksburg Beauty Academy

Series1 3-1-43

Qualification for Licensure

43.1 #d: graduated from a school of aesthetics or nail technology/manicuring.

Response: I feel that allowing schools of aesthetics or nail technology would be a mistake. We would see schools going in all over the state and the quality of education would go down.

Series 2 – 2.1

Licensure of Instructors in Aesthetics & Nail Technology.

Response: I understand that having instructors specialized in their individual fields would be a good thing. However, it is not clear in the proposed rules that a Cosmetology Instructor could also teach the nail tech and aesthetic programs. These programs tend to have small enrollments and it would not be feasible for school to hire a nail tech instructor or aesthetic instructor to teach if they had a small enrollment.

I also have to mention that if nail tech and aesthetic schools were to be allowed to open in the state, having Master Nail Tech Instructors and Master Aesthetic Instructors would make it easier to acquire the 3 master instructors needed to open a school.

Series 2 – 3-2-3 Qualifications for Licensure as a Master Instructor

3.1.4 Be employed at a salon for at least two (2) years and with three years experience as an instructor.

Response: After talking with Adam, he assured me this is an error and will be corrected to read or instead of and.

Series 6 Fees

Response: I understand the need to increase fees in order to meet operation cost and the cost of monitoring continuing education, however with today's economy I feel it will be hard to get a fee increase passed.

Increasing the renewal fee to school from \$250.00 to \$500.00 annually does not sound like a big concern; however the board must be aware of the all the annual costs that accredited school pay to operate at the high standards that we operate. We pay fees to ACS, NACCAS, CCTC and we are required to have 2 audits each year, compliance audit of our Financial Aid Accounts and a Complete Audit of our School Account. These two audits cost the school over \$10,000.00 annually.

2.9-2.10 Initial license for Instructors and Annual renewal for Instructors

Response: Most instructors also keep their Cosmetology or Barbering License as well as their Instructor license active, therefore this would be a hardship on the Instructor that renews their own license. Most schools, including Clarksburg Beauty Academy, pay for the renewal of their Instructors licenses as well are the initial licenses. This will be another large cost to school that will be renewing ten (10) instructors license each year.



Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Adam L. Higginbotham
Director

State of West Virginia
Board of Barbers and Cosmetologists

1716 Pennsylvania Avenue, Suite 7
Charleston, West Virginia 25302
Telephone: 304-558-2924
Fax: 304-558-3450

Date: July 28th, 2009

To:  Larry and Angela Policano, Clarksburg Beauty Academy

From:  Adam L. Higginbotham, Director, Board of Barbers and Cosmetologists

Re: Comments concerning proposed rules and regulations

Please find the responses to your questions in the exact order you sent your questions to the Board.

Issue # 1- The Board understands your point of view and will make appropriate corrections.

Issue # 2- A cosmetologist will still be allowed to teach nail and aesthetic courses to the full extent. However, this just allows the option to train, hire, and implement a specifically trained and licensed individual to teach nail or aesthetic courses. They still must meet the requirements of all other instructors.

Issue # 3- This was an error. The two years of salon experience will be omitted.

Issues # 4 and 5- The Schedule of Fees will be re-examined to find the appropriate levels. However, fee increases must be accomplished in areas to support the increasing cost of operations. The separation just from WV DHHR Public Health Division could increase expenses above \$42,000 annually. There are also the added costs of implementing continuing education, covering the increasing cost of health insurance and other insurance policies, rising utilities and general business materials.

The most recently submitted proposed changes will be posted on the Board's website by August 7th, 2009.

Should you have any further questions, please feel free to contact me.