

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

Form #3

Do Not Mark In This Box

2010 JUL 30 PM 1:14

SECRETARY OF STATE
STATE OF WEST VIRGINIA

**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: 3CSR4

CITE AUTHORITY: 30-27-5

AMENDMENT TO AN EXISTING RULE: YES NO

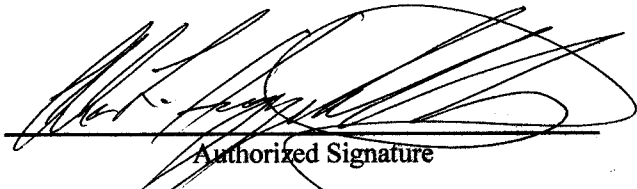
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Operational Standards for Schools of 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

TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS
SERIES 4
OPERATIONAL STANDARDS FOR SCHOOLS OF
BARBERING AND BEAUTY CULTURE

RECEIVED
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OFFICE OF THE CLERK
STATE OF WEST VIRGINIA

§3-4-1. General

1.1. Scope - This legislative rule establishes the operational standards for schools of beauty culture and barbering which operate in the State of West Virginia as adopted by the Board of Barbers and Cosmetologists (hereinafter Board).

1.2. Authority - W. Va. Code § 30-27-1. Related - W. Va. Code § 30-27-1 et seq.

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

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

~~1.5. Repeal and Replace Former Regulations - This rule repeals and replaces the former rule titled "Minimum Curriculum for Schools of Barbering", 3 CSR 6, filed December 7, 1990, and effective July 1, 1991.~~

§ 3-4-2. Operation of Schools of Barbering and Beauty Culture

2.1. Record and Posting Requirements

2.1.2. The school shall prepare an accurate record of the number of hours devoted to the prescribed subjects during the previous month and the cumulative total of hours completed since the student's enrollment for each student by permit number. This record is to be posted on the schools bulletin board at all times and be made available to all students.

2.1.3. The school must post a copy of this rule on a bulletin board and make the rule available to all students in each school.

§ 3-4-3. Classroom and Equipment Standards for Schools of Beauty Culture

3.1. Classrooms, Equipment - Each school of beauty culture shall have a minimum of two (2) rooms in use at all times. The school shall utilize a classroom for the teaching of theory, illustrations and lectures. The school shall also utilize a clinical room for clinical or demonstrative work. A school shall have the following equipment for the accommodation of up to twenty (20) students. A school shall install additional equipment in proportion to any increase in enrollment.

- (a) One (1) blackboard or whiteboard, not less than 4 x 8 feet in size.
- (b) Twenty (20) dresserettes and twenty (20) mirrors, or twenty (20) combination work tables. There must be a work station table and chair for each student enrolled in school at all times.
- (c) Five (5) shampoo bowls.
- (d) Ten (10) hair dryers.
- (e) Three (3) facial chairs.
- (f) Two (2) facial supply trays.
- (g) Two (2) hydraulic haircutting chairs.
- (h) Two (2) vibrators.
- (i) Two (2) therapeutic lamps.
- (j) Four (4) manicure tables.
- (k) Sufficient clean linen cabinet space.
- (l) One (1) dip (wet) sterilizer for each booth and work table.
- (m) Dry sterilization sufficient to accommodate as many students as are engaged in clinical work at any one time.
- (n) Sufficient training aids.
- (o) Twenty (20) hairdressing chairs.
- (p) Head manikins to be furnished by the school for each student, as part of kit for practical hairdressing.
- (q) Twenty (20) classroom chairs.
- (r) At least ten (10) waste containers.
- (s) One (1) large bulletin board conspicuously located for student permits, rules, regulations, notices, etc.
- (t) One (1) set of books used solely for the records required by Section 7 of this rule.

3.2. General requirements for Schools of Beauty Culture

(a) All schools shall provide and maintain adequate rest room facilities.

(b) A school shall not permit any student to enter any class for study, or give credit for any work done in school, prior to the time his or her permit has been received from the Board.

(c) Each school shall maintain a library of suitable reference books approved annually by the Board.

(d) Each school shall hold regular classes for the teaching of both the theory and the practice of all branches of beauty culture.

(e) Schools shall not guarantee positions to students, nor guarantee financial aid to students for help in adequately equipping a beauty shop.

(f) Schools are not limited to any particular system of teaching beauty culture. Students should be familiar with the various methods and practices in their profession and the different supplies and equipment used in the beauty industry.

(g) Each school must have an admission office, properly equipped with a filing cabinet, etc., and maintain duplicate copies of records sent to the Board.

(h) Each school shall advertise only under the designation of a "beauty school" and shall display conspicuously at the entrance to the school a sign in plain block, display lettering at least one (1) inch in height, to read as follows: "All Work Done By Students Only."

(i) The school must display all service prices in the clinic area. The prices must be followed by the words, "Student Work", in lettering at least one half (1/2) the size of the lettering used to display the price.

(j) During school hours instructors, as well as students, shall wear washable uniforms which must be kept clean and neat at all times. Instructors shall wear different uniforms from those worn by the students so they may be easily recognized.

(k) All bottles and containers in use must be distinctly and correctly labeled, showing the use for which the contents are intended.

(l) The school shall furnish the Board with a copy of the current school catalog and copies of all student contracts. At any time when changes are made in the catalog, the school shall furnish the Board with a copy of the catalog as revised within thirty (30) days of the change or revision

§ 3-4-4. Classrooms and Equipment Standards for Schools of Barbering

4.1. Classrooms, Equipment - Each school of barbering shall have a minimum of two (2) clinic rooms in use at all times, one (1) to be known as the junior department and the other as the senior department. All beginners will receive instruction in the junior department and will advance to the senior department when they have completed the minimum number of hours specified by the Board. Both rooms shall be fully equipped and arranged in a manner to comply with the rules promulgated by the Board. There shall be a third room in every school of barbering where class study, examinations and lectures are held. A school shall have the following minimum equipment before being permitted to operate:

(a) Ten (10) complete chair units consisting of one (1) chair, lavatory, and complete back stand and providing a proper cabinet for immediate linen supply and individual wet and dry sterilizers.

(b) One (1) recognized textbook on barbering for each student, approved by the Board.

(c) Three (3) high frequency or ultraviolet ray outfits.

(d) One (1) standard vibrator for each four (4) students enrolled.

(e) One (1) therapeutic lamp - infra-red, white and blue for every four (4) students enrolled.

~~(f) One (1) three objective compound microscope with low, high and oil immersion objective (Bausch and Lomb, or Spencer and Zeiss, brand suggested); and microscope slides on related sciences dealing with bacteria and human anatomy as specified in this rule or as the Board may approve and publish in a list from time to time.~~

~~(g) One (1) S.V.E. slide projector, model AK300 watt for 2 x 2 slides.~~

~~(h) One (1) radiant hy-flect glass beaded screen, model D.L., size 60" x 60"; and such 2 x 2 Kodachrome and lantern slides on bacteriology, diseases of the skin and scalp, and anatomy, as the Board may approve and publish. A partial list of Kodachrome slides, 2 x 2, 35 mm., prescribed for use in schools of barbering in West Virginia is shown in Table 3-4A found at the end of this rule.~~

(if) Sufficient clean linen cabinet space.

(jg) One (1) blackboard or whiteboard, not less than 5' x 8' in size.

(kh) One (1) large bulletin board, conspicuously located, for the posting of rules and regulations, notices, etc.

(li) One (1) file for duplicate copies of reports sent to the office of the West Virginia Board of Barbers and Cosmetologists.

(m) One (1) set of books used solely for the records required by Section 7 of this rule.

4.2. The school shall equip the study and lecture room with the required blackboard from subsection (j) above and charts showing illustrations of the skin, circulation of the blood, muscles and bones of the face, scalp, neck, arms and hands. The school shall use this room for the sole purpose of giving scientific instructions to students.

4.3. Each school of barbering shall maintain a library of suitable reference books, including those books as may be approved and published in a list by the Board.

4.4. Each school of barbering shall hold regular classes for the teaching of both the theory and practice of all phases of barbering.

4.5. No one in any way connected with any school of barbering shall guarantee positions to students nor guarantee financial aid to help a student in equipping a barber shop.

4.6. Schools are urged not to advocate the use of any particular equipment. Students should be familiar with the different supplies and equipment used in barber shops.

4.7. Each school shall advertise only under the designation of a barber school, and shall display conspicuously at the entrance to the school a sign in plain, block, display lettering at least one (1) inch in height, as follows: "All Work In This School Done By Students Only."

4.8. When service prices are displayed, or in any manner advertised by a school of barbering, they must be followed by the words "STUDENT WORK" in lettering at least one half (1/2) the size of the lettering used to display the price.

4.9. During school hours, instructors, as well as students, shall wear washable coats which must be kept clean and neat at all times.

4.10. All bottles and containers in use must be distinctly and correctly labeled, showing the intended use of the contents.

4.11. A school shall not permit a student enrolled in a school of barbering to work on a patron who is paying for the service or materials, until such student has attended the school for a period of three hundred (300) hours.

4.12. Each student in his senior year, before graduation, must act in the capacity of manager of the school for at least one (1) week; two (2) weeks if possible. He or she

shall be in full charge of the clinical division of the school, under the supervision of the manager of the school.

4.13. Each school of barbering shall furnish the Board with a copy of the class schedule being used in the school, and copies of all advertising material and student contracts. At any time, if any changes are made in class schedules, advertising material or student contracts, the school shall furnish the Board with such revised materials.

3-4-5. Enrollment

5.1. The enrollment in a school of barbering shall not, at any time, exceed one and one half (1-1/2) students per chair.

§ 3-4-6. Attendance at Schools of Barbering and Beauty Culture

6.1. All schools of barbering and beauty culture must establish regular school hours. For the purpose of this rule, hour means full clock hours.

6.2. All schools shall require that all students attend classes at least eighty percent (80%) of the time that they are enrolled in school. Schools shall not require attendance to exceed eight (8) hours in any twenty-four (24) hour period, exclusive of the lunch period.

6.3. The student must account for any absence for more than twenty percent (20%) of the time after enrollment by a written excuse from a doctor, dentist, or someone who can verify to the Board the necessity of the student's absence.

§ 3-4-7. Records

7.1. Daily Records - Each school shall keep a daily class record of each student, showing the number of hours devoted to the respective subjects, the number of clinical operations performed, the total number of hours the student is in attendance and the days each student is absent.

7.2. Monthly Records - Schools shall keep a monthly record of the student's entire enrollment and send this record to the Board on forms furnished to the schools for that purpose, showing the permit number of each student; the number of months addressed by the report; the number of, and the days that each student is absent or present; the hours devoted to each subject, and the number of clinical operations performed by the student to date.

7.3. Permanent Records - The school's manager shall compile a permanent record, including the information described in subsections 7.1. and 7.2., of each school from the daily class records. The manager shall keep this compilation up-to-date in a permanent file, subject to inspection at any time by any member of the Board or any authorized representative.

7.4. Final - The manager of each school shall compile from the school's records a summary of each student's subjects, clinical operations, grades, hours and attendance. The school shall present this record to the student upon graduation and this record shall also be made a part of the student's application to the Board for licensure by examination. The manager must sign each copy of the required records and must certify that the record is correct and that the student has received a diploma from the school.

3-4-8. Teaching Staff

8.1. No school may open or operate with less than ~~three~~ two (~~32~~) licensed master instructors: Provided, that schools having a valid license as of the effective date of this rule shall employ a minimum of two (2) master instructors. There must be one (1) master instructor for every ~~twenty~~ thirty (~~2030~~) students ~~or reasonable average thereof~~. An instructor shall be in the classrooms of the school at all hours and supervise all practice student work.

8.2. No instructor in either a school of barbering or a school of beauty culture may use any portion of the allotted time for school hours, in the performance of any public or private practice of his or her respective profession, for compensation or remuneration of any form.

8.3. In schools of barbering, there must be at least one (1) monthly illustrated or demonstrated lecture during the course of instruction. This lecture must be given by a duly licensed physician or some person who has had special training in anatomy, hygiene, bacteriology, physiology, electricity and/or other science related to the study of barbering who is not related to any member of the present teaching staff.

8.4. A demonstrator may exhibit new processes, preparations, and appliances to the student only in the presence of the licensed instructors.

8.5. Schools may give private lessons to registered barbers or cosmetologists who desire to gain more knowledge in any subject, or subjects, which they are already entitled to practice.

§ 3-4-9. 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 et seq.

§ 3-4-10. 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

Table 3-4A. Kodachrome Slide List

1. MS2-4 Chancre of the finger
2. MS2-9 Chancre of the lip
3. MS2-9.1 Syphilis, primary lip
4. MS2-31 Chancre of the face
5. MS2-33 Chancre of the mouth and face
6. MS2-47 Secondary syphilis
7. MS2-58 Syphilitic alopecia
8. MS2-200.5 Acne vulgaris, face, male
9. MS2-200.6 Acne vulgaris, face, male
10. MS2-202 Alopecia areata
11. MS2-202.1 Alopecia capitis totalis
12. MS2-205A Comedones
13. MS2-208A Dermatitis seborrheica (impetigo sicca, face)
14. MS2-210F Erysipelas—face
15. MS2-210H Favus capitis
16. MS2-210.H.1 Favus capitis, close up
17. MC-84.0 Herpes zoster (scalp and face, 10th day of eruption)
18. MS2-213 Herpes simplex—lip
19. MS2-213.1 Herpes simplex—face
20. MS2-216 Herpes zoster—close up
21. MS2-216.3 Herpes zoster close up, head lesion
22. MS2-219A Impetigo contagiosa, face
23. MS2-221 Leprosy, face
24. MS2-225.2 Lupus erythematosus, face
25. MS2-242A Rosacea, face
26. MS2-246 Sycosis vulgaris under chin
27. MS2-250-2 Tinea capitis
28. MS2-252 Vitiligo—hands
29. MS3-19 Acute eczema
30. MS3-19A Acute eczema
31. MS3-20 Chronic eczema
32. MS3-21 Psoriasis—early
33. MS3-23 Pustular psoriasis
34. MS3-27 Pityriasis rubra pilaris
35. MS3-44 Acne varioliformis
36. MS3-67 Keratosis seborrheica
37. MS3-92 Herpes simplex
38. MS3-92a Herpes simplex
39. MS3-93 Verruca plana
40. MS3-93a Verruca plana
41. MS4-1 Ringworm of the scalp, clinical picture
42. MS4-2 Circinate lesion, clinical picture
43. MS4-3 Microsporum in hair
44. MS4-12 Nail lesion, clinical picture

- 45. ~~MS4-13 Trichophyton in hair, endothrix~~
- 46. ~~MS4-14 Trichophyton in hair, favus type~~
- 47. ~~MS4-15 Trichophyton in the skin~~
- 48. ~~MS4-26 Epidermophyton, clinical picture~~
- 49. ~~MS4-43 Pityrosporum ovale in dandruff, scale~~
- 50. ~~MS4-44 Pityrosporum ovale (in wort agar and oleic acid)~~
- 51. ~~MS4-45 Pityrosporum ovale (Microscopic of culture)~~
- 52. ~~MS2-212 Hatband dermatitis~~
- 53. ~~MC-81.0 Erysipelas (venenata face, 6th day of rash)~~
- 54. ~~MC-82.0 Erysipelas (dermatitis venenata face, 6th of rash)~~
- 55. ~~MC-82.1 Erysipelas (close up of face)~~
- 56. ~~MC-90.0 Impetigo, lesion of face~~
- 57. ~~MC-91.0 Impetigo, lesion of face~~
- 58. ~~MC-92.1 Impetigo, close up of face, chest, and abdomen~~
- 59. ~~MS3-96 Impetigo contagiosa~~
- 60. ~~MC-83-0 Dermatis venenata (face, 3rd day of rash)~~



Joe Manchin III
Governor

Adam L. Higginbotham
Director

State of West Virginia
Board of Barbers and Cosmetologists

1201 Dunbar Ave.
Dunbar, WV 25064
Telephone: 304-558-2924
Fax: 304-558-3450
www.wvbbc.org

Board Members

Michael Belcher
Justina Gabbert
Sarah Hamrick
Paula Kurczak
Susan Poveromo
Jim Ryan
Rick Stache

TO: SECRETARY OF STATE NATALIE TENNANT
FROM: ADAM L. HIGGINBOTHAM, DIRECTOR, BOARD OF BARBERS AND COSMETOLOGISTS
SUBJECT: 3CSR4
DATE: 6/18/2010

The proposed changes requested in 3CSR4 are to eliminate the out-dated requirement for projector slides and to increase the number of students-to-master instructor ratio.

Sincerely,

Adam L. Higginbotham

Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Operational Standards for Schools of Barbering and Beauty Culture

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: Board of Barbers and Cosmetologists _____

Address: 1201 Dunbar Avenue _____
Dunbar, WV 25064 _____

Phone Number: 304-558-2924 _____ Email: wvbbc@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

Operational Standards for Schools of Barbering and Beauty Culture

Rule Title: _____

Rule Title: _____

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 has no fiscal impact.

Date: 6/17/2010

Signature of Agency Head or Authorized Representative



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: 7/30/2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Board of Barbers and Cosmetology
1201 Dunbar Avenue
Dunbar, WV 25064
304-558-2924

LEGISLATIVE RULE TITLE: Operational Standards for Schools of Barbering and Beauty Culture

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
6/18/2010

b. What other notice, including advertising, did you give of the hearing?
Posting on www.wvbbc.org

c. Date of Public Hearing(s) *or* Public Comment Period ended:
7/22/2010

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)

7/30/2010

- 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
304-558-2924

- 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)

NA

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

Higginbotham, Adam L

From: Joe Mamone [joe@scottcollegeofcosmetology.edu]
Sent: Thursday, July 22, 2010 5:14 PM
To: Higginbotham, Adam L
Subject: Proposed changes 1, 2 & 4

Dear Adam Higginbotham,

I am writing in regards to proposed changes 1, 2 & 4. I have read all 3 and have found nothing in any of the 3 that I would be opposed to.

I do want to say that even though I am not opposed to proposal 4 as I do feel it will be better than as currently written I want to take this opportunity to say that I am opposed to the 2 tier instructor status in West Virginia. I feel the proposed changes will make more people eligible to test for a masters license but I see no useful advantage to the masters instructor status and I also feel that being a successful hairdresser for 15 years certainly does not guarantee that that individual would make a good instructor.

I want to go on record and say that in my opinion the best thing for the industry in West Virginia would be to switch back to a 1 tier instructor license. I have research the licensing of instructors though out the United States and cannot find another state that requires a 2nd tier level instructor to be able to operate a school of cosmetology.

Thank you for this opportunity to express my opinion.

Sincerely,

Joe Mamone
Scott College of Cosmetology
1502 Market Street
Wheeling, WV. 26003



Joe Manchin III
Governor

Adam L. Higginbotham
Director

State of West Virginia
Board of Barbers and Cosmetologists

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Board Members

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Susan Poveromo
Jim Ryan
Rick Stache

Joe Mamone
Scott College of Cosmetology
1502 Market Street
Wheeling, WV 26003

July 28th, 2010

Dear Mr. Mamone,

On behalf of the Board I would like to thank you for your response to the proposed rule changes posted on our website for the upcoming 2011 legislative session.

I definitely concur with your opinion that being a hairdresser for fifteen (15) years will not guarantee that the individual would make a good instructor. I would even venture to state that the completion of any three tracks or options to master instructor status would guarantee an individual being a good instructor. The main reasons for trying to create additional tracks or options to obtain master instructor status are to create more master instructors to replenish their decreasing numbers and to increase the opportunities of individuals with different life experiences to provide valuable insight professionally and educationally to neophytes in the beauty industry.

As for the request to eliminate the two-tiered system of instructors in West Virginia (instructor and master instructor), there are many that agree with your opinion. At this time the Board has three rules open for proposed changes. The rules covering master instructors include four different rules. Therefore, if the Board would choose to propose the elimination of the master instructor program in the current three rules that mention the master instructors, one rule would still mention the master instructor program causing our rules to be inconsistent. Since the four different rules would not be in unison we could not proceed with a proposed elimination of the two-tiered system for the 2011 legislative session.

If the elimination of the two-tiered system of instructors is important to the industry or your business growth, I strongly encourage your input at a board meeting during the February, March, April, May months of 2011.

Again, I would like to thank you for your participation and input for the proposed rule changes.

Sincerely,

Adam L. Higginbotham
Director