

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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1991 JUN 17 PM 1:57
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV BOARD OF BARBERS AND BEAUTICIANS TITLE NUMBER: 3

RULE TYPE: LEGISLATIVE; CITE AUTHORITY §30-27-1

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: RULES AND REGULATIONS FOR
LICENSING SCHOOLS OF BARBERING AND BEAUTY CULTURE

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON JULY 22, 1991 AT 4:30 PM

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

• BOARD OF BARBERS AND BEAUTICIANS
GUTHRIE CENTER
4860 BRENDA LANE
CHARLESTON, WV 25312

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Taunja Willis Miller, Secretary

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.00

FISCAL NOTE FOR PROPOSED RULES

Rule Title: RULES AND REGULATIONS FOR LICENSING SCHOOLS OF BARBERING AND BEAUTY CULTURE

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Type of Rule: Legislative Interpretive Procedural

Agency BOARD OF BARBERS & BEAUTICIANS Address 4860 BRENDA LANE, GUTHRIE CENTER, CHARLESTON, WV 25312

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.
The proposed amendments will not affect current or future budgets.

3. Objectives of these rules: The proposed amendments 1) change terminology for beauticians and beauty culture to cosmetologists and cosmetology 2) change title of senior instructor to master instructor 3) delete information regarding licensing fees and make other minor "clean up" changes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

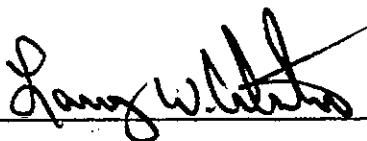
NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date 6/12/91

Signature of Agency Head or Authorized Representative



LARRY W. ABSTEN, DIRECTOR
BOARD OF BARBERS AND BEAUTICIANS

WEST VIRGINIA BOARD OF BARBERS AND BEAUTICIANS
RULE ABSTRACT

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1991 JUN 17 PM 1:57

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Title: Rules and Regulations for Licensing Schools of Barbering
and Beauty Culture

CSR Title & Series: 3 CSR 5

Type: Legislative

Summary: The proposed amendments: 1) changes terminology from "Beauty Culture" to "Cosmetology". 2) changes title of "Senior" or "Regular" instructor to "Master" instructor. 3) deletes information relative to licensing fees, (which was included in Series 4) and make other minor "clean up" changes. 4) delete repeal of rule clause.

For further information contact: West Virginia Board of Barbers and Beauticians, Guthrie Center, 4860 Brenda Lane, Charleston, West Virginia, 25312. Telephone: 348-2924.

(PROPOSED)

TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND BEAUTICIANS

FILED

SERIES 5
RULES AND REGULATIONS FOR LICENSING SCHOOLS OF BARBERING AND
BEAUTY-CULTURE COSMETOLOGY

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SECRETARY OF STATE

§3-5-1. General

1.1. Scope - This legislative rule establishes general rules for the licensing of schools of barbering or beauty-culture-cosmetology.

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

1.3. Filing Date -

1.4. Effective Date -

1.5. Approval Date - This rule was approved by the West Virginia Board of Barbers and Beauticians on

§3-5-2. Application and Enforcement

2.1. Application - This rule applies to the owners and operators of schools of barbering or beauty-culture-cosmetology.

2.2. Enforcement - Enforcement of this rule is vested in the West Virginia Board of Barbers and Beauticians.

§3-5-3. Supersession and Repeal of Former Regulations - This rule supersedes and repeals Rules and Regulations for Licensing Schools of Barbering and Beauty Culture, West Virginia Legislative Rules, 3 CSR 5, filed December 7, 1990, and effective July 1, 1991.

§3-5-4. Licensing Standards

4.1. General Policy - A license for a school of barbering or beauty-culture cosmetology shall be issued only when it is clear that the public safety, health and welfare are adequately and sufficiently protected by the conditions surrounding the establishment of the proposed school, and when the issuance of such license would be in the interest and protection of public health. Therefore, licenses shall be issued only when the applicant has proven to the satisfaction of the Board that: (a) The applicant is professionally competent, the applicant is financially responsible, adequate physical facilities will be available for the school, and the applicant has contracted for the employment of three (3) or more licensed ~~senior~~ master instructors, or in the instance of a school purchased or opened after the effective date of this rule, has

contracted for the employment of three (3) or more licensed senior master instructors.

4.2. Professional Competency - Each applicant must show and prove a background of training and or experience in barbering or beauty-culture, cosmetology, as the case may be, as will support a finding by the Board of professional competency and managerial ability so as to provide a substantial likelihood of the continued successful operation of the proposed school.

4.3. Financial Responsibility - The applicant must prove to the satisfaction of the Board: (a) The ability to finance the construction and equipping of the proposed school and (b) The purchase of a surety performance bond made payable to West Virginia Board of Barbers and Beauticians in the amount of fifty thousand dollars (\$50,000), to be renewed annually for five (5) consecutive years. The Board may, by not less than 3/4 majority vote of its membership, accept other alternate forms of security, payable to the West Virginia Board of Barbers and Beauticians in the amount of \$50,000 per school to guarantee full instruction to students who enroll at the school. In the event the applicant should default in providing such instruction, a refund from the surety bond, or other form of security, shall be made to the student, according to the number of hours of instruction lacking, if tuition has been prepaid. State or county schools not charging tuition shall be exempt from the bonding requirement.

4.4. Facilities - The applicant must show that the intended premises for the proposed school are adequate and sufficient so as to insure proper facilities for teaching a minimum of fifty (50) students at all times and that the proposed school will be properly fitted and equipped.

4.5. Instructors - The school must employ at least three (3) licensed senior master instructors and there will be a minimum of one (1) instructor employed for each twenty (20) students, or reasonable average thereof: Provided, that schools having a valid license as of the effective date of this rule shall employ a minimum of two (2) such instructors.

§3.5.5. Applications for Licenses

5.1. General Form and Content - Applications for license shall be in writing, made under oath, and will be sufficient if made either in letter form or on forms made available by the Board. Applications shall be addressed to West Virginia Board of Barbers and Beauticians, West Virginia Department of Health, 1800 Washington Street East, Charleston, West Virginia, 25305 and shall contain at least the following:

- (a) The name of the applicant;

(b) The place at which such applicant will conduct its operations and whether the same is owned or leased by the applicant;

(c) If such applicant be an unincorporated copartnership or association, the name and addresses of the partners or governing board;

(d) If such applicant be a corporation the names and resident addresses of its officers and directors;

(e) A copy of a proposed floor plan of said school, which arrangement shall have at least two (2) classrooms and a room for clinical and demonstration work;

(f) A list of the equipment proposed to be installed;

(g) A report from the state fire marshal indicating that the floor plan, equipment installation and premises will meet all Rules and Regulations pertaining to fire safety;

(h) The background of all persons connected with the applicant as either owner, manager or instructor relative to: (1) Training and experience in barbering or beauty-culture; cosmetology, and (2) business and managerial training, experience or ability;

(i) An applicant's financial statement certified to by a qualified public accountant and a surety performance bond made payable to the West Virginia Board of Barbers and Beauticians in the amount of fifty thousand dollars (\$50,000), to be renewed annually for five (5) consecutive years from date of issuance or other alternate forms of security as approved by the Board to guarantee full instruction to students who enroll at the school except State or county schools not charging tuition shall be exempt from the bond or security requirement.

(j) A statement setting forth the applicant's general operating plan for the school;

(k) A list of the names of the licensed senior master instructors to be employed in the school;

(l) Copies of proposed: (1) Advertising to be used in opening of school, (2) student contracts, and (3) daily and monthly time sheets to be used in recording student activities in the school.

5.2. **Time of Filing** - Application for a license shall be filed with the Board at least sixty (60) days prior to the Board meeting at which the application is requested to be considered.

5.3. **Board Action** - Upon the filing of an application and the payment of required investigative fee, if the Board shall find that the professional competency, business experience, character,

financial responsibility and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the proposed school will be operated professionally, honestly, fairly and efficiently within the purposes of the statutes, and if the Board shall find that the applicant will have adequate and sufficient facilities, and that the applicant has made arrangements for the employment of at least two (2) licensed senior master instructors or, at least three (3) such licensed senior master instructors for schools purchased or opened after the effective date of this rule, and that allowing such applicant to engage in the operation of a school of barbering or beauty-culture cosmetology in this State would be in the interest and protection of the public's safety, health and welfare, the Board shall thereupon issue and deliver a license to the applicant to conduct a school of barbering or beauty-culture cosmetology at the location specified in said application, which license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended.

The Board shall approve or deny every application for license licensure within ninety (90) days from the applicant's filing of all required information.

If the application is denied, the Board shall within thirty (30) days thereafter file in its office a written decision and findings, with respect thereto containing the evidence and the reasons supporting the denial, and forthwith serve a copy thereof upon the applicant.

§3-5-6. Licenses

6.1. Contents of License and Posting Same - The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of the members thereof, and if a corporation, the date and place of its incorporation. The license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

6.2. Issuance of More than One License to Same Licensee - Not more than one (1) place of business shall be maintained under the same license but the Board may issue more than one (1) license to the same licensee: Provided, that for each license the applicant shall comply with all the provisions of the statutes and this rule governing an original issuance of a license.

~~6.3.- Annual-License-Fee---Every-licensee-shall-annually-upon-or-before-the-first-day-of-January-pay-to-the-Board-the-sum-of-two-hundred-fifty-dollars-(\$250)-as-an-annual-license-fee-for-the-next-succeeding-fiscal-year.~~

~~6.4. The initial licensing fee for each school of barbering and beauty culture shall be five hundred (500) dollars.~~

6.5-3. Investigation of Business - The licensee shall keep, and make available to the Board upon request, such books, accounts and records as will enable the Board to determine whether such licensee is complying with the lawfully made rules of the Board.

6.6-4. Revocation or Suspension of License - The board shall, upon ten (10) days notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke or refuse to renew any license issued hereunder if it shall find that:

(a) The licensee has failed to pay the annual fee or to comply with any demand, ruling or requirement of the Board lawfully made pursuant to and within the authority of the statutes;

(b) The licensee has violated knowingly any provision of the statutes or any rule lawfully made by the Board under and within the authority of the statutes.

Any licensee may surrender any license by delivering to the Board written notice that it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability of the licensee for acts committed prior to such surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any student enrolled in licensee's school.

Every license issued hereunder shall remain in full force and effect unless surrendered, revoked or suspended in accordance with the provisions of this rule and Article 27, Chapter 30 of the West Virginia Code: Provided, that the Board shall have authority on its own initiative to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the Board in refusing originally to issue a license under the statutes or this rule.

Whenever the Board shall revoke or suspend a license, it shall forthwith file in its office a written order to that effect, and findings with respect thereto, containing the evidence and the reasons supporting the revocation or suspension, and forthwith serve upon the licensee a copy thereof.

§3-5-7. Administrative Due Process - Those persons adversely affected by the enforcement of this rule shall have the right to request a contested case hearing in a manner pursuant to the provisions of Chapter 29A, Article 5, of the West Virginia Code.

§3-5-8. Severability - If any provision of this rule or the

3 CSR 5

application thereof to any person or circumstance shall be held 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 declared to be severable.

~~§3-5-9. Repeal-of-Rule---This-rule-will-automatically-be-repealed on-July-1, 1992, -unless-extended-prior-to-that-date-by-an-act-of-the Legislature.~~