

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED

1992 MAY 11 AM 10:38

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Board of Barbers and Cosmetologists TITLE NUMBER: 3

AMENDMENT TO AN EXISTING RULE: YES X, 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:

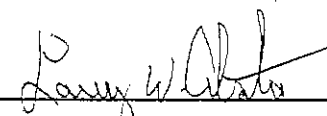
TITLE OF RULE BEING PROPOSED: Rules and Regulations For Licensing Schools of Barbering and Beauty Culture

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) 64-9-5. (n)

SECTION , PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: July 1, 1992



Larry W. Absten
Director

2.50

TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 5

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

OPERATION OF BARBER, BEAUTY SHOPS,
AND SCHOOLS OF BARBERING AND BEAUTY CULTURE

§ 3-5-1. General

1.1. Scope - This legislative rule governs the sanitary requirements of the operation of barber and beauty shops and schools of barbering and beauty culture as adopted by the Board of Barbers and Cosmetologists (hereinafter Board).

1.2. Authority - W. Va. Code § 30-27-10. 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 Cosmetologists on

1.6. Repeal and Replace Former Regulations - This rule repeals and replaces the former rule titled "Operation of Barber and Beauty Shop and Schools of Barbering and Beauty Culture", 3 CSR 3, filed December 7, 1990, and effective July 1, 1991.

§ 3-5-2. Sanitation and Operation Requirements

2.1. All barber or beauty shops or schools of barbering and beauty culture must have cross, or approved, air ventilation before opening.

2.2. All shop'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 shop or school is prohibited. No pets such as cats, dogs, birds, etc., shall be kept in or allowed to inhabit shops or the entrance to such shops or schools.

2.3. Each barber, cosmetologist, 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 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 headrests of all barber chairs must possess an attachment allowing a change of paper for each customer. Used shaving papers must be deposited in a receptacle used for that purpose alone.

2.8. All barber or beauty shops 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 barber chair 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. The use of steamers, sterilizers, bowls or receptacles of any kind into which to put hot towels, or hot water, is prohibited.

2.9. All rooms used for barber or beauty shops 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 barber or beauty shops. Shops 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 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 cabinet sterilizer until used again.

2.11. Every barber or cosmetologist must have at least twelve (12) combs in use. Every comb must be washed and thoroughly sterilized after each use. Every barber must have at least two (2) neck dusters in use, and each must be kept clean at all times.

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 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 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 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. The manager of each shop will be held responsible for seeing that the shop has on hand at all times all supplies required to give each individual permanent wave advertised, by name, by that particular shop.

2.16. Each barber or cosmetologist and student barber or cosmetologist 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 barber or cosmetologist practicing in any capacity must keep his or her entire personal appearance clean and neat, and above reproach at all times.

2.17. Every barber or cosmetologist must have adequate cabinet space for storing tools and accessories only. Each barber 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 noncorrosive 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. 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 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 agents may enter and inspect any barber or beauty shop or school of barbering or beauty culture 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 barber or beauty shop and school of barbering or beauty culture. Licenses must be framed and posted near each barber and beauty chair or work stand.

2.22. Failure on the part of the owner, manager or employees 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.

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

3.1. It shall be the duty of the proprietors of all barber or beauty shops, barber or beauty schools, and all licensed barbers, cosmetologists, 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 contested case hearing in a manner pursuant to the provisions of W. Va. Code § 29A-5-1 et seq.

§ 3-5-5. Severability

5.1. If any provision of this rule, or the application thereof, to any person or circumstance is 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 severable.

0124

Bill B&B, Operation of Shops 3-5

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H. B. 4240

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the
Committee on Government Organization then the
Judiciary)

A BILL to amend and reenact section five, article nine, chapter
sixty-four of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to authorizing the
board of barbers and beauticians to promulgate legislative
rules relating to the operation of barber shops, beauty
shops, and schools of barbering and beauty culture.

Be it enacted by the Legislature of West Virginia:

That section five, article nine, chapter sixty-four of the
code of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted, to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
TO PROMULGATE LEGISLATIVE RULES.

§64-9-5. Board of barbers and beauticians.

(a) The legislative rules filed in the state register on the
tenth day of June, one thousand nine hundred eighty-eight,

4243

1 modified by the board of barbers and beauticians to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the eighth day of December, one
4 thousand nine hundred eighty-eight, relating to the board of
5 barbers and beauticians (minimum curriculum for schools of
6 barbering), are authorized with the amendment set forth below:

7 On page 9, by inserting a new section, designated section
8 3-6-14, to read as follows:

9 "§3-6-14. Repeal of rule -- This rule will automatically be
10 repealed on July 1, 1991, unless extended prior to that date by
11 an act of the Legislature."

12 (b) The legislative rules filed in the state register on the
13 tenth day of June, one thousand nine hundred eighty-eight,
14 modified by the board of barbers and beauticians to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the eighth day of December, one
17 thousand nine hundred eighty-eight, relating to the board of
18 barbers and beauticians (qualifications, training, examination
19 and registration of instructors in barbering and beauty culture),
20 are authorized with the amendment set forth below:

21 On page 6, by inserting a new section, designated section
22 3-2-9, to read as follows:

23 "§3-2-9. Repeal of rule -- This rule will automatically be
24 repealed on July 1, 1991, unless extended prior to that date by
25 an act of the Legislature."

1 (c) The legislative rules filed in the state register on the
2 tenth day of June, one thousand nine hundred eighty-eight,
3 modified by the board of barbers and beauticians to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the eighth day of December, one
6 thousand nine hundred eighty-eight, relating to the board of
7 barbers and beauticians (operation of barber shops and schools of
8 barbering), are authorized with the amendment set forth below:

9 On page 5, by inserting a new section, designated section
10 3-3-6, to read as follows:

11 **"§3-3-6. Repeal of rule --** This rule will automatically be
12 repealed on July 1, 1991, unless extended prior to that date by
13 an act of the Legislature."

14 (d) The legislative rules filed in the state register on the
15 tenth day of June, one thousand nine hundred eighty-eight,
16 modified by the board of barbers and beauticians to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the eighth day of December, one
19 thousand nine hundred eighty-eight, relating to the board of
20 barbers and beauticians (curriculum and minimum requirements,
21 subjects and hour schedule, rules and regulations for schools of
22 beauty culture operation in West Virginia: joint barbers and
23 beauticians license), are authorized with the amendments set
24 forth below:

1 On page 7, by inserting a new section, designated section
2 3-1-11, to read as follows:

3 "§3-1-11. Repeal of rule -- This rule will automatically be
4 repealed on July 1, 1991, unless extended prior to that date by
5 an act of the Legislature."

6 (e) The legislative rules filed in the state register on the
7 tenth day of June, one thousand nine hundred eighty-eight,
8 modified by the board of barbers and beauticians to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the eighth day of December, one
11 thousand nine hundred eighty-eight, relating to the board of
12 barbers and beauticians (operation of beauty shops and schools of
13 beauty culture), are authorized with the amendments set forth
14 below:

15 On page 4, by inserting a new section, designated section
16 3-4-6, to read as follows:

17 "§3-4-6. Repeal of rule -- This rule will automatically be
18 repealed on July 1, 1991, unless extended prior to that date by
19 an act of the Legislature."

20 On page 4, by inserting a new subsection, designated
21 subsection 3.25, to read as follows:

22 "3.25 Notwithstanding any law to the contrary or
23 interpretation of law to the contrary, any licensed beautician
24 may trim beards or mustaches."

1 (f) The legislative rules filed in the state register on the
2 tenth day of June, one thousand nine hundred eighty-eight,
3 modified by the board of barbers and beauticians to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the eighth day of December, one
6 thousand nine hundred eighty-eight, relating to the board of
7 barbers and beauticians (licensing schools of barbering or beauty
8 culture), are authorized with the amendments set forth below:

9 On page 2, subsection 4.1, by deleting subdivision (b) and
10 relettering the remaining subdivisions.

11 And,

12 On page 6, by inserting a new section, designated section
13 3-5-8, to read as follows:

14 **"§3-5-8. Repeal of rule --** This rule will automatically be
15 repealed on July 1, 1991, unless extended prior to that date by
16 an act of the Legislature."

17 (g) The legislative rules filed in the state register on the
18 tenth day of August, one thousand nine hundred ninety, modified
19 by the board of barbers and beauticians to meet the objections of
20 the legislative rule-making review committee and refiled in the
21 state register on the seventh day of December, one thousand nine
22 hundred ninety, relating to the board of barbers and beauticians
23 (licensing of schools of barbering and beauty culture), are
24 authorized with the amendment set forth below:

1 On page 6, by inserting a new section, designated section
2 3-5-8, to read as follows:

3 "§3-5-8. Repeal of rule -- This rule will automatically be
4 repealed on July 1, 1992, unless extended prior to that date by
5 an act of the Legislature."

6 (h) The legislative rules filed in the state register on the
7 tenth day of August, one thousand nine hundred ninety, modified
8 by the board of barbers and beauticians to meet the objections of
9 the legislative rule-making review committee and refiled in the
10 state register on the seventh day of December, one thousand nine
11 hundred ninety, relating to the board of barbers and beauticians
12 (qualifications, training, examination and registration of
13 instructors in barbering and beauty culture), are authorized with
14 the amendment set forth below:

15 On page 6, by inserting a new section, designated section
16 3-2-9, to read as follows:

17 "§3-2-9. Repeal of rule -- This rule will automatically be
18 repealed on July 1, 1992, unless extended prior to that date by
19 an act of the Legislature."

20 (i) The legislative rules filed in the state register on the
21 tenth day of August, one thousand nine hundred ninety, modified
22 by the board of barbers and beauticians to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the seventh day of December, one thousand nine
25 hundred ninety, relating to the board of barbers and beauticians

1 (minimum curriculum for schools of barbering), are authorized
2 with the amendment set forth below:

3 On page 7, by inserting a new section, designated section
4 3-6-14, to read as follows:

5 "§3-6-14. Repeal of rule -- This rule will automatically be
6 repealed on July 1, 1992, unless extended prior to that date by
7 an act of the Legislature."

8 (j) The legislative rules filed in the state register on the
9 tenth day of August, one thousand nine hundred ninety, modified
10 by the board of barbers and beauticians to meet the objections of
11 the legislative rule-making review committee and refiled in the
12 state register on the seventh day of December, one thousand nine
13 hundred ninety, relating to the board of barbers and beauticians
14 (curriculum and minimum requirements, subjects and hour schedule,
15 rules and regulations for schools of beauty culture operation in
16 West Virginia; joint barbers and beauticians license), are
17 authorized with the amendment set forth below:

18 On page 7, by inserting a new section, designated section
19 3-1-11, to read as follows:

20 "§3-1-11. Repeal of rule -- This rule will automatically be
21 repealed on July 1, 1992, unless extended prior to that date by
22 an act of the Legislature."

23 (k) The legislative rules filed in the state register on the
24 tenth day of August, one thousand nine hundred ninety, modified
25 by the board of barbers and beauticians to meet the objections of

1 the legislative rule-making review committee and refiled in the
2 state register on the seventh day of December, one thousand nine
3 hundred ninety, relating to the board of barbers and beauticians
4 (operation of barber and beauty shops and schools of barbering
5 and beauty culture), are authorized with the amendment set forth
6 below:

7 On page 4, by inserting a new section, designated section
8 3-3-6, to read as follows:

9 "§3-3-6. Repeal of rule -- This rule will automatically be
10 repealed on July 1, 1992, unless extended prior to that date by
11 an act of the Legislature."

12 (1) The legislative rules filed in the state register on the
13 thirteenth day of August, one thousand nine hundred ninety-one,
14 relating to the board of barbers and beauticians (operation of
15 barber, beauty shops, and schools of barbering and beauty
16 culture), are authorized.

17

18 NOTE: The purpose of this bill is to authorize the Board of
19 Barbers and Beauticians to promulgate legislative rules relating
20 to the operation of barber shops, beauty shops, and schools of
21 barbering and beauty culture.

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23 Strike-throughs indicate language that would be stricken from
24 the present law, and underscoring indicates new language that
25 would be added.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

MARIO J. PALUMBO
ATTORNEY GENERAL

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(304) 348-2522

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December 27, 1991

Debra A. Graham
Counsel, LRMRC
Capitol Complex
Charleston, West Virginia 25305

Dear Debra,

This letter is being prepared in order to chronologically track the procedure by which the West Virginia Board of Barbers and Beauticians has utilized in order to have the Legislative Rule-Making Review Committee approve the Board's proposed rules, series 1 through 6.

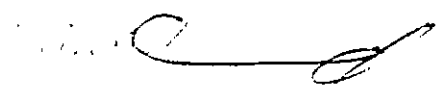
The Board filed the proposed legislative rules for public comment on June 17, 1991. The public comment period ended July 22, 1991, with no comments having been received by the Board. The comment period ended on July 22, 1991.

The Proposed rules, series 1 through 6 were then filed by the Board with the Secretary of State's Office on July 22, 1991, and subsequently filed with your office on August 12, 1991 for review. At your request, the Board proceeded to revise the rules, series 1 through 6, in order to create a more organized set of rules. The rules that were reorganized were intended to be "modified" versions of the proposed rules and not offered as new proposed rules. There were no substantive changes to the rules, only a reorganization of the subject matter in order to make the rules more easily understandable and to allow the general public the opportunity to find information within the rules in an logical order.

These rules which were intended to modify the proposed rules were filed with the LRMRC on August 12, 1991. Due to the mass reorganization of the rules, the titles of the rules had changed. (thereby creating possible confusion for persons wanting to receive a copy of the rules from the Secretary of State's Office and prompting the preparation of this letter) The rules that were submitted for public comment contained the exact same subject matter as the revised or modified rules.

These revised or modified rules were reviewed by the LRMRC on December 9, 1991 and were approved pending very minor modifications relating to grammar. These changes were made and the final rule was submitted on the date of this letter, December 1991.

Very truly yours,



Albert C. Dunn, Jr.
Assistant Attorney General

cc: Judy Cooper
Larry Absten



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Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Larry W. Absten

AGENCY: Board of Barbers & Cosmetologists

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 5 TITLE: 3 Board of Barbers & Cosmetologists

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: *Larry W. Absten*

TITLE OF PERSON SIGNING: Director

DATE: 10/22/92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.