

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED

1998 JUN 10 AM 8:28

WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Board of Barbers and Beauticians TITLE NUMBER: 3

CITE AUTHORITY W. Va. Code §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 or Beauty Culture

IF NO, SERIES NUMBER OF NEW 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.

Edwin Roush
Edwin Roush, Executive Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations for licensing Schools of Barbering or Beauty Culture (3 CSR 5)

Type of Rule: Legislative Interpretive Procedural

Agency Board of Barbers and 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.

Although there will be some increase in the Board's workload, existing funding is adequate.

3. Objectives of these rules:

The proposed amendments are intended to provide protection for students of barbering and beauty culture.

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.

Bonding costs for new schools of beauty culture and/or barbering will increase. All existing schools have been licensed for more than five years.

C. Economic Impact on Citizens/Public at Large.

NONE

Date May 16, 1988

Signature of Agency Head or Authorized Representative

Edwin Roush

Edwin Roush
Executive Director

WEST VIRGINIA BOARD OF BARBERS AND BEAUTICIANS

RULE ABSTRACT

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

CSR Title and Series: 3 CSR 5

Type: Legislative

Summary: The proposed amendments increase a 5-year bonding requirement for newly licensed schools of either barbering or beauty culture from \$10,000 to \$50,000; add a 5-year residency requirement for new applicants; increase the minimum number of senior instructors from 2 to 3 for licensing new schools of barbering or beauty culture; and make a few "clean-up" changes.

For further information contact: Regulatory Development Section, Health Department, 1800 Washington Street, East, Charleston, WV 25305, Telephone 348-3223, or WV Board of Barbers and Beauticians, 4860 Brenda Lane, Guthrie Center, Charleston, WV 25312, Telephone 348-2924.

Proposed Rules
Public Comments Received,
Discussion and Response

Title: "Rules and Regulations for Licensing Schools of Barbering and Beauty Culture," West Virginia Board of Barbers and Beauticians Legislative Rules, 3 CSR 5.

A public hearing regarding this rule was held on October 16, 1987, and was attended by twelve people. Copies of comments are attached. Ms. Mills spoke on behalf of Mr. Jack Donta, Huntington School of Beauty Culture.

For "proposed": 1) Strike-throughs indicate a deletion proposed for public hearing. 2) Underlining indicates new text proposed for public hearing. 3) Strike-throughs of underlined text indicates deletion of a proposed addition. 4) Double underlining indicates text added after the hearing. 5) Restoration of text proposed to be deleted is shown by double underlining plus strike-through. Deletion of existing text after the hearing is shown by the strike-throughs enclosed in brackets.

(1) Comment (Betty Dixon): This proposed rule will increase the workload of the Board. (Fiscal Note)

Response: The fiscal note has been revised to state more precisely that although there will be some increase in the Board's workload, the Board can support the increase out of existing funding.

(2) Comment (JoAnn Berwinkle): All of the amendments should apply to the opening of a new shop or the purchase of an existing school.

Response: This was the intent of the proposed amendments. Language has been added in some instances for clarification.

Proposed: See specific items.

(3) Comment (Rebecca Mills, Huntington School of Beauty Culture; George W. Schaub, International Beauty Schools; D. David McGuire, Phillips Colleges): Sections 4.1. and 4.5. - The proposed requirement of three rather than two registered regular senior instructors places a financial burden on schools with fewer students. A ratio of one senior instructor to twenty students would be better. The number of senior instructors in the state is too limited to support the requirement for three such instructors. Also, the requirement for three instructors will cause schools to have to close if an instructor is sick or on vacation.

Comment (D. David McGuire, Phillips College; George W. Schaub, International Beauty Schools; Rebecca Mills, Huntington School of Beauty Culture): Section 4.1. - The five-year residen-

cy requirement for owners of schools of barbering and beauty culture greatly limits the number of prospective operators of such schools, either to purchase existing schools or begin new schools. A situation of financial insolvency or death of a current school owner would potentially cause a school to close, harming a number of students by depriving them of their education. The proposed five-year residency requirement prior to issuance of a license for a barber or beauty school is a detriment to the growth of our industry and should not be a part of the proposed rules and regulations.

Comment (JoAnn Berwinkle): Section 4.1. The 5-year residency requirement should be for major stockholders, not just owner.

Response: The Board believes that a five-year residency requirement is an indication of a stable long-range commitment and that this may also create employment opportunities for State residents. Therefore, no change is proposed regarding the new residency requirement.

Although the Board believes that small schools are no longer economically viable, it does not wish to burden existing schools unnecessarily. Therefore, the Board proposes to leave the requirement for three instructors with some changes in §§4.1, 4.5 and 5.3 to ensure that actual employment of three instructors is required. However, language has been added to restrict these new requirements to new schools in order to protect existing schools from undue hardship.

A residency requirement for stockholders/owners would not be reasonable in view of the development of schools with branches or affiliates in more than one state. The applicant may be the owner or simply the operator of the school.

Proposed:

4.1. General Policy - A license for a school of barbering or beauty culture 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 issue only when the applicant has proven to the satisfaction of the board that (a) the applicant is professionally competent, (b) the applicant has been a resident of the State for at least five years (b) (c) the applicant is financially responsible, ~~(e)~~ (d) adequate physical facilities will be available for the school, and ~~(d)~~ (e) the applicant has contracted for the employment of two (2) or more registered regular senior instructors, or in the instance of a new school, has contracted for the employment of three (3) or more registered regular senior instructors.

(4) Comment (D. David McGuire, Phillips Colleges): Section 4.3. The requirement of a \$125,000 bond is excessive and should

be deleted. The existing bond requirement is one of the highest in the nation. [The commenter provided data regarding other states; figures for West Virginia are incorrect and the source is not identified.]

Response: The amount of bond required for schools has not been increased in more than thirty years. For example, in 1959 a \$10,000 bond was required and 20 students was not an unusually small number. Today some schools may have as many as 80 (barbers) to 120 (beauty) students. Tuition has also increased by a factor of five to ten. The Board believes that an increase in the bonding requirement is long overdue, but does propose to decrease the proposed amount from \$125,000 to \$50,000.

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) a surety performance bond made payable to West Virginia State Board of Barbers and Beauticians in the amount of ~~(\$10,000)-ten thousand--dollars,~~ one--hundred--twenty-five--thousand--dollars (\$125,000), fifty thousand (\$50,000) dollars to be held five (5) years from date of issuance 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 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 to be exempt.

(5) Comment (Betty Dixon): Section 4.5. - The changes are incorrect. Comment (JoAnn Berwinkle): Section 4.5. Change "proposed employment" to "hired full-time."

Response: See #3 above.

4.5. Instructors - The [applicant] school must [show the proposed--employment--of] employ at least ~~two~~ three registered regular senior instructors [by--the--proposed--school], and [that] there will be a minimum of one 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.

(6) Comment (JoAnn Berwinkle): Section 5.1. Name of applicant should be changed to major stockholder.

Response: See #2 above.

(7) Comment (JoAnn Berwinkle): Section 5.3. Language should be changed to show employment of three instructors instead of two. Comment (Betty Dixon): Incorrect.

Response: The number of instructors referred to in the first paragraph of §5.3 should have been changed to three in order to be consistent with other proposed changes.

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) registered regular senior instructors, or, for new schools at least three (3) such registered regular senior instructors, and that allowing such applicant to engage in the operation of a school of barbering or beauty culture 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 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.

[Remainder of text is unchanged and not shown here.]

(8) Comment (Betty Dixon): Section 6.5(b) - The changes are incorrect.

Response: Rereview found no error.

[PROPOSED]

TITLE 3

LEGISLATIVE RULES
BOARD OF BARBERS AND BEAUTICIANS

RULES AND REGULATIONS FOR LICENSING SCHOOLS
OF BARBERING OR BEAUTY CULTURE

SERIES 5

198_

For Filing with the Legislative
Rule-Making Review Committee

[PROPOSED]
LEGISLATIVE RULES
BOARD OF BARBERS AND BEAUTICIANS
RULES AND REGULATIONS FOR LICENSING SCHOOLS
OF BARBERING OR BEAUTY CULTURE

3 CSR 5

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Relation to Other Regulations	1
Section 4. Licensing Standards	1
Section 5. Applications for Licenses	2
Section 6. Licenses	4

[PROPOSED]
TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND BEAUTICIANS

FILED

1988 JUN 10 AM 8:28

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

SECRETARY OF STATE

§3-5-1. General

1.1. Scope - ~~These legislative rules establish~~ This legis-
lative rule establishes general rules for the licensing of
schools of barbering or beauty culture.

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

1.3. Filing Date -

1.4. Effective Date -

~~1.5. Refiling Date - December 30, 1982.~~

§3-5-2. Application and Enforcement

2.1. Application - ~~These legislative rules apply~~ This rule
applies to the owners and operators of schools of barbering or
beauty culture.

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

~~Section 3. Relation to Other Regulations~~

~~These regulations will amend and supplement prior regula-~~
~~tions promulgated by the Board dealing with and relating to the~~
~~licensing of schools of barbering and beauty culture. All prior~~
~~Rules and Regulations of the Board in conflict with the Rules and~~
~~Regulations herein adopted are hereby repealed.~~

§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 Legisla-
tive Rules, 3 CSR 5, filed August 15, 1968 and refiled December
30, 1982.

§3-5-4. Licensing Standards

4.1. General Policy - A license for a school of barbering
or beauty culture 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 issue only when the applicant has proven to the

satisfaction of the Board that: (a) The applicant is professionally competent, (b) the applicant has been a resident of the State for at least five (5) years ~~(b)~~ (c) the applicant is financially responsible, ~~(e)~~ (d) adequate physical facilities will be available for the school, and ~~(d)~~ (e) the applicant has contracted for the employment of two--(2) three (3) or more registered regular senior instructors, or in the instance of a new school, has contracted for the employment of three (3) or more registered regular senior instructors.

4.2. **Professional Competency** - Each applicant must show and prove a background of training and experience in barbering or beauty culture, 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) a surety performance bond made payable to West Virginia State Board of Barbers and Beauticians in the amount of ~~ten-thousand-dollars, (\$10,000)~~ fifty thousand dollars (\$50,000), to be held five (5) years from date of issuance 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 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 to be exempt.

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 applicant school must show the proposed employment of~~ employ at least ~~two-(2)~~ three (3) registered regular senior instructors ~~by the proposed school,~~ and that 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.

S3-5-5. 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 State Board of Barbers and Beauticians, State West Virginia Department of Health, State of West Virginia, Capitol Building, 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) Report from state fire marshal indicating that floor plan, equipment installation and premises will meet all Rules and Regulations pertaining to fire safety;
- (h) 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, and (2) business and managerial training, experience or ability;
- (i) Applicant's financial statement certified to by a qualified public accountant and a surety performance bond made payable to the West Virginia State Board of Barbers and Beauticians in the amount of ~~ten-thousand--dollars--(\$10,000)~~ fifty thousand dollars (\$50,000), to be held five (5) years from date of issuance to guarantee full instruction to students who enroll at the school.
- (j) A statement setting forth the applicant's general operating plan for the school;
- (k) A list of the names of the registered regular senior instructors to be employed in the school;
- (l) Copies of proposed: (1) Advertising to be used in opening of school, (2) student contract, 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, char-

acter, 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) registered regular senior instructors or, for new schools at least three (3) such registered regular senior instructors, and that allowing such applicant to engage in the operation of a school of barbering or beauty culture 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 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.

If the Board shall not so find, it shall not issue such license and shall notify the applicant of the denial.

The Board shall approve or deny every application for license 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 - Such 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. Such 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 such license the applicant shall comply with all the provisions of the statutes and ~~the rules and regulations promulgated herein~~ this rule governing an original issuance of a license.

6.3. Annual License Fee - Every licensee shall on or before

the first day of each year 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. 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 Rules and Regulations lawfully made by the Board.

6.5. 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 or regulation 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 force and effect until the same shall have been surrendered, revoked or suspended in accordance with the provisions of this article, but 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 not fact or condition then exists which clearly would have warranted the Board in refusing originally to issue a license under the statutes or any ~~rule-or-regulation-promulgated-herein~~ 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.

PUBLIC HEARING

Barbers & Beauticians Rules

10-26-87

DO YOU WISH
TO COMMENT
(YES/NO)

GROUP REPRESENTED
(IF ANY)

ADDRESS

NAME

Glenn Mills	4128 th St. Hgh. W.D. 25701	Hgh. Sch. of Beauty Culture	NO
John Brundage	Rt. 1 Box 418 Clarkburg, WV	Board Member BFB	NO
Edmund Johnson	1215 E. Board of Barbers & Beauticians		NO
J. J. Arquette	311 Elm St. C. Burg, W. Va.	Bd. of Barbers & Beauticians	und.
Betty J. Dixon	4328 Hughes St. Huntington	Board of Barbers & Beauticians	und.
George W. Schaub	329 S. Queen St. - Martinsburg	International Beauty Entpr.	Yes -
Charles B. Lynch	329 S. Queen St. Martinsburg	International Beauty Entpr.	Yes -
David M. Laine	1502 Market St. Wheeling, WV	Wheeling Beauty College	Yes -
Dona Crutchoke	Coast. City, Ga.	Health Dept	
Ronald Brundage	Dr. Bd. of Barbers & Beauticians		
Bernadine Pinner	338 Washington Ave. Martinsburg, WV	Hgh. & chm. Barbers College	NO.



Phillips Colleges, Inc.

One Hancock Plaza
Suite 1408
Gulfport, Mississippi 39501
(601) 864-6096

VIA FEDERAL EXPRESS

October 21, 1987

Department of Health
Regulatory Development Section
1800 Washington Street, E.
Charleston, WV 25305

Gentlemen:

The enclosed are comments of opposition to certain proposed rule changes governing the beauty culture and barbering industry in the State of West Virginia.

I represent Phillips Colleges, Inc., owner of Wheeling Beauty College. During the past (7) seven years, I have worked diligently to resolve legislative and departmental rule conflicts. While these proposed rule changes may have some merit, their broad effect would cripple the beauty industry within the state as well as be deemed unconstitutional based on the "Restriction of Trade Doctrine."

I desire to speak at the upcoming public hearing to further voice my opposition to these proposed changes.

Sincerely,

PHILLIPS COLLEGES, INC.

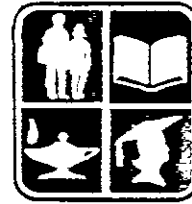
D. David McGuire
D. David McGuire
Vice President for Cosmetology

DDM/tw
cc: Gerald D. Adams, President

RECEIVED

OCT 23 1987

**REGULATORY DEVELOPMENT
SECTION**



Phillips Colleges, Inc.

One Hancock Plaza
Suite 1408
Gulfport, Mississippi 39501
(601) 864-6096

October 21, 1987

RECEIVED

OCT 23 1987

**REGULATORY DEVELOPMENT
SECTION**

Department of Health
Regulatory Development Section
1800 Washington Street, E.
Charleston, WV 25305

RE: Proposed Rule Change
Chapter 30, Article 27, Section 1

Gentlemen:

I write in opposition to the proposed changes of this rule based on the following reasoning:

Section 4 Licensing Standards

4.1 General Policy

- (b) Imposing a five-year residency requirement for owners of schools of barbering and beauty culture greatly limits the number of prospective operators of such schools within the State of West Virginia. The worst scenario would be a situation of financial insolvency or death of a current school owner. This likely scenario would potentially cause a school to close, harming a number of students by depriving them of their education.
- (e) The proposed requirement of three rather than two registered regular senior instructors places a financial burden on schools desiring to operate with a fewer number of students by requiring the smaller school to pay instructors they actually do not need.

4.3 Financial Responsibility

The requirement of a (\$125,000.00) one hundred twenty-five thousand dollar performance bond is ludicrous. The existing bond requirement is one of the highest in the nation. (See attachment) This amendment seems directed as a restriction of trade within West Virginia.

Department of Health
October 21, 1987
Page Two (con't)

4.5 Instructors

Please refer to comments in subsection 4.1 regarding requirement of three senior instructors.

RECEIVED
OCT 23 1987
REGULATORY DEVELOPMENT
SECTION

Department of Health
October 21, 1987
Page Three (con't)

RE: Proposed Rule Change
Chapter 30, Article 27, Section 1
Series Number 2

I write in opposition to the proposed rule change governing the Qualifications, Training, Examination and Registration of Instructors in Barbering and Beauty Culture, more particularly the proposed 100 hour curriculum and examination required for a barber instructor to qualify to teach permanent waving.

Subsection 4.3

It seems ludicrous to require barber instructors to complete only 100 hours of instruction in the art of permanent waving and at the same time require students to complete 375 hours of instruction in the same area of expertise. I must ask, "who will teach who?" I believe that an instructor should be required to complete as a minimum, an equal number of training hours as that of the students he/she will teach.

RECEIVED

OCT 23 1987

REGULATORY DEVELOPMENT
SECTION

RECEIVED

OCT 23 1987

REGULATORY DEVELOPMENT
SECTION

STATE	ORIGINAL	RENEWAL	RESPONSIBILITY
Alabama	\$300	400 ^a	\$5000 bond
Alaska	700	400	Personal proof of financial responsibility
Arizona	350	300	\$10,000 bond
Arkansas	500	100	\$5000 bond
California	216	185	\$5000 bond
Colorado	345	69	\$10,000 bond
Connecticut	Schools are no longer licensed		
Delaware	50	50	\$5000 for 25 students
Dist. of Columbia	100	50	None
Florida	150	75 ^a	\$10,000 & up based on sq. footage
Georgia	175	150 ^b	None
Hawaii	500	None	None
Idaho	500	150	\$5000 bond
Illinois	100	200 ^a	\$5000 bond
Indiana	400 ^c	400 ^c	None
Iowa	500	200	\$15,000 bond
Kansas	100	25	None
Kentucky	1000	100	Personal proof of financial responsibility
Louisiana	305	155	\$5000 bond or financial statement
Maine	Schools are no longer regulated or licensed by the board		
Maryland	100	100	Personal proof financial responsibility
Massachusetts	200	200	\$5000 bond up to 25 students; \$10,000 bond over 25 students
Michigan	100 ^d	300 ^d	\$10,000 bond
Minnesota	150 fee + 750 lit.	750 (3 yrs)	\$10,000 bond and personal proof financial responsibility
Mississippi	55	30	\$5000 bond
Missouri	185	185	None
Montana	100	100	\$5000 bond
Nebraska	1000	100	\$5000 bond for ea. 20 students (1st year only)
Nevada	450	450	\$5000 bond & 25 bona fide students
New Hampshire	125	125	None
New Jersey	100	50	\$10,000 minimum
New Mexico	500 + 100 ^e	500	\$5000 bond
New York	600	Notel	\$20,000 bond
North Carolina	50	50	Personal proof financial responsibility
North Dakota	500	200	\$10,000 bond
Ohio	200	200	\$10,000 bond
Oklahoma	400	100	\$2000 bond for 15 students + 1 instructor; \$1000 bond per additional instructor
Oregon	200	200	\$2500 bond
Pennsylvania	30	50	\$100 per student
Puerto Rico	30	None	None
Rhode Island	75	75	\$2000 bond
South Carolina	100	25	\$5000 bond
South Dakota	150	150	Not Indicated
Tennessee	300	75	\$5000 bond
Texas	500	200	\$5000 personal bond
Utah	100	60 ^a	\$5000 bond
Vermont	100	50	\$2000 bond
Virginia	65	35	None
Virgin Islands	200	200	None
Washington	150	150	To be determined by Director of Dept. of Lic.
West Virginia	300	250	Personal proof financial responsibility
Wisconsin	50	50 ^d	None
Wyoming	100	100	None

To: Board of Farmers & Friends
From: Pamela Chapman
1st wife of Barber College

Re: 100 hrs. Barber Institute,
Dairies in F.W.,
Da: Oct. 26, 1987

The 100 hour training would
be comprehensive in terms
of training.

The 375 hours for
students many hours
will be spent sitting
on the clinic floor
waiting for customers.

I feel the 100 hour
training is adequate
when you consider
it is actual work
done and not wasted
time.

Advanced training and
permanent wave
training previously

acquired should be reviewed. Wheeling
Fairer College staff
has had years
of training
that has never been
considered.

DATE:
TO:
FROM:
SUBJECT:

I believe it would
be a good idea in
the future to do a
random survey of
students on the
actual training they
are receiving in the
beauty schools and on
actual training
the crossover
students have
received.

STATE OF WEST VIRGINIA
DEPT. OF HEALTH



MEMORANDUM



International Beauty Enterprises, Inc.

329 South Queen Street
Martinsburg, WV 25401
October 22, 1987

RECEIVED

OCT 26 1987

**REGULATORY DEVELOPMENT
SECTION**

Department of Health
Regulatory Development Section
1800 Washington Street, E.
Charleston, WV 25305

Re: 3 CSR 5

To Whom It May Concern:

The following is our response to the proposed changes of Rules and regulations for Licensing Schools of Barbering or Beauty Culture.

The general policy (4.1) under Licensing Standards , Section 4 will require a five year residency prior to the issuance of a license for a school of barbering or beauty culture. It is most evident that little or no thought has gone into this proposed regulation. Our comments regarding this issue are as follows:

We deeply resent, if the need ever arises, being forced to sell our cosmetology school to an extremely limited market. The ability to operate a school of cosmetology arts and sciences is not something that one acquires from being a resident of West Virginia for the period of five (5) years. It is also something that cannot be acquired from reading a textbook or attending a seminar. As a school that is accredited by the National Accrediting Commission of Cosmetology Arts and Sciences I believe it is in the industry's best interest to sell the institution to someone with a similar background. In West Virginia that narrows the market to eight (8) other Nationally Accredited Cosmetology Schools. Is this any reason for ever considering owning or even expanding a cosmetology school in West Virginia?

If I am restricted to selling my school to a limited market and I do not receive the fair market value on my investment do I have any recourse?

If I offer my cosmetology school for sale and I have no interested parties that have the five year residency requirement do I just close the establishment and deprive the already enrolled students of their education?

In the minutes of the State Board of Barbers and Beauticians, Page 5, dated August 16, 1987 the following statement is made: "...franchised salons and schools are coming into this state and are creating much competition."

This type of antiquated thinking can be most detrimental to the growth of the cosmetology profession in West Virginia. Competition should be looked upon with much challenge and the desire to strengthen educational programs that are already in existence. It is through healthy competition that cosmetology students and licensed cosmetologists can grow further in their field. Complacency is not going to improve our industry in West Virginia.

The proposed five year residency requirement prior to issuance of a license for a barber or beauty school is a detriment to the growth of our industry and should not be a part of the proposed rules and regulations.

Secondly, the proposed requirement stating that the applicant has contracted for the employment of three or more registered regular senior instructors should also be deleted. In questioning the availability of senior instructors in the State of West Virginia we find there are approximately 37 active instructors. Simple mathematics will show that the availability of senior instructors to accommodate the needs of the accredited, non accredited and vocational schools in the state will utilize every available licensee in the state.

This proposed regulation would then require a school of cosmetology to deny enrollment if they are unable to find a third senior instructor.

This proposed regulation would also require an institution to send home students when a senior instructor calls in sick because they will no longer be meeting the requirements of the State Board of Barbers and Beauticians.

When a senior instructor takes a vacation and a replacement can't be found the school would be in violation unless they send their students home.

Unfortunately the piece of paper that states an individual is a licensed senior instructor does not mean that this individual is a qualified instructor. As a result of this

complacency in teaching will also become the norm. Why should a teacher even attempt to improve his or her ability when they have a piece of paper, a license that is a passport to a position, wether qualified or not, because a school owner needs three senior instructors to keep his doors open.

The present requirements to obtain senior instructor licensure in West Virginia is extensive and not realistic as it presently stands. To further require an institution to expand their staff would create extreme hardship on the institution and could possibly force the closing of some cosmetology schools in West Virginia.

We have already discussed the five year residency status with a Washington law firm that specializes in the field of cosmetology arts and sciences. Their immediate reaction was that a violation of law would take place if such a rule was enacted. We have since sent them the complete text of proposed changes. If the proposed changes are adopted we will most actively pursue any and all means to rescind these detrimental changes.

In closing it is indeed unfortunate that such a tremendous amount of time is being wasted caused by individuals that would rather limit, control and stifle the cosmetology school industry in West Virginia. Can you just imagine the growth of our total profession if this negative energy could be harnessed into developing and enhancing our educational programs so our students can truly reap the benefits of superior cosmetology education.

Yours truly,



George W. Schaub, President
International Beauty Schools

cc: Edwin Roush, WV Board of Barbers and Beauticians
Carol Cataldo, National Accrediting Commission of
Cosmetology Arts and Sciences
Dr. James Murphy, National Association of Accredited
Cosmetology Schools
Jerry Adams, Phillips Colleges, Inc.

AMENDED 1

Page 3. Section 4.2 - Classroom and Equipment - Minumum with which a barber and a beauty school will be permitted to operate for no more than 50 students instead of 20.

2. Change 20 dresserettes and 20 mirrors to 50 of each.
15. Change 20 hairdressing chairs to 50
17. Change 20 Classroom chairs to 50.

Jo Ann Berwick

ALL THE AMENDMENTS MUST PERTAIN TO THE OPENING OF A NEW BEAUTY OR BARBER SCHOOL OR THE PURCHASING OF AN EXISTING SCHOOL.

AMENDED # 5

1. Turn page to title : Rules and Regulations for Licensing Schools of Beauty Culture and Barbering.
 1. All the amendments must pertain to the opening of a new beauty or barber or the purchasing of an existing school.
 2. A five (5) year residency requirement for major stockholders, not just owner.
 3. Full time employment of three (3) registered regular instructors, not the proposed employment.
 4. Increase Bond to \$125,000.00.
2. Page 1: Section 2.1 Application
Rules must apply to major stockholders
3. Page 1& 2 Section 4.1. General Policy: applicant must be changed to major stockholder.
Turn to page 2 - Contracted changed to hired full time Instructors/
4. Page 2 Section 4.5 - Show to proposed employment must be changed to hired full time.
5. Page 2 - Section 5.1: Name of applicant must be changed to Major stockholders.
6. Page 3 Section 5.3: Board Action- Employment of at least 2 registered Instructors changed to Three Instructors.

JoAnn Berwick

Representing Jack Donta - Huntington
J. School of Beauty Culture
412 8th St.
Hgn., W.V. 25701

10-26-87

It is my hope that there would be much more time put into research and study of these said proposals. I do not believe there has been adequate thought and honest research done to warrant a "rush" through of these proposals as they read now.

- Concerning the proposal of 3 Senior Instructors - I feel it would work better if it were stated one Senior Instructor for 20 students currently enrolled in any said school.

Concerning the proposal of a 5 year required residence -- What happens if the current owner dies? Or, if he decides to sell what happens to "free enterprise"?

The proposed rule for Esthetician should read a proposed rule for "Skin Care".

Finally who will teach a Barber to qualify him/herself to instruct?? How? & Who?

Rebecca Mills

10-25-87

I ~~request~~ request that these Comments on proposed changes in the Rule & Regulations governing Beauticians, Barbers, ^{Instructors,} Salons, Shops and Schools be made a part of the record.

When we first started working on proposed changes, I kept suggesting that the Board needed time & ^{work} meetings to properly make needed changes. Also research as to other States. It is my personal feeling's the board has not had adequate time & research to do this.

~~The meeting.~~

The public hearing today is on Proposed Rule Series # 1, 2, 3, 4, 5, 6 What I have read is not the changes the Board of Barbers and Beauticians worked on. There have been proposed rule deleted also changes made in proposed rule and there have been additions to proposed rule that the Board of Barbers and Beauticians did not approve.

(1)

10-25-87

Proposed Rule # 1 ^{Series}

Curriculum and minimum Requirements
Subject & Hour Schedule Rules & Regulations
for Schools of Beauty Culture in West Virginia
Joint Barbers and Beauticians License

#1. The effect of proposed rule will increase the work load of the W.V. Board of Barber & Beauticians which is always short handed.

#2. The Aesthetician Curriculum has NO Rules or regulations. Inspector

#3. The last page same as above also it is the ^{31D} Cross over Curriculum for ^{Barber} schools. 31C is the Cross over Curriculum for Beauty schools

~~If the Board~~ If the Board cannot issue rules & regulations relating to Aestheticians then I feel we should not propose ~~for~~ a curriculum. We need to change ~~I propose~~ this curriculum to propose a curriculum for 300 hr Skin Care

(2)

10-25-87

Proposed Rule Series # 2

Qualifications, Training, Examination and Registration of Instructors in Barbering & Beauty Culture

1. This proposed rule will increase the work load of the WV. Board of Barbers & Beauticians

2. 4.3.1. 100 hr curriculum for Barber Instructors to qualify to teach permanent waving.

~~For~~ This like Esthetician curriculum the Board cannot issue rules & regulations when they should not propose this rule.

Proposed Rule # 3 ^{Series}

Operation of Barber Shops & Schools of Barbering

1 This proposed rule The WV Board of Barbers & Beauticians did not make or approve

Proposed Rule Series # 4 Operation of Beauty Shops and Schools of Beauty Culture

1 This proposed rule The WV Board of Barbers & Beauticians did not make or approve

(3)

10-25-87

Proposed Rule Series 5

Rules & Regulation for Licensing Schools of Barbering
& Beauty Culture

- # 1 4.1. The changes are incorrect
- # 2 4.5. The changes are incorrect
- # 3 5.3. Incorrect
- # 4 6.2. The changes are incorrect
- # 5 Page 5 4th paragraph Changes are incorrect

Proposed Rule Series 6

Minimum Curriculum for schools of Barbering

1 These changes will ~~effect~~ ~~the~~ increase the work load of the WV Board of Barber & Beauticians which is always short handed

2 As in Resolution of The Board cannot issue rules & regulations for the proposed permanent waving curriculum then The Board should not propose a curriculum

3 There is no Equal Opportunity by taking away from the Beauticians Curriculum & adding to the Barber Curriculum
(4)

10-25-87

Equal should be to take away from the Barber Curriculum & giving to the Beauty Culture Curriculum.

With the Cross over Curriculum in effect now the employment opportunities are better & ~~shorter~~ ^{70%} shorter for the students in W.V. Barber Schools ~~in~~ ~~or~~ compared to surrounding States

In summary, I feel the primary function of the Board of Barbers & Beauticians is to protect the Health Safety and Welfare of the Public. The proposed rule changes omits rules and regulation which are important to the Health Safety & Welfare of the Public. I am in favor of changes & updating of rules & regulation.

Betty J Dixon
4328 Hughes St
Huntington, W. Va. 25704
(5)