

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

Form #7

Do Not Mark In This Box
Filing Date

FILED

2010 MAY -7 PM 4:50

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Board of Barbers and Cosmetologists TITLE NUMBER: 3CSR6

CITE AUTHORITY: 30-27-5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: Schedule of Fees

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use additional sheets if necessary



Authorized Signature

#340



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: EMERGENCY RULE FOR 3CSR6
DATE: 5/6/2010

The Board of Barbers and Cosmetologists respectfully requests approval for an emergency rule to be implemented for the execution of a third-party test examiner to administer practical and written exams of all prospective candidates entering the profession of barbering, cosmetology, nail technology, and/or aesthetics through allowing examination fees to be elevated to \$99.00 per exam in lieu of the current \$75.00 per exam.

The reason the Board seeks emergency approval is based on the unrest of licensees and examinees over the current practice of examining these professionals. Many licensees and examinees feel that the Board is the "judge and jury" that administers the exams, hears, and decides on complaints over the examination leaving many with the perceived notion of unfairness. Therefore, it seems necessary for the Board to request the emergency rule to ease the unrest of licensees, examinees, and to promote fairness to the testing process that is perceived as subjective and unfair.

As for the Board's revenue and expenses, please note that the Board will reduce expenses more than the Board will lose in revenue. Therefore, this action will have a positive financial impact for a historically financially strapped board that only had \$5,066 cash with the Treasurer's Office in October 2008.

Additionally, the third-party examiners are skillfully trained, certified, and appropriately qualified through national standards to administer practical examinations of the professions mentioned above in the specialty of public safety, sanitation, disinfections, and other items protecting the public that seeks services from these professionals. This will help ensure that the individuals that are examining are knowledgeable and qualified to work on the public.

Finally, the Board has been overcome with testing questions, complaints, and faced accusations that the testing is too subjective and not fair for examinees. Therefore, the Board believes that it is in its best interest to implement the emergency fee for the examination so that a contract with the third-party examiner can be executed to eliminate licensee and examinee unrest, promote more fiscally sound board operations, and to establish a less subjective and fairer examination process.

Sincerely,

Adam L. Higginbotham

Director

FILED

TITLE 3
 LEGISLATIVE RULES 2010 MAY -7 PM 4: 50
 BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 6

OFFICE OF THE VIRGINIA
 SECRETARY OF STATE

SCHEDULE OF FEES

§ 3-6-1. General

- 1.1. **Scope** - This legislative rule establishes the various fees that are to be submitted to the Board of Barbers and Cosmetologists by students, instructors and owners and operators of schools of barbering and/or beauty culture and owners of barber, beauty, manicure and aesthetic shops.
- 1.2. **Authority** - W. Va. Code § 30-27-6
- 1.3. **Filing Date** - April 13, 2010
- 1.4. **Effective Date** - July 1, 2010

§ 3-6-2. Schedule of Fees

2.1	Examination and re-examination fee (to be paid to the National Interstate Council [NIC] sponsored third-party examiner)	\$75.00 \$99.00
2.2	Issuance or License fee	\$35.00
2.3	Reciprocity, application without exam fee	\$100.00
2.4	Annual license renewal fee	\$35.00
2.5	Late renewal fee: <i>Plus a \$10.00 late fee for each 30 days late not to exceed \$205.00</i>	\$35.00
2.6	Student permit	\$25.00
2.7	Initial license fee for a school of Barbering or school of Beauty Culture	\$1,000.00
2.8	Annual renewal fee for a school	\$250.00
2.9	Initial licensed instructor fee	\$50.00
2.10	Annual renewal of licensed instructor fee	\$50.00
2.11	Registration fee for booth or chair rental	\$15.00
2.12	Annual renewal for booth or chair rental	\$15.00
2.13	Late renewal for booth or chair rental: <i>Plus \$10.00 late fee for each 30 days late not to exceed \$100.00</i>	\$15.00
2.14	Shop or school opening inspection fee	\$50.00
2.15	Duplicate license fee	\$10.00
2.16	Initial license fee for beauty , barber, manicure, and aesthetician shop	\$40.00
2.17	Annual renewal fee for beauty, barber, manicure, and aesthetician shop	\$40.00
2.18	Fee for certification of licensure	\$35.00
2.19	Continuing Education Provide Annual Certificate <i>This is intended for approved providers of continuing education.</i>	\$100.00
2.20	Online Sanitation and Law Continuing Education <i>This is for individual licensees that take the Board's online continuing education classes for sanitation and law.</i>	\$25.00
2.21	Place individual license on inactive status	\$10.00
2.22	Permit fee	\$15.00



EMERGENCY RULE QUESTIONNAIRE

DATE: 5/6/2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

1201 Dunbar Avenue, Dunbar, WV 25064

EMERGENCY RULE TITLE: Schedule of Fees

1. Date of filing 5/6/10

2. Statutory authority for promulgating emergency rule:
30-27-5

3. Date of filing of proposed legislative rule: 5/6/10

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends current legislative rule and adopts new language

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

~~This allows prospective examinees to be examined by certified and trained examiners and to ensure the Board is no longer the judge and jury for conducting examinations and handling complaints in relation to the exam process. This will help alleviate the unrest of licensees and examinees over this unbalanced practice. The test examiners are sponsored by the exam booklet authors, NIC, and are specifically trained to monitor, observe, and grade sanitation, safety, and skills of prospective licensees. this implementation will free up staff & board members to focus on sanitary complaints.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~N/A, This is executing the authority specifically stated in 30-27-c.2~~

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~This implementation will allow certified and trained examiners to conduct practical examinations with a focus on safety, sanitation, and disinfection procedures to ensure public safety. Additionally, the board has experienced statements of unfair treatment, justification of specific grading practices, and complaints governing our current practice. Since this change will create a fair balance of the board's authority and complaint procedures over examinations, the Board feels that this is an emergency.~~

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Schedule of Fees

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: adam.l.higginbotham@wv.gov

Fiscal Note Summary

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

This will reduce the revenue generated by the board by \$15,000 annually. However, this will cut the board expenses by nearly \$21,600 annually. This will allow a certified and trained third-party examiner to charge and obtain examination fee as standard for other West Virginia Licensing Boards. This action will save more than \$5,000 a year. The board can save \$12,600 in board per diems for conducting examinations, and around \$9,000.00 for purchasing examination booklets.

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	12,600.00	12,600.00	-12,600.00
Current Expenses	9,000.00	9,000.00	9,000.00
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	21,600.00	21,600.00	21,600.00

Rule Title: Schedule of Fees

Rule Title: Schedule of Fees

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

By using a third-party examiner, the board will cut expenses through the board per diems of \$150.00 per day for 12 days of examinations for 7 board members, which totals \$12,600.00. Additionally, since the third-party examiner will incur the cost of the exam booklets, the Board will reduce expenses of \$15.00 per booklet for 600 annual examinees which totals around \$9,000.00. This will reduce expenses around \$21,600.00.

The cost for the exam, as provided by a NIC sponsor, will be received by the third-party examiner. The NIC sponsor, or National Interstate Council for State Licensing Board of Cosmetology. The estimated cost is around \$99.00 per examinee.

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.

NA

Date: 5/6/10

Signature of Agency Head or Authorized Representative

