

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUN 10 1 11 PM '98

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: BOARD OF BARBERS AND COSMETOLOGISTS TITLE NUMBER: 3

RULE TYPE: LEGISLATIVE; CITE AUTHORITY WV CODE 30-1-8

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED:

TITLE OF RULE BEING AMENDED:

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: SCHEDULE OF FINES

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 10, 1998 AT 4:30 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

BOARD OF BARBERS & COSMETOLOGISTS
1716 PENNSYLVANIA AVE., SUITE 7
CHARLESTON, WV 25302

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

Handwritten signature of Randy W. White

Authorized Signature

\$ 5.40

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA BOARD OF BARBERS AND COSMETOLOGISTS

RULE ABSTRACT

Title: Schedule of Fines

CSR Title & Series: 3 CSR 7

Type: Legislative

Summary: The proposed rule establishes a system of fines as a guide and enforcement aid for the Board's inspectors.

For further information contact: West Virginia Board of Barbers and Cosmetologists, 1716 Pennsylvania Avenue, Suite 7, Charleston, West Virginia, 25302. Telephone: 558-2924 or 558-3450.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: SCHEDULE OF FINES

Type of Rule:  Legislative     Interpretive     Procedural

Agency: BOARD OF BARBERS AND COSMETOLOGISTS

Address: 1716 PENNSYLVANIA AVE., SUITE 7  
CHARLESTON, WV 25302

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. **Explanation of above estimates:** NO ADDITIONAL COSTS WILL BE INCURRED AS A RESULT OF THE PROMULGATION OF THIS RULE.

3. **Objectives of these rules:** TO ESTABLISH A SYSTEM OF FINES AS A GUIDE FOR THE BOARD'S INSPECTORS AND TO PROVIDE THEM WITH THE MEANS TO BETTER ENFORCE THE LAWS AND REGULATIONS OF OUR STATE.

Rule Title: SCHEDULE OF FINES

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.

MINIMAL IMPACT WILL BE INCURRED BY THOSE PERSONS BREAKING THE LAWS GOVERNING BARBERING AND BEAUTY CULTURE OR VIOLATING THE LEGISLATIVE RULES OF THE BOARD.

C. Economic Impact on Citizens/Public at Large.

NONE

Date: 06/10/98

Signature of Agency Head or Authorized Representative

Larry W. White

QUESTIONNAIRE

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: 5/27/98

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) BOARD OF BARBERS AND COSMETOLOGISTS  
1716 PENNSYLVANIA AVE., SUITE 7  
CHARLESTON, WV 25302

LEGISLATIVE RULE TITLE: SCHEDULE OF FINES

1. Authorizing statute(s) citation 30-1-8

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
JUNE 10, 1998

b. What other notice, including advertising, did you give of the hearing?  
WE ADVERTISED THE COMMENT PERIOD IN NEWS PAPERS THROUGH-  
OUT THE STATE AND SENT NOTICES AND A COPY OF THE PROPOSED  
RULE TO EVERY BARBER AND BEAUTY SCHOOL WITHIN THE STATE.

c. Date of Public Hearing(s) or Public Comment Period ended:  
JULY 10, 1998

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received \_\_\_\_\_

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

LARRY W. ABSTEN, DIRECTOR

1716 PENNSYLVANIA AVE., SUITE 7, CHARLESTON, WV 25302

PHONE: 558-2924 PHONE/FAX: 558-3450

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- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

JUNE 10, 1998 TO JULY 10, 1998

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

\_\_\_\_\_

d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

TITLE 3  
LEGISLATIVE RULES  
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 7

SCHEDULE OF FINES

FILED

JUN 10 1 11 PM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§ 3-7-1. General**

1.1. **Scope** - This legislative rule establishes a system of fines as adopted by the Board of Barbers and Cosmetologists (hereinafter Board).

1.2. **Authority** - W. Va. Code § 30-1-8

1.3. **Filing Date** -

1.4. **Effective Date** -

**§ 3-7-2. Schedule of Fines**

2.1. Failing to post a shop license, practitioner license or booth certificate in a publicly visible place within a shop (posting of photocopies, reproductions and pocket identification cards will be cited as failure to post) shall incur the following penalties:

1st offense: \$50.00

2nd offense: \$200.00

3rd offense: The practitioner and/or shop owner shall be brought before the Board for assessment of a fine and/or the proposed revocation, suspension or refusal to issue a license.

2.2. Working with an expired license is a violation and shall incur the following penalties:

1st offense: \$100.00

2nd offense: \$500.00

3rd offense: The practitioner shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue a license.

2.3. Practicing in a shop with an expired work permit/certificate is a violation and shall incur the following penalties:

1st offense: \$100.00 to the practitioner with the expired license and \$50.00 to the owner of the shop.

2nd offense: \$500.00 to the practitioner with the expired license and \$500.00 to the owner of the shop.

3rd offense: Both parties shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue their licenses.

2.4. Operating a shop with an expired shop license is a violation and shall incur the following penalties:

- 1st offense: \$200.00
- 2nd offense: \$500.00
- 3rd offense: The shop owner shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue a shop license.

2.5. Operating a shop by a practitioner without first filing a shop application, paying the fee, and receiving a license is a violation and shall incur the following penalties:

- 1st offense: \$200.00
- 2nd offense: \$500.00
- 3rd offense: The shop owner shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue a license.

2.6. Performing services as a practitioner while working in an unlicensed shop is a violation and shall incur the following penalties:

- 1st offense: \$200.00
- 2nd offense: \$500.00
- 3rd offense: \$1,000.00

2.7. Performing services (when only temporary) in connection with an event such as, but not limited to, any fair, carnival bazaar, product or business promotion, weekend market or glamour photos without first obtaining a temporary license is a violation and shall incur the following penalties:

- 1st offense: \$200.00
- 2nd offense: \$500.00
- 3rd offense: \$1,000.00

2.8. Practicing without Board authorization to do so is a violation and shall incur the following penalties:

- 1st offense: \$300.00
- 2nd offense: \$500.00
- 3rd offense: The practitioner shall be brought before the Board for the assessment of a fine and/or the proposed suspension or refusal to issue a license.

2.9. Performing services which the practitioner and/or shop is not licensed is a violation and shall incur the following penalties:

- 1st offense: \$400.00 to the practitioner and/or shop working out of class.
- 2nd offense: \$1,000.00 to the practitioner and/or shop working out of class.
- 3rd offense: Either one or both parties shall be brought before the Board for the assessment of a fine and/or proposed revocation, suspension or refusal to issue their licenses.

2.10. Practicing barbering, cosmetology, facial technology or manicuring without a license or with a license issued to another person is a violation and shall incur the following penalties:

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The person shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue a license.

2.11. Operating a shop without a shop license by a person who is not licensed is a violation and shall incur the following penalties:

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The person shall be brought before the Board for the assessment of a fine and any other penalties allowed by law including refusal to issue a license.

2.12. Allowing unlicensed person to practice in a licensed shop is a violation and shall incur the following penalties:

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The person shall be brought before the Board for the assessment of a fine and/or the proposed revocation, suspension or refusal to issue a shop license.

2.13. Altering a license, certificate, or authorization issued by the Board is a violation and shall incur the following penalties:

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The person shall be brought before the Board for the assessment of a fine and/or the proposed revocation, suspension or refusal to issue a license, certificate or authorization.

2.14. Failing to meet the specifications relating to exits and fire standards in a shop located in the basement or above the first floor of a home is a violation and shall incur the following penalty for any offense: Immediate suspension of the shop license until the violation is corrected.

2.15. Failing to identify a shop located in a home by means of a house number or a sign easily visible from the street is a violation and shall incur the following penalties:

1st offense: \$50.00

2nd offense: \$100.00

3rd offense: \$200.00

2.16. Failing to have a separate entry for a shop located in a home or properly to separate the shop from the living area of the home is a violation and shall incur the following penalties:

1st offense: \$50.00

2nd offense: \$50.00 (\$100.00 for failure to separate).

3rd offense: \$100.00 (\$200.00 for failure to separate).

2.17. Managing of more than one shop by a person who is actively engaged in the performance of cosmetology, barbering, manicuring or skin care services is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board.
- 2nd offense: Warning from the Board.
- 3rd offense: \$100.00

2.18. Managing a shop in which cosmetology, barbering, manicuring or skin care is performed without a license is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board.
- 2nd offense: \$100.00
- 3rd offense: \$200.00

2.19. Failing to submit to an inspection by the Board or refusing to allow the Board to inspect the premises when the shop is open is a violation and shall incur the following penalties:

- 1st offense: \$300.00
- 2nd offense: \$500.00
- 3rd offense: The shop owner/manager shall be brought before the Board for the assessment of a fine and/or the proposed revocation, suspension or refusal to issue a certificate and/or shop license.

2.20. Failing as a booth renter to inform the Board within 30 days of a change of work location is a violation and shall incur the following penalties:

- 1st offense: \$50.00
- 2nd offense: \$100.00
- 3rd offense: \$150.00

2.21. Failing to notify the Board of a change of home address within 30 days of the change is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board.
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.22. Applying for a shop license after taking over the operation of an existing shop is a violation and shall incur the following penalties:

- 1st offense: \$50.00
- 2nd offense: \$100.00
- 3rd offense: \$200.00

2.23. Moving an existing shop from one location to another without first submitting to the Board an application and fee for the new location is a violation and shall incur the following penalties:

- 1st offense: \$200.00
- 2nd offense: \$500.00
- 3rd offense: The manager or shop owner shall be brought before the Board for the assessment of a fine and/or the proposed revocation, suspension or refusal to issue a certificate and/or shop license.

2.24. Performing cosmetology, barbering, manicuring or skin care services by a student when not on the premises of the school in which he or she is enrolled is a violation and shall incur the following penalties:

- 1st offense: \$150.00
- 2nd offense: \$300.00
- 3rd offense: \$500.00

2.25. Failing to have adequate lighting in a shop is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board.
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.26. Failing to have a supply of both hot and cold running water on the premises of a shop is a violation and shall incur the following penalties:

- 1st offense: \$100.00
- 2nd offense: \$300.00
- 3rd offense: \$500.00

2.27. Failing to have toilet facilities available which are "reasonably accessible" for shop employees is a violation and shall incur the following penalties:

- 1st offense: \$100.00
- 2nd offense: \$300.00
- 3rd offense: \$500.00

2.28. Failing to keep a toilet facility located on the premises of a shop clean and sanitary is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.29. Having frayed electrical wiring or overloading the electrical circuits in a shop is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.30. Failing to use clean towels or linens for each client is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.31. Failing to store clean towels and linens in a clean area is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.32. Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.33. Failing to immediately deposit all used towels with chemical residue in a closed container is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.34. Failing to ensure that all articles which come in contact with a client are either disinfected, cleaned or disposed of is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.35. Failing to properly dispense powders, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.36. Failing to deposit all chemical waste materials in a closed container at the close of each business day or having a closed container available is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.37. Failing to immediately deposit all non-chemical waste and refuse in covered containers is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.38. Failing to keep any shop waste disposal container clean is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.39. Failing to have sealable plastic bags and sealable rigid containers available for use of blood or other bodily fluids, and sharp edged materials at all times services are being performed is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$300.00
- 3rd offense: \$500.00

2.40. Failing to keep disinfecting solutions at adequate strength for immediate use at all times a shop is in operation and free of foreign material is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.41. Failing to discard a disposable emery board, sponge, or orangewood stick after use on a client or to give the emery board, sponge, or orangewood stick to the client is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.42. Failing to cleanse and disinfect electrical or mechanical hair clipper blades after use on each client is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.43. Failing in a shop or as a booth renter to provide one or more sanitizers adequate to the number of practitioners, usage requirements or volume of business is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.44. Failing in a shop or as a booth renter to disinfect tools and implements is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.45. Failing to store disinfected or cleaned tools and implements separately from all others is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.46. Failing to keep roller-storage receptacles and their contents clean and free of foreign material is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.47. Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.48. Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.49. Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as "used" prior to resale is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.50. Having pets in shops, other than fish in an aquarium is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.51. Failing to have washable, non-absorbent surfaces on all equipment in all areas of a shop in which hair design, facial technology or manicure services are performed is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$200.00

2.52. Failing to keep a shop shampoo bowl or sink clean is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$200.00

2.53. Failing to keep equipment in a shop, including upholstery fabrics, clean and in good repair is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.54. Failing to have washable, non-absorbent floor surfaces in the area(s) of a shop in which hair design, facial technology or manicure services are performed is a violation and shall incur the following penalties:

- 1st offense: \$100.00
- 2nd offense: \$200.00
- 3rd offense: \$300.00

2.55. Allowing hair clippings to accumulate on a shop floor or failing to dispose of hair clippings in a proper container is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.56. Failing to keep shop walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$50.00
- 3rd offense: \$100.00

2.57. Performing barbering, cosmetology, facial technology or manicure services while suffering from a diagnosed communicable disease or condition in a transmittable form is a violation and shall incur the following penalty for any violation: Immediate suspension until the disease or condition is no longer communicable.

2.58. Treating any disease or knowingly serving any client suffering from a communicable disease or condition is a violation and shall incur the following penalties:

- 1st offense: \$250.00
- 2nd offense: \$500.00
- 3rd offense: Suspension or revocation of license.

2.59. Performing barbering, cosmetology, facial technology or manicure services without washing one's hands prior to serving each client is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$25.00
- 3rd offense: \$50.00

2.60. Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and practitioners is a violation and shall incur the following penalties:

- 1st offense: Warning from the Board
- 2nd offense: \$100.00
- 3rd offense: \$300.00

2.61. Failing to mix chemicals in a dispensing area is a violation and shall incur the following penalties:

1st offense: Warning from the Board  
2nd offense: \$100.00  
3rd offense: \$300.00

2.62. Mixing chemicals near an open flame or other potential source of ignition is a violation and shall incur the following penalties:

1st offense: Warning from the Board  
2nd offense: \$100.00  
3rd offense: \$300.00