

**TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS**

SERIES 7

SCHEDULE OF FINES

FILED
MAR 26 12 25 PM '99
OFFICE OF THE CLERK OF THE SENATE
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.

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

1.3. **Filing Date** - March 26, 1999

1.4. **Effective Date** - March 26, 1999

§ 3-7-2. Schedule of Fines

Any person licensed under the provisions of West Virginia Code §30-27-1 et seq is subject to the fines specified in this section for the following conduct, practices or acts:

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).

1st. Offense: Warning

2nd offense: \$50.00

3rd offense: The Board shall summon the practitioner or shop owner to appear 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.

1st offense: \$100.00

2nd offense: \$500.00

3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for 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.

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: The Board shall summon the practitioner or shop owner to appear before the Board for assessment of a fine and any other penalties allowed by law including refusal to issue their license;

- 2.4. Operating a shop with an expired shop license.
1st offense: \$200.00
2nd offense: \$500.00
3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for 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.
1st offense: \$200.00
2nd offense: \$500.00
3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for 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.
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.
1st offense: Warning
2nd offense: \$200.00
3rd offense: \$500.00;
- 2.8. Practicing without Board authorization.
1st offense: \$300.00
2nd offense: \$500.00
3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for assessment of a fine and/or the revocation, suspension or refusal to issue a license;
- 2.9. Performing services which the practitioner and/or shop is not licensed.
1st offense: \$400.00 to the practitioner and/or shop.
2nd offense: \$1,000.00 to the practitioner and/or shop.
3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for assessment of a fine and/or the 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.
1st offense: \$500.00
2nd offense: \$1,000.00
3rd offense: The Board shall summon the practitioner or shop owner to appear

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 Board shall summon the practitioner or shop owner to appear 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 an unlicensed person to practice in a licensed shop.

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The Board shall summon the practitioner or shop owner to appear 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.

1st offense: \$500.00

2nd offense: \$1,000.00

3rd offense: The Board shall summon the person 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: 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.

1st offense: Warning

2nd offense: \$50.00

3rd offense: \$100.00

2.16. Failing to have a separate entry for a shop located in a home or to properly separate the shop from the living area of the home.

1st offense: Warning

2nd offense: \$50.00 for each violation

3rd offense: \$100.00 for each violation

2.17. Managing a shop in which cosmetology, barbering, manicuring or skin care is performed without a license.

1st offense: Warning.

2nd offense: \$100.00

3rd offense: \$200.00;

- 2.18. Failing to submit to an inspection by the Board or refusing to allow the Board to inspect the premises when the shop is open.
- 1st offense: \$300.00
 - 2nd offense: \$500.00
 - 3rd offense: The Board shall summon the practitioner or shop owner to appear before the Board for the assessment of a fine and/or the proposed revocation or suspension of a certificate and/or shop license;
- 2.19. Failing as a booth renter to inform the Board within 30 days of a change of work location.
- 1st offense: Warning
 - 2nd offense: \$50.00
 - 3rd offense: \$100.00;
- 2.20. Failing to notify the Board of a change of home address within 30 days of the change.
- 1st offense: Warning
 - 2nd offense: \$50.00
 - 3rd offense: \$100.00
- 2.21. Failing to apply for a shop license prior to taking over the operation of an existing shop.
- 1st offense: Warning
 - 2nd offense: \$100.00
 - 3rd offense: \$200.00;
- 2.22. Moving an existing shop from one location to another without first submitting to the Board an application and fee for the new location.
- 1st offense: \$200.00
 - 2nd offense: \$500.00
 - 3rd offense: The Board shall summon the practitioner or shop owner to appear 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;
- 2.23. 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.
- 1st offense: Warning and notify the school
 - 2nd offense: \$150.00
 - 3rd offense: \$300.00;
- 2.24. Failing to have adequate lighting in a shop.
- 1st offense: Warning
 - 2nd offense: \$50.00
 - 3rd offense: \$100.00;
- 2.25. Failing to have a supply of both hot and cold running water on the premises of a shop.

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

2.26. Failing to have toilet facilities available which are “reasonably accessible” for shop employees.

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

2.27. Failing to keep a toilet facility located on the premises of a shop clean and sanitary.

1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;

2.28. Having frayed electrical wiring or overloading the electrical circuits in a shop.

1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;

2.29. Failing to use clean towels or linens for each client.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.30. Failing to store clean towels and linens in a clean area.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.31. 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.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.32. Failing to immediately deposit all used towels with chemical residue in a closed container.

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

2.33. Failing to ensure that all articles which come in contact with a client are either disinfected, cleaned or disposed of.

1st offense: Warning
2nd offense: \$100.00

3rd offense: \$300.00

2.34. Failing to properly dispense powders, wave solutions, creams, semi-solid substances or other materials which come in contact with a client.

1st offense: Warning

2nd offense: \$100.00

3rd offense: \$300.00

2.35. Failing to deposit all chemical waste materials in a closed container at the close of each business day or having a closed container available.

1st offense: Warning

2nd offense: \$100.00

3rd offense: \$300.00

2.36. Failing to immediately deposit all non-chemical waste and refuse in covered containers.

1st offense: Warning

2nd offense: \$50.00

3rd offense: \$100.00;

2.37. Failing to keep any shop waste disposal container clean.

1st offense: Warning

2nd offense: \$50.00

3rd offense: \$100.00

2.38. 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.

1st offense: Warning

2nd offense: \$300.00

3rd offense: \$500.00;

2.39. Failing to keep disinfecting solutions at adequate strength for immediate use at all times a shop is in operation and free of foreign material.

1st offense: Warning

2nd offense: \$100.00

3rd offense: \$300.00;

2.40. 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.

1st offense: Warning

2nd offense: \$100.00

3rd offense: \$300.00;

2.41. Failing to cleanse and disinfect electrical or mechanical hair clipper blades after use

on each client.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.42. Failing in a shop or as a booth renter to provide one or more sanitizer adequate to the number of practitioners, usage requirements or volume of business.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.43. Failing in a shop or as a booth renter to disinfect tools and implements.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.44. Failing to store disinfected or cleaned tools and implements separately from all others

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.45. Failing to keep roller-storage receptacles and their contents clean and free of foreign material.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.46. Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.47. Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean.

1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;

2.48. 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.

1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;

- 2.49. Having pets in shops, other than fish in an aquarium.
1st offense: Warning
2nd offense: \$100.00
3rd offense: \$300.00;
- 2.50. 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.
1st offense: Warning
2nd offense: \$100.00
3rd offense: \$200.00;
- 2.51. Failing to keep a shop shampoo bowl or sink clean.
1st offense: Warning
2nd offense: \$100.00
3rd offense: \$200.00;
- 2.52. Failing to keep equipment in a shop, including upholstery fabrics, clean and in good repair.
1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;
- 2.53. 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.
1st offense: Warning
2nd offense: \$100.00
3rd offense: \$200.00
- 2.54. Allowing hair clippings to accumulate on a shop floor or failing to dispose of hair clippings in a proper container.
1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;
- 2.55. Failing to keep shop walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint.
1st offense: Warning
2nd offense: \$50.00
3rd offense: \$100.00;
- 2.56. Performing barbering, cosmetology, facial technology or manicure services while suffering from a diagnosed communicable disease or condition in a transmittable form: Immediate suspension until the disease or condition is no longer communicable.

2.57. Treating any disease or knowingly serving any client suffering from a communicable disease or condition.

- 1st offense: \$250.00
- 2nd offense: \$500.00;
- 3rd offense: The Board shall summon the practitioner to appear 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

2.58. Performing barbering, cosmetology, facial technology or manicure services without washing one's hands prior to serving each client.

- 1st offense: Warning
- 2nd offense: \$25.00
- 3rd offense: \$50.00;

2.59. Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and practitioners.

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

2.60. Failing to mix chemicals in a dispensing area .

- 1st offense: Warning
- 2nd offense: \$100.00
- 3rd offense: \$300.00; and

2.61. Mixing chemicals near an open flame or other potential source of ignition .

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

7158

1 Bill-Barbers,

H. B. 2514

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(By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

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[Introduced February 1, 1999; referred to the
Committee on Government Organization then the
Judiciary.]

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10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section twenty-nine, relating to
14 authorizing the board of barbers and cosmetologists to
15 promulgate a legislative rule relating to a schedule
16 of fines.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section twenty-nine, to read as follows:

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

Handwritten mark or signature in the bottom right corner.

1 §64-9-29. Board of barbers and cosmetologists.

2 The legislative rule filed in the state register on
3 the seventeenth day of July, one thousand nine hundred
4 ninety-eight, under the authority of section eight, article
5 one, chapter thirty, of this code, modified by the board of
6 barbers and cosmetologists to meet the objections of the
7 legislative rule-making review committee and refiled in the
8 state register on the twenty-first day of December, one
9 thousand nine hundred ninety-eight, relating to the board
10 of barbers and cosmetologists (schedule of fines, 3 CSR 7),
11 is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Board of Barbers and Cosmetologists to promulgate a
15 legislative rule relating to a Schedule of Fines.

16

17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.