

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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Nov 30 12 22 PM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: BOARD OF BARBERS AND COSMETOLOGISTS TITLE NUMBER: 3

CITE AUTHORITY WV CODE 30-27-8

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: CONTINUING COMPETENCE

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

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

**SERIES 8**

OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES  
SECRETARY OF STATE

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**CONTINUING COMPETENCE**

**§ 3-8-1. General**

1.1. **Scope** - This legislative rule establishes requirements for licensees for continuing competence to practice barbering, cosmetology, manicuring and aesthetics.

1.2. **Authority** - W. Va. Code § 30-27-8 and § 30-1-7a.

1.3. **Filing Date** -

1.4. **Effective Date** -

**§ 3-8-2. Definition of Terms, Continuing Competence**

2.1. "Approved provider" means a state or national agency, organization, association or individual registered with and recognized by the Board.

2.2. "Audit" means the selection of individual licensees for verification of satisfactory completion of continuing education requirements during a specified time period; or the selection of approved providers for verification of adherence of continuing education provider requirements during a specified time period.

2.3. "Continuing education" means planned organized learning activities engaged in following initial licensure and designed to maintain, improve or extend a licensee's knowledge and skills or to develop new knowledge and skills to enhance service to the public and protect the health and welfare of the public.

2.4. "Methods of instruction" includes lectures and workshops from a Board approved provider or related classes from any degree granting college or university recognized by the West Virginia Higher Education Policy Commission.

**§ 3-8-3. Continuing Competence - A Prerequisite for Renewal**

3.1. Continuing education requirements

3.1.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license if a license is lapsed or on the inactive list, shall verify that he or she

has completed (8) contact hours of continuing education during the prescribed two (2) year reporting period. Units of measurement for continuing education courses are:

- (a) contact hour = 50 minutes of instruction.
- (b) contact hour = 50 minutes of clinical practice in a workshop
- (c) academic semester hour = 15 contact hours of instruction

3.1.2. During the licensing year January 1, 2002 through December 31, 2002, each licensed barber, cosmetologist, manicurist and aesthetician with an active license shall complete a minimum of 4 hours of continuing education as approved by this rule. The licensee shall report his or her continuing education requirements to the Board no later than December 31, 2002, with the application for renewal of his or her license for the licensing year January 1, 2003 to December 31, 2003.

3.1.3. After the one year phase in period, each licensed barber, cosmetologist, manicurist or aesthetician with an active license to practice in West Virginia shall complete 8 hours of continuing education as approved by this rule, on or before December 31, 2004, and on or before December 31st of every other year thereafter. Each active licensee of the Board shall file a report of their continuing education activities with the Board at the time the licensee files an application for renewal of his or her license.

3.1.4. The Board shall not grant credit for identical continuing education activities submitted during any single two year reporting period. Continuing education credits from a previous two (2) year reporting period may not be used, nor shall credits be accumulated for use in a future two year reporting period.

3.2. Exceptions to continuing education requirements.

3.2.1. The Board shall exempt from continuing education requirements a licensee who qualifies for exceptions set forth in this rule.

3.2.2. A licensee who obtains a license for the first time in West Virginia during the first twelve months of any (24) twenty four month reporting period shall complete 4 hours of continuing education activities as set forth in this rule, before the end of the current reporting period. A licensee who obtains a license for the first time in West Virginia during the second twelve (12) months of any two year reporting period is exempt from the continuing education requirements for the entire reporting period.

3.2.2. A licensee who resides outside of West Virginia and who holds a license to practice in a state other than West Virginia who also has mandatory continuing education is exempt from the continuing education set forth in this rule. A licensee who claims this exemption shall retain evidence of the out-of-state license and present the evidence to the Board upon request.

3.2.3. A licensee or licensed spouse of anyone serving on active duty in the military in

3.2.3. A licensee or licensed spouse of anyone serving on active duty in the military in another state or foreign country is exempt from continuing education requirements for the duration of active duty by the licensee or licensed spouse not residing within the state of West Virginia.

3.2.4. The Board may grant a waiver of continuing education requirements to a licensee who has a physical or mental disability or illness or who is providing direct care to a member of his or her immediate family during all or a portion of the reporting period. A waiver may provide for an extension of time or exemption from some or all of the continuing education requirements. Any licensee may request an application for waiver from the Board. The Board shall approve or deny an application for waiver after review of the application. The Board shall not grant an exception from continuing education requirements for more than one (1) two (2) year reporting period, as set forth in this rule.

3.3. Failure to meet requirements or exceptions to requirements.

The Board may take the following actions if a licensee fails to meet the continuing education requirements or the conditions for exceptions for renewal.

3.3.1. The Board may place the licensee on inactive status without penalty and may waive the continuing education requirements, providing the licensee notifies the Board in writing of his or her desire to have the Board place his or her license on inactive status before the last day of the reporting period. The Board shall not charge a fee to place the license on inactive status.

3.3.2. The Board shall lapse the license of any person who fails to notify the Board in writing prior to the last day of the reporting period that he or she wishes to place his or her license on inactive status.

3.4. Reinstatement of a license on lapsed or inactive status.

A licensee whose license is on lapsed status may have his or her license reinstated by paying all lapsed fees specified by West Virginia Code §30-27-4, and completing the continuing education requirements specified in this rule.

3.4.1. A licensee whose license is on inactive status may activate his or her license by payment of the required fee and completion of the continuing education requirements specified in this rule.

3.5. Audit of licenses.

The Board may select any licensee who holds a current license to audit for compliance with continuing education requirements. To comply with audit requests, the licensee shall submit legible copies of certificates of attendance at continuing education offerings and shall submit all requested documents within thirty (30) days of the date he or she received the request. The Board may grant an extension of time for submission of the documents, on an individual basis, providing the licensee makes a written request for an extension of time and

provides justification for the request.

3.5.1. Licensees shall keep copies of certificates of attendance at continuing education offerings, and documentation of exceptions from continuing education requirements for a two year period following submission of continuing education activities to the Board.

3.5.2. Licensees shall furnish proof of 8 total contact hours of continuing education for each two (2) year reporting period regardless of the number of licenses they hold.

3.5.3. The Board shall notify the licensee of the satisfactory completion of an audit. If a licensee fails to submit the audit information requested by the Board or meet the standards for continuing education set forth in this rule, the Board shall not renew a license until the audit is completed.

3.5.4. The Board shall take action pursuant to West Virginia Code §30-27-11 against any licensee who submits false information to the Board.

3.5.5. A licensee who fails to notify the Board of a current mailing address is not absolved from the audit or continuing education requirements. The Board shall not renew the license until the audit is completed.

#### **§ 3-8-4. Continuing Education Providers**

4.1. The Board shall recognize as approved providers an agency, corporation or individual which meets the minimum provider standards as set forth in subsection 4.2 of this section. Approved providers include, but are not limited to: any degree granting college or university recognized by the West Virginia Higher Education Policy Commission. The State colleges and universities are exempt from any provider fees imposed by the Board.

4.2. Minimum standards for approved providers.

4.2.1. The minimum duration of any continuing education offering shall be at least 1 contact hour .

4.2.2. The provider shall prepare written objectives in measurable terms which describe what a licensee can expect to learn.

4.2.3. The program content shall relate to the program objectives.

4.2.4. The provider shall furnish the instructor's qualifications in the subject areas to be taught, in writing to The Board of Barbers and Cosmetologists, 1716 Pennsylvania Avenue, Suite 7, Charleston, WV 25302.

4.2.5. The providers shall establish a written method to determine whether the participant has achieved the stated objectives of the offering. Methods may include but are not limited to self-evaluation check lists or tests.

4.2.6. The provider shall furnish a written statement of completion to each participant who satisfactorily completes the continuing education activity which is signed by the instructor or a designee and the individual participant.

4.2.7. The provider shall maintain a record of individuals who attend a continuing education offering for a period of not less than three (3) years.

4.3. The Board shall review applications for continuing education providers on an individual basis. Forms for registration as a continuing education provider may be obtained by contacting the office of the Board of Barbers and Cosmetologists, 1716 Pennsylvania Avenue, Suite 7, Charleston, WV 25302. Applications may also be requested by telephone at (304) 558-2924 during regular business hours, Monday through Friday from 7:30 a.m. to 4:30 p.m.

4.3.1. The Board may limit the number of continuing education providers for any particular reporting period.

4.3.2. The Board shall impose an initial registration fee of five hundred (500) dollars and an annual renewal fee of two hundred fifty (250) dollars on all continuing education providers with the exception of those providers exempted by subsection 4.1 of this section.

4.3.3. The Board shall assign a provider number to each registered provider approved by the Board.

4.4. The photo identification jointly issued by the West Virginia Board of Barbers and Cosmetologists and the West Virginia Division of Motor Vehicles is the only approved ID authorizing admittance to any continuing education class or offering.

4.5. The following activities are not acceptable for continuing education credit:

4.5.1. Orientation and presentation of programs as part of licensees on-going job responsibilities;

4.5.2. Activities which are part of a licensees usual job responsibility; and

4.4.3. Classes or offerings by anyone other than a continuing education provider approved by the Board.