

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3 ■

Do Not Mark In This Box

FILED

AUG 25 9 37 AM '00

OFFICE OF 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 COSMETOLOGISTS TITLE NUMBER: 3

CITE AUTHORITY: WV CODE 30-27-8

AMENDMENT TO AN EXISTING RULE: YES NO

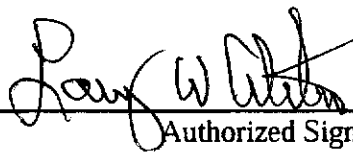
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: COMPLAINT PROCEDURES

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.



Authorized Signature

WEST VIRGINIA BOARD OF BARBERS AND COSMETOLOGISTS

RULE ABSTRACT

Title: Complaint Procedures

CSR Title & Series: 3 CSR 9

Type: Legislative

Summary: The proposed rule establishes procedures for accepting and processing complaints received by the Board.

For further information contact: West Virginia Board of Barbers and Cosmetologists,
1716 Pennsylvania Avenue, Suite 7, Charleston, West Virginia, 25302.
Telephone: (304) 558-2924. Fax No.: (304) 558-3450

State of West Virginia

Board of Barbers and Cosmetologists

1716 Pennsylvania Avenue, Suite 7, Charleston, West Virginia 25302
Phone (304) 558-2924 Fax (304) 558-3450



Larry W. Absten
Director

MEMORANDUM

DATE: June 13, 2000

TO: WV Secretary of State
Ms. Judy Cooper
Administrative Law Division
Charleston, WV 25305

FROM: Larry W. Absten, Director
Board of Barbers and Cosmetologists

RE: Proposed Rule Title 3 Series 9 of the
Board of Barbers and Cosmetologists Legislative Rules.

The purpose of this rule is to comply with House Bill 4062 enacted by the West Virginia legislature during the 2000 legislative session, which mandated that all boards and commissions file a legislative rule establishing complaint procedures.

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: AUGUST 24, 2000

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: COMPLAINT PROCEDURES

1. Authorizing statute(s) citation WV CODE 30-27-8, HB 4062

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
JUNE 13, 2000

b. What other notice, including advertising, did you give of the hearing?
WE SENT COPIES OF THE PROPOSED RULE TO ALL SCHOOLS OF BARBERING
AND COSMETOLOGY THROUGHOUT THE STATE AND ADVERTISED THE
INTENT TO PROMULGATE THE PROPOSED RULE IN NEWSPAPERS
THROUGHOUT THE STATE.

c. Date of Public Hearing(s) or Public Comment Period ended:
JULY 17, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

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

AUGUST 25, 2000

- 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

(304) 558-2924 FAX (304) 558-3450

- 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)

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.

b. Date of hearing or comment period:

JUNE 13,2000 to JULY 17,2000

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

AUGUST 25, 2000

d. Attach findings and determinations and reasons:

Attached _____

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: COMPLAINT PROCEDURES

Type of Rule: X 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	THIRDCYCLE
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

NO ADDITIONAL EXPENSE WILL BE INCURRED BY THE BOARD BY PROMULGATION OF THIS RULE.

3. Objectives of these rules:

TO ESTABLISH WRITTEN COMPLAINT PROCEDURES MANDATED BY HOUSE BILL 4062.

Rule Title: COMPLAINT PROCEDURES

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.

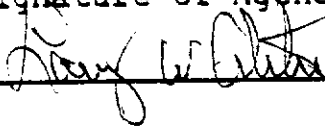
NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: 06/13/00

Signature of Agency Head or Authorized Representative



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

SERIES 9

COMPLAINT PROCEDURES

FILED

AUG 25 9 37 AM '00

OFFICE OF THE CLERK OF THE SENATE
SECRETARY OF STATE

§ 3-9-1. General

1.1. **Scope** - This legislative rule establishes procedures to process complaints submitted to the Board.

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

1.3. **Filing Date** -

1.4. **Effective Date** -

§ 3-9-2. Complaint Procedures

2.1. Any individual may make a complaint to the Board concerning a licensee.

2.2. The Board may accept an anonymous complaint if the information provided is adequate to begin an investigation.

2.3. The Board shall accept a complaint in writing, by telephone or in person. The Board may provide a form for the purpose of submitting a written complaint, but shall accept a complaint if the information includes:

2.3.a. The alleged violation which prompted the complaint.

2.3.b. The name and address of the individual against whom the complaint is lodged.

2.3.c. The date the incident occurred; and

2.3.d. The name or names of witnesses to the incident.

2.4. All complaints shall be referred to the executive Secretary or counsel for the Board, who shall act as a representative for the Board.

2.5. The Board shall maintain a complaint log which records the receipt of each complaint, and the nature and disposition of the complaint.

2.6. The representative shall conduct an investigation to determine the validity of the

allegation contained in the complaint.

2.7. The Board may issue subpoenas to gather information to determine the validity of the allegations contained in the complaint.

2.8. The Board shall provide copies of complaint forms and other available evidence to the licensee against whom a complaint is filed. The licensee shall respond, in writing, to the allegations contained in the complaint within fourteen (14) days from receipt of the complaint.

2.9. The representative for the Board shall evaluate the complaint, licensee response, and other investigative information to determine if a violation of the law has occurred and to determine the need for additional investigation.

2.10. The representative for the Board may recommend that a complaint be dismissed if probable cause for further action is not identified. Complaints recommended for dismissal due to lack of probable cause shall be referred to the Board for review of the complaint and investigative information. The Board may approve dismissal of the complaint or direct the Board representative to proceed with further investigation of the complaint.

2.11. The representative for the Board may negotiate terms of a consent agreement if probable cause for disciplinary action is established.

2.12. The Board shall review the terms of the consent agreement and all investigative information. The Board may approve the consent agreement, request revisions to the consent agreement or reject the consent agreement.

2.13. If the Board rejects the consent agreement, the Board representative shall schedule a hearing on the complaint.

2.14. If the licensee contests the allegations and refuses to enter into a consent agreement, the Board's representative shall schedule a hearing on the complaint. All hearings shall be in accordance with the WV Code Chapter 29-A. Administrative Procedures Act.

2.15. A hearing shall be held before a hearing examiner or before members of the Board.

2.16. The Board shall make a determination on the matter based on the facts, evidence submitted, testimony and recommendations of the hearing examiner.

2.17. The Board shall issue a final order which shall include findings of fact, conclusions of law and the decision of the Board on the complaint.

2.18. The licensee, his or her attorney of record, if any, and the individual who filed the complaint shall be provided a copy of the decision and accompanying findings of fact and

conclusions of law, whether it is the result of a formal hearing or the execution of a consent agreement.

2.19. The decision of the Board is final unless vacated or modified upon judicial review.