

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

Form #2

Do Not Mark In This Box

FILED

2009 JUN 30 AM 11:32

OFFICE 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: 30-27-1

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: 10

TITLE OF RULE BEING PROPOSED: Standard of Ethics

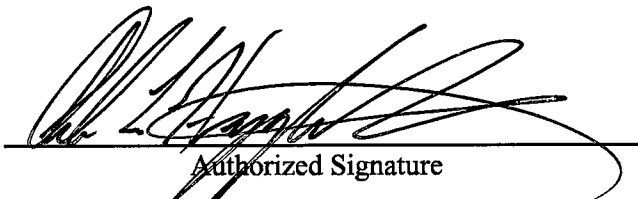
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 30th, 2009 AT 8:30am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

1716 Pennsylvania Ave, Suite 7

Charleston, WV 25302

adam.l.higgins@tham.wv.gov

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

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Standard of Ethics

Type of Rule: V Legislative      Interpretive      Procedural

Agency: Board of Barbers and Cosmetologists

Address: 1716 Pennsylvania Ave., Suite 7  
Charleston, WV 25302

Phone Number: 304-558-2924 Email: adam.l.higgins@hama.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.

N/A

**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	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title:

▲ Rule Title:

Standard of Ethics

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

W/A

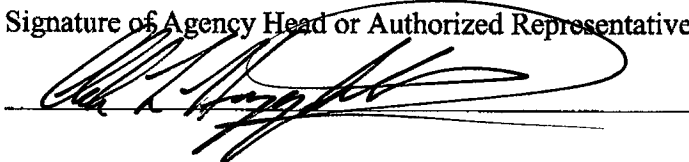
### MEMORANDUM

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.

This rule will have no fiscal impact. This rule establishes generally accepted ethics of the beauty culture industry.

Date: 6/29/09

Signature of Agency Head or Authorized Representative





State of West Virginia  
**Board of Barbers and Cosmetologists**

1716 Pennsylvania Avenue, Suite 7  
Charleston, West Virginia 25302  
Telephone: 304-558-2924  
Fax: 304-558-3450

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

Adam L. Higginbotham  
Director

Date: June 29, 2009

To: Administrative Law Division of Secretary of State's Office

From: Adam L. Higginbotham, Director, Board of Barbers and Cosmetologists

Re: Standard of Ethics

SUMMARY OF PROPOSAL

This rule creates generally accepted standards of ethics for the barbering, cosmetology, aesthetics, and nail industry.

Law Division of Secretary of State's Office  
300 Capitol Building, Charleston, West Virginia 25302

X

  
Adam L. Higginbotham M.B.A.  
Executive Director

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TITLE 3

2009 JUN 30 AM 11: 33

LEGISLATIVE RULE

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 10

STANDARD OF ETHICS

§3-10-1. General.

1.1. Scope. --

The Standards of Ethics of the West Virginia Board of Barbers and Cosmetologists apply solely to persons holding a License or Permit issued by the Board and to persons applying for examination and licensure in order to become a West Virginia Licensed Barber, Cosmetologist, Nail Tech, or Aesthetician.

This Standard of Ethics consists of the Standard of

Practice and the Code of Ethics.

1.2. Authority. -- W. V. Code 30-27-1 and 30-1-1

1.3. Filing Date. --

1.4. Effective Date. --

§3-10-2. Application.

This rule applies to all licensees and permittees under W. Va. Code §30-27-1 et seq.

§3-10-3. Definitions.

The following words and phrases as used in this rule have the following meanings:

3.1. "Applicant" means any person making application for examination and/or a license to become a Licensed Barber, Cosmetologist, Nail Tech, or Aesthetician.

3.2. "Beauty Culture" means the practice or act of barbering, cosmetology, nail technician or manicurist, and aesthetician or any of the applications listed in WV CODE 30-27-1.

3.3. "Individual" means any person holding a license or permit issued by the Board.

§3-10-4. Standard of Practice.

4.1. The Standard of Practice shall is a guide by which the individual or the board may evaluate his or her professional conduct as it relates to clients, employers, colleagues, and the Board. The Standard of

Practice is intended to assist the individuals and applicants in maintaining a high level of ethical conduct and in providing for the protection, safety, and sanitation of clients.

The individual shall:

4.1.1. conduct herself or himself in a professional manner;

4.1.2. deliver client service unrestricted by the concerns of personal attributes and without discrimination on the basis of sex, race, creed, religion or socioeconomic status;

4.1.3. use equipment and accessories, employ techniques and procedures, perform services in accordance with an accepted standard of practice;

4.1.4. continually strive to improve knowledge and skills by participating in continuing education and professional activities, sharing knowledge with colleagues and investigating new aspects of professional practice.

§3-10-5. Code of Ethics.

5.1. These are standards of minimally acceptable professional conduct for all present licensees, permittee's and applicants. Because the public relies on the Board to issue licenses and permits, it is essential that these individuals and applicants act consistently with this Code of Ethics. The Code of Ethics is intended to promote the protection, safety, and sanitation of clients and their services. The individuals and applicants engaging in any of the following conduct or activities, or who permit the occurrence of the following conduct or activities with respect to them, have violated the Code of Ethics and could be subject to sanctions.

An individual may not:

5.1.1. Employ fraud or deceit in procuring or attempting to procure, maintain, renew or obtain reinstatement of a license or permit issued by or to the Board for employment in the beauty culture field. This includes altering in any respect any document issued by the Board or any state or federal agency, or by indicating in writing certification or registration with the Board when that is not the case;

5.1.2. Subvert or attempt to subvert the Board's examination process. Conduct that subverts or attempts to subvert the Board's examination process includes, but is not limited to:

5.1.2.a. conduct that violates the security of Board examination materials, such as removing or attempting to remove examination materials from an examination room, or having unauthorized possession of any portion of or information concerning a future, current or previously administered examination of the Board; or disclosing information concerning any portion of a future, current or previously administered examination of the Board; or disclosing what purports to be, or under all circumstances is likely to be understood by the recipient as, any portion of or "inside" information concerning any portion of a future current or previously administered examination of the Board;

5.1.2.b. conduct that in any way compromises ordinary standards of test administration, such as communicating with another applicant during administration of the examination, copying another applicant's answers, permitting another applicant to copy one's answers, or possessing unauthorized materials; or

5.1.2.c. impersonating a applicant or permitting an impersonator to take the examination on one's own behalf;

5.1.3. Fail to report to the Board that:

5.1.3.a. charges regarding the individual's permit or license to practice beauty culture are pending or have been resolved adversely to the individual in any jurisdiction (including but not limited to, imposed conditions, probation, suspension or revocation); or

5.1.3.b. that the individual has been refused a permit, license or registration certificate to practice beauty culture by another jurisdiction;

5.1.4. Engage in unprofessional conduct;

5.1.5. Engage in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud or harm the public; or demonstrate a willful or careless disregard for the health, welfare or safety of a client. Actual injury need not be established;

5.1.6. Engage in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a client, or engage in sexual exploitation of a client. This subsection also applies to any unwanted sexual behavior, verbal or otherwise, that results in the termination of employment. This does not apply to pre-existing consensual relationships;

5.1.7. Knowingly engage or assist any person to engage in, or otherwise participate in, abusive or fraudulent billing practices;

5.1.8. Knowingly aid, assist, advise or allow a person without a current and appropriate permit or license to engage in the practice of beauty culture, in a jurisdiction which requires a person to have a current and appropriate permit or license in order to practice beauty culture in that jurisdiction;

5.1.9. Violate a rule adopted by any state board with competent jurisdiction, an order of the board, or state or federal law relating to the practice of beauty culture;

5.1.10. Practice outside the scope of practice authorized by the individual's current permit or license;

5.1.11. Make a false statement or knowingly providing false information to the Board, or to a national certification or accrediting organization;

5.1.12. Engage in false, fraudulent, deceptive or misleading communications to any person regarding the individual's education, training, credentials, experience or qualifications, or the status of the individual's state permit or license; or

5.1.13. Know of a violation or a probable violation of any Standard of Ethics by any individual or by a applicant and fail to promptly report it in writing to the Board.

5.2. An individual shall report convictions, criminal proceedings or military court-martials as set forth in this section. The individual shall report:

5.2.1. The conviction of a felony or misdemeanor.

5.2.2. A criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered, or a criminal proceeding where the individual enters a plea of guilty or nolo contendere.

5.2.3. Substance abuse or any sex-related infractions.