

**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: 30-27-6-9

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: 11

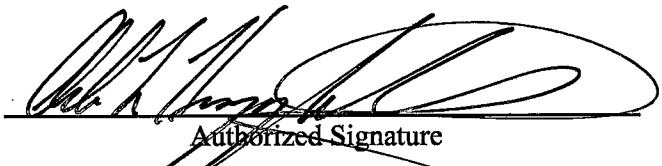
TITLE OF RULE BEING PROPOSED: Continuing Education

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

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

adam.l.higgins@betham@wv.gov


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Continuing Education
 Type of Rule: Legislative Interpretive Procedural
 Agency: Board of Barbers and Cosmetologists
 Address: 1716 Pennsylvania Ave., Suite 7
Charleston, WV 25302
 Phone Number: 304-556-2924 Email: adam.l.higgins@ham.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.

The Board will have expenditures in excess of \$43,000 to implement and perform this new rule. The expenses would involve personal services, mailings, fliers, printing and binding, and other unforeseen expenses.

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	\$43,000	\$43,000
Personal Services	0 (new position)	\$28,000	\$28,000
Current Expenses	0	\$15,000	\$15,000
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title:

Rule Title:

Continuing Education

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The cost to implement would result in a new hire plus benefits to equal around \$28,000. The Board will also incur informational, mailings, paper, and other expenses at a minimum of \$15,000.

This would result in a minimum expense increase of \$43,000.

MEMORANDUM

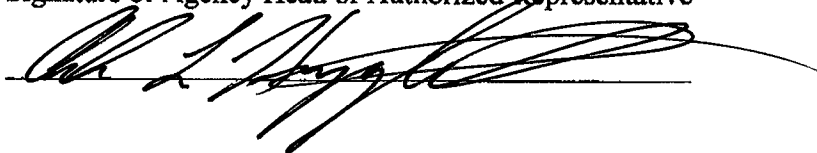
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Need Continuing education rule in place to comply with past legislative audits.

Date:

6/29/2009

Signature of Agency Head or Authorized Representative





Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Adam L. Higginbotham
Director

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

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: Continuing Education

SUMMARY OF PROPOSAL

This rule creates continuing education requirements for licensed barbers, cosmetologists, aestheticians, and manicurists in order to become compliant with legislative audits in 2002 and 2008.

X


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

FILED

TITLE 3

2009 JUN 30 AM 11: 32

LEGISLATIVE RULES

WEST VIRGINIA BOARD OF BARBERS AND COSMETOLOGISTS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 11

CONTINUING EDUCATION

§3-11-1. General.

1.1. Scope. -- This legislative rule establishes requirements for continuing education to practice barbering, cosmetology, manicuring/nail technology, and aesthetics. All persons licensed by the Board to practice beauty culture must earn a minimum of four (4) hours of continuing education credits annually.

1.2. Authority. -- W. Va. Code §30-.27-6-9

1.3. Filing Date. --

1.4. Effective Date. --

§3-11-2. Definitions.

2.1. "Approved academic course" means a formal course of study offered by an accredited postsecondary educational institution as it relates to the barbering, Cosmetology, manicuring/nail technology, and aesthetics.

2.2. "Approved provider" means a local, state or national agency, organization or association recognized by the Board.

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

2.4. "Beauty Culture" means the act or practice of a profession as a barber, cosmetologists, nail technician, or aesthetician.

2.5. "Contact hour or continuing education activity" means an unit of measure as explained in section.

2.6. "Contact person" means a person submitting Request for Approval Form.

2.7. "Continuing education" means planned, organized learning activities engaged in following initial licensure and designed to maintain, improve, or expand beauty knowledge and skills or to develop new knowledge and skills related to beauty culture practice, education, or theory development.

2.8. "Continuing education activity" means a learning activity that is planned, organized and administered to enhance the professional knowledge and skills underlying the professional performance that the licensee uses to provide services the public. To qualify as continuing education, the activity must provide sufficient depth and scope of a subject area.

2.9. "Continuing education credit" means credit earned for completing a continuing education activity.

2.10. "Continuing Education Provider License" means a licensed provider of continuing education.

2.11. "Documentation" means proof of participation in a continuing education activity.

2.12. "Formal offering" means an extension course, independent study, or other course which is offered, for college credit, by a recognized educational institution.

2.13. "Informal offering" means a workshop, seminar, institute, conference, lecture, or short term course, which is offered for credit in contact hours or continuing education units.

2.14. "Objectives" means what the participant will learn as a result of the educational activity. Objectives must be expressed in measurable and observable terms.

2.15. "Sponsor" means an organization that plans, organizes, supports, endorses, subsidizes and/or administers educational activities. Sponsors are responsible for the content, quality and integrity of the educational activity. Sponsors can include professional societies, academic institutions, individuals, corporations, or governmental agencies.

§3-11-3. Continuing Education.

3.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license if a license is suspended or on the inactive list, shall verify that he or she has satisfactorily completed four (4) contact hours of continuing education during the prescribed year reporting period.

Units of measurement for continuing education courses are as follows:

3.1.1. 30 to 49 minutes = 0.5 CE credits

50 to 74 minutes = 1 CE credits

75 to 99 minutes = 1.5 CE credits

100 minutes = 2 CE credits

Activities lasting less than 30 minutes will be no credit.

3.1.2 Writing a published article in a magazine directly related to the profession will constitute for (4) four hours of continuing education within the continuing education timeframe. A copy must be sent and/or maintained by the licensee until audited.

3.2. All licensed barbers, cosmetologists, nail technicians, and aestheticians with an active license to practice beauty culture in West Virginia shall complete and document a minimum of four (4) hours of continuing education every year as approved by this rule.

3.3. The Board shall not grant credit for identical continuing education activities submitted during any single year reporting period. Continuing education credits may not be accumulated for use in a future single year reporting period.

3.4. Continuing education documentation must be submitted along with license renewal.

§3-11-4. Exceptions to Continuing Education

Requirements.

4.1. The Board shall exempt from the continuing education requirements a licensee who qualifies for the exceptions set forth below.

4.1.1. A licensee with twenty-five (25) plus years experience as a licensed barber, cosmetologist, nail technician, or aesthetician in West Virginia shall be grandfathered into this rule and is not required to complete continuing education requirements.

4.1.2. Reciprocity applicants and newly licensed applicants are not required to show proof of continuing education until the first renewal period after initial West Virginia licensure.

4.1.3. A licensee who resides outside of West Virginia and who holds a current license to practice in a state other than West Virginia shall satisfy the continuing education requirements for West Virginia in order to renew his or her license in this state.

4.1.4. The Board may grant a waiver 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 provides for an extension of time or exception from some or all of the continuing education requirements. Any licensee may request an application for a 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) year reporting period, as set forth in this rule.

§3-11-5. Failure to Meet Requirements or

Exceptions to Requirements.

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

5.2 The Board may place the licensee on inactive status without penalty and may waive the continuing education requirements, providing that 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.

5.3. The Board shall suspend 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 the inactive status.

§18-2-6. Reinstatement of a License on Inactive Status or Issuance of a Probational Temporary License.

6.1. A person wishing to reinstate a license from inactive status or from suspended status shall comply with the following requirements. The person shall:

6.1.1. make application for reinstatement of the license from inactive status or suspended status;

6.1.2. meet the continuing education requirements as set forth in this rule; and

6.1.3. pay the fee for reinstatement suspended license as specified in the Board's rule, Schedule of fees for services rendered,

6.2. A licensee who does not meet requirements provided under this section for license, is required to pass the national written examination for the specific field the licensee holds a license and pay all applicable fees.

§3-11-7. Audit of Licenses.

The Board may select any licensee who holds a current license to audit for compliance with continuing education requirements as set forth in this rule.

7.1. To comply with the audit request from the Board, a licensee shall submit legible copies of certificates of attendance at continuing education offerings.

7.2. The licensee shall submit the required documents within thirty (30) days of the date he or she receives notification of the audit. The Board may grant an extension of time for submission of the documents, on an individual basis, and in cases of hardship, providing the licensee makes a written request for an extension of time and provides justification for such the request.

7.3. Licensees shall keep certificates of attendance at continuing education offerings, letters verifying special approval for informal offerings from non-approved providers, transcripts of courses, and documentation of compliance with exceptions for a three (3) year period following submission of continuing education activities to the Board.

7.4. The Board shall notify the licensee of the satisfactory completion of the audit.

7.5. If a person fails to submit the audit information requested by the Board, the Board shall not renew any license the licensee holds with the Board before the audit is completed.

7.6. A licensee who fails to notify the Board of a current mailing address is not absolved from the audit requirements. The Board shall not renew a license before the audit is completed.

§3-11-8. Minimum Standards for Approved Providers.

8.1. The Board shall require that all providers of continuing education for beauty culture and related fields in the beauty industry obtain a Continuing Education Provider License, complete the applicable application, and pay all applicable fees.

8.2. The Board shall maintain a current list of approved providers which shall be available to the public upon request.

8.2.1. The Board shall notify providers who fail to meet the minimum acceptable provider standards, in writing, of specific deficiencies and give the providers a reasonable period of time to correct deficiencies.

8.2.2. The Board may remove an approved provider who does not correct deficiencies within the specified time period from the list of approved providers.

8.3. The providers shall provide a certificate or signature to the licensee indicating the following information:

8.3.1. Name of licensee that attended the continuing education class;

8.3.2. The date attended;

8.3.3. The amount of continuing education requirements; and

8.3.4. Contact information of the continuing education provider.

8.4. Proof of continuing education hours shall be provided through a printed certificate or a legibly signed and dated document.

8.5. The host of the continuing education shall be considered the provider with documentation of the speakers, trainings, events, shows, and other approve subjects being detailed on the continuing education provider application.

§3-11-9. Continuing Education Subjects/Events.

9.1. Continued education offerings shall consist of one or more of the following subject areas or events:

9.1.1. Product information or training;

9.1.2. Events, speakers, or shows by third party administrators held at beauty schools/conventions;

9.1.3. Tax, business, or computer training/courses held at a degree granting institution or continuing education provider;

9.1.4. Styling or application demonstrations;

9.1.5. Sanitation courses;

9.1.6. HIV/Aids awareness courses; and

9.1.7. West Virginia applicable state laws governing the Board of Barbers and Cosmetologists.

9.1.8. National Cosmetology Association (NCA), National Interstate Council of State Boards of Cosmetology (NIC), National Cosmetology Seminar, Aesthetic International Association, National Association of Barbering and Hairstyling, National Association of Barber Boards of American approved courses, seminars, and demonstrations.

§3-11-10. Activities That Are Not Acceptable for Continuing Education Credit.

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

10.1.1. job related practice;

10.1.2. the development and presentation of programs as part of the licensee's on-going job responsibilities;

10.1.3. the orientation and update of policies and procedures specific to the licensee's employing facility;

10.1.4. activities which are part of a licensee's usual job responsibility; and/or

10.1.5. in-house training from a regular employee of the facility.