



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Barbers And Cosmetologists TITLE-SERIES: 3-05
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: OPERATION OF BARBER, COSMETOLOGY,
NAIL TECHNOLOGY, AESTHETIC, HAIR
STYLING, AND WAXING SALONS AND
SCHOOLS
CITE STATUTORY AUTHORITY: W. Va. Code §§ 30-27-5 and 30-27-6. Related -- W. Va. Code §§ 30-27-1,
and 30-27-17 et seq.

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/31/2024 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: DANIELLE J CORDLE
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DUNBAR, WV 25064
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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

THIS RULE ESTABLISHES SANITATION AND OPERATION REQUIREMENTS FOR SALONS AND SCHOOLS OF BARBERING, COSMETOLOGY, NAIL TECHNOLOGY, AESTHETICS, HAIR STYLING, AND WAXING.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

THE CHANGES CONSIST OF UPDATED LANGUAGE AND REMOVING UNNECESSARY LANGUAGE

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

NO ECONOMIC IMPACT ANTICIPATED

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

NO ECONOMIC IMPACT ANTICIPATED

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

NO ECONOMIC IMPACT ANTICIPATED

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Danielle J Cordle -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 3

LEGISLATIVE RULE

BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 5

~~OPERATION OF BARBER, BEAUTY, NAIL, AND AESTHETIC SHOPS/SALONS,
AND SCHOOLS OF BARBERING AND BEAUTY CULTURE~~

OPERATION OF BARBER, COSMETOLOGY, NAIL TECHNOLOGY, AESTHETIC, HAIR STYLING, AND
WAXING SALONS AND SCHOOLS

§3-5-1. General.

1.1. Scope. -- This legislative rule ~~governs~~ establishes the ~~sanitary~~ sanitation and operation requirements for salons and schools of barbering, cosmetology, nail technology, aesthetics, hair styling, and waxing licensed which operate in the State of West Virginia as adopted by the Board of Barbers and Cosmetologists.

1.2. Authority. -- W. Va. Code §§ 30-27-5 and 30-27-6. Related -- W. Va. Code §§ 30-27-1, and 30-27-17 *et seq.*

1.3. Filing Date. -- ~~May 12, 2017~~

1.4. Effective Date. -- ~~May 12, 2017~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2035 ~~May 12, 2027~~.

§3-5-2. Sanitation and Operation Requirements.

2.1. All salons or schools must have cross air ventilation before opening and whenever operating as a salon or school. All salon's or school's respective toilets and adjoining rooms used in connection therewith must be kept clean, well lighted, and ventilated at all times.

~~2.2. All salon's or school's respective toilets and adjoining rooms used in connection therewith must be kept clean, sanitary, well lighted and ventilated at all times. The use of chunk alum, powder puffs and styptic pencils in any such salon or school is prohibited. No pets such as cats, dogs, birds, etc., shall be kept in or allowed to inhabit salons or the entrance to such salons or schools.~~

~~2.3. 2.2.~~ Each ~~barber, cosmetologist, aesthetician, nail technician/manicurist, practitioner,~~ practitioner, instructor, and student shall thoroughly cleanse ~~his or her~~ their hands with soap and water immediately before serving any ~~patron~~ client. When hand washing is unavailable, the use of an equally effective hand sanitizer is acceptable. However, hands must be washed after using the restroom, smoking, and eating.

~~2.4. 2.3.~~ Each ~~patron~~ client must be served with clean, freshly laundered linen which is kept in a clean, closed cabinet container used for that purpose alone. All linens immediately after being used shall be placed in a closed ~~receptacle~~ container used for that purpose alone.

2.5. A freshly laundered towel or paper neck strip must be placed around the neck of every patron so that the chair cloth or shampoo apron does not come in contact with the patron's skin.

~~2.6. The wiping of hands or instruments of any kind on linen being used is prohibited.~~

~~2.7.~~ 2.4. The head rests of all barber chairs ~~should~~ must be wiped down with an approved disinfectant or ~~allow~~ a change of paper must be provided for each ~~customer~~ client. Used shaving papers must be deposited in a closed ~~receptacle~~ container used for that purpose alone.

~~2.8.~~ 2.5. All salons or schools must be equipped with hot and cold running water piped to hot and cold water faucets of a lavatory. For purposes of this rule, a lavatory is that plumbing fixture commonly used for hand washing. ~~An individual lavatory shall be provided for every two barber chairs in all barber shops, and shall be located in the working area of each barber chair.~~ Waste water must be drained through proper plumbing facilities into the public sewer system.

~~2.9.~~ 2.6. All rooms used for salons ~~must be equipped with all implements, supplies, sterilizers, linen and all other equipment and requisites necessary to perform any or all of the services usually rendered in salons.~~ Salons located in residences must have a private entrance, proper toilet facilities, and must be confined strictly to rooms used exclusively for ~~barbering or beauty culture~~ performing services.

~~2.10. Every barber, hair stylist or cosmetologist who uses hair brushes must have at least six (6) in use. After each brush is used, it must be thoroughly washed and immersed in an approved disinfectant solution, dried and placed in a clean storage bin until used again.~~

~~2.11. Every barber, hair stylist or cosmetologist must have at least twelve (12) combs in use. Every comb must be washed and thoroughly sterilized after each use.~~

~~2.12. All razors, scissors, tweezers, needles, blades, and other instruments shall be thoroughly cleaned and disinfected by immersion in an approved disinfecting solution, after they have been in use, and such tools, instruments and appliances shall, when not in use, be kept in a clean, storage bin. Massage cups, glass applicators and metallic accessories must be detached after each use and thoroughly washed, disinfected, and then placed in a clean, storage bin closed receptacle. The bottom blade of all clippers shall be sponged with a small pledget of cotton that has been dipped in an approved disinfectant before each use.~~

~~2.13. Waving fluid, or other liquid preparations, must be applied to the hair only through a sanitary dispenser, or by dripping, pouring, or spraying on the hair.~~

~~2.14. All rollers must be cleaned and sterilized after each patron and, when not in use, kept in a closed cabinet or clean storage bin used for that purpose only.~~

~~2.15. The advertised price of a permanent wave must include a shampoo and all other preparations necessary prior to giving the wave, and every act necessary to complete the permanent wave excluding a haircut. The manager of each salon will be held responsible for seeing that the salon has on hand at all times all supplies required to give each individual permanent wave advertised, by name, by that particular salon.~~

~~2.16.~~ 2.7. Each licensee practitioner and student shall be held responsible for keeping ~~his or her~~ their individual chair, work stand, mirror, drawers, ~~individual sterilizers~~ disinfectant containers, and entire booth or stand clean and neat during working or training hours. ~~Each such licensee practicing in any capacity must keep his or her entire personal appearance clean and neat, and above reproach at all times.~~

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~~2.17. Every licensee must have adequate cabinet space for storing tools and accessories only. Each barber, hair stylist or cosmetologist must have an approved, compartment type, individual dip sterilizer, which must be of sufficient size to allow combs to be completely submerged. Dip sterilizers may be made of glass, or other non-corrosive materials, and must contain, at all times, an adequate fresh supply of an approved disinfectant. Combs, brushes and other implements shall be washed in soap and water prior to being placed in the dip sterilizer, and shall be dried before being placed in the cabinet sterilizer.~~

~~2.18. No person practicing barbering or beauty culture, in any capacity, is permitted to remove warts, moles or skin blemishes. Cosmetologists and aestheticians can perform extraction of skin blemishes. No person may attempt to treat any disease of the skin or scalp. Persons desiring, or in need of treatment of any disease, must be referred to a licensed physician.~~

~~2.19. Floors and base boards must be kept clean and free from hair, and where possible, mopped each day.~~

~~2.20. 2.8.~~ Any member of the Board, or its inspectors may enter or inspect any ~~barber, beauty, nail, and aesthetic shops/salons~~ salon or school of ~~barbering, cosmetology, hair styling, aesthetics or nail technology~~ during business hours to check any part of the premises in order to ascertain whether or not any part of these rules are being violated, and to take any other action necessary to properly enforce the law.

~~2.21. 2.9.~~ A copy of this rule must be framed and posted in a conspicuous place in every salon and school. Licenses or other individual authorizations must be framed and posted at each work station at which the individual is currently working.

~~2.22. Failure on the part of the owner, manager or employee to comply with this rule is a violation of law and sufficient cause for the Board to revoke, or decide not to renew any applicable license.~~

~~2.23. For the purposes of this rule, an approved disinfectant means a one thousandth (1/1000) solution of quaternary ammonium salts of high germicidal activity, or its equivalent.~~

~~2.24. 2.10.~~ All salons or schools ~~opened after the effective date above~~ must have an inspection completed by a licensed electrician stating the electrical wiring within the ~~shop~~ salon or school is adequate to the proposed usage of the facility.

~~2.25. 2.11.~~ No ~~barber, beauty, nail and aesthetic shops/salons~~ salon or school may operate equipment primarily used for a service that is governed by this ~~board~~ Board that the salon or school or its ~~licensed workers~~ authorized practitioners, instructors, and students are not ~~licensed~~ authorized to operate.

~~2.26. 2.12.~~ All ~~salon and shop~~ owners ~~and/or managers~~ must present annual records of all booth renters on July 1st of each year. The record should include: name of renter, renter's license number, name of salon, salon's license number, and length of current rental or lease agreement.

~~2.27. 2.13.~~ All salons and school ceilings, ceiling tiles, floors, flooring tiles, base boards, and walls shall be in good repair without signs of excessive dirt, suspect mold or mildew, or any damage that is considered a threat to public safety and/or sanitation. Floors and base boards must be kept clean and free from hair, and where possible, mopped each day.

§3-5-3. Disinfecting Instruments and Equipment.

3.1. Only cleaned, disinfected, and properly stored tools and implements must be used on a client. For the purposes of this rule, an approved disinfectant means a quaternary ammonium solution that is bactericidal, virucidal and fungicidal and is registered with the United States Environmental Protection Agency (EPA). EPA-registered bactericidal, virucidal, and fungicidal sprays, foams, and wipes may be used.

3.2. Before disinfecting any surface or item, any visible debris and disposable parts must be removed and the surface or item must be washed with soap and water or a cleaning agent, rinsed thoroughly, and dried before being disinfected. Surfaces may be wiped with a cleaning agent before being disinfected. All surfaces of a tool or implement, including handles, must be disinfected by fully submerging the item in disinfectant in a covered container for the full contact time listed in the manufacturer's directions. Following disinfection, items must be rinsed to prevent exposure of clients, practitioners, students, and instructors to unsafe pesticides and chemicals. Items must be dried before being stored in a closed container.

3.3. A supply of disinfected tools, disinfected implements, single-use supplies, and disinfectant must be present and available for use by practitioners. The supply must be sufficient, based on the practitioner and salon service volume, to ensure each client is serviced with properly cleaned and disinfected tools and implements each day.

3.4. Scissors and razors are not required to be washed, but must be wiped to remove hair, product residue, and skin debris, and then disinfected with an EPA-registered, disinfectant spray or wipe after each use. The surfaces must remain wet with the spray or wipe disinfectant for the contact time listed on the disinfectant label and the manufacturer's directions must be followed.

3.5. Electric clippers, nail drills, glass or metal electrodes, high frequency wands, aesthetic machines, steamers, diffusers, or other electric or electronic tools must be cleaned and disinfected after each use, including the body, handle, and attached cord. The surface of the tool's body, handles, and attached cord must be brushed or wiped clean of all product residue, hair, skin debris, nail dust, and other visible debris, and then disinfected with an EPA-registered disinfectant spray, or wipe after each use. The surfaces must remain wet with the spray or wipe disinfectant for the contact time listed on the disinfectant label and the manufacturer's directions must be followed.

3.6. Plastic guards and any nonmetal removable parts must be removed, cleaned, and disinfected prior to use. Metal guards, clipper blades, drill bits, and other removable parts must be removed. All product residue, hair, skin debris, nail dust, and other visible debris must be brushed or wiped off, and the removable part must be disinfected with an EPA-registered, disinfectant spray or wipe after each use. The surfaces must remain wet with the spray or wipe disinfectant for the contact time listed on the disinfectant label and the manufacturer's directions must be followed.

3.7. Clipper blades that are not detachable must have the hair removed using a disinfected brush or a blade wash, and the clipper blade must be disinfected with an EPA-registered disinfectant spray. The surfaces must remain wet with the spray disinfectant for the contact time listed on the disinfectant label and the manufacturer's directions must be followed.

§3-5-4. Prohibited.

4.1. Prohibited substances in salons and schools are methyl methacrylate (MMA) liquid monomers, formalin tablets, formalin liquids, and other fumigants and must not be present in a salon or school.

4.2. Prohibited skin cutting equipment includes razor-type callus shavers, credo blades, rasps, or graters and other implements that are used to remove corns or calluses by cutting below the skin surface and must not be present in a salon or school. No practitioner, student, or instructor is permitted to remove warts, moles, or skin blemishes. No practitioner, student, or instructor may attempt to treat any disease of the skin or scalp. Persons desiring, or in need of treatment of any disease, must be referred to a licensed physician.

4.3. UV sterilizers or light boxes are not an acceptable infection control device and must not be present in a salon or school. This does not apply to UV dryers or ultraviolet lamps used to dry or cure nail products.

4.4. Autoclaves and autoclave packaging of tools are prohibited unless regular spore tests are performed by a contracted laboratory at least once per month, but not more than 30 days between tests. If a positive spore test is received, the autoclave must not be used until a negative spore result is received. The salon or school must maintain a log of each use, all testing samples and results, and a maintenance log of all maintenance performed according to the manufacturer's directions. The salon or school must retain the most recent 12 months of the log at the salon or school for review by the Board or its agents.

4.5. Electric or battery-operated files or drills not specifically manufactured for use on humans are prohibited.

4.6. Practitioners, instructors, and students must not use tools or implements provided by clients unless the practitioner, instructor, or student first cleans and disinfects the tool or implement. Client-supplied prohibited tools must not be used and must be immediately removed from the salon premises. Client-supplied single-use items must be new. Salons and schools must not store a client's tools or implements.

4.7. No animals shall be kept in or allowed to inhabit salons or schools or the entrance to such salons or schools other than fish in an aquarium.

§3-5-5. Manicure and Pedicure Services.

5.1. Pedicure tubs, including basins, and piped and pipeless tubs must be cleaned and disinfected prior to use. After each use, used water must be drained and any visible debris removed from the pedicure tub/basin. The pedicure tub/basin must be scrubbed with detergent and water, and rinsed with water and drained. The pedicure tub/basin must be filled with clean water and an EPA-registered, disinfectant must be added following the manufacturer's directions. If the pedicure tub/basin is electrical, the fan or pump must be turned on and the unit operated for the entire contact time and after the contact time is complete, the disinfectant must be drained and the tub/basin rinsed with clean water. All removable filter screens, inlet jets, footplates, impeller assemblies, and other parts must be removed and debris eliminated and scrubbed with a disinfected brush and detergent and water.

5.2. Pedicure tub liners are single-use items and must be discarded immediately after each use. When disposable tub liners are used, § 3-5-5.1. does not apply. When tub liners are used, the pedicure tubs must remain in a clean and disinfected condition.

5.3. Pedicure tubs/basins of all kinds must always be maintained in a clean and disinfected condition, even if the tub/basin is broken or not in service. If the circulating mechanism is not working, the screens must be cleaned and the tub/basin surface disinfected.

§3-5-6. Single-Use Items.

6.1. Items that are single-use and must be discarded in a closed container after each use include but are not limited to: Foam toe separators, foam buffer blocks, pedicure tub liners, pumice bars or stones; chamois, paper, or foam flip-flops or slippers; nail files; sanding bands or sleeves; paper sandpaper drill bits; wooden applicators/orangewood sticks; cotton balls, cotton pads, or swabs; gauze pads; neck strips; wax strips; and other items made with paper, wood, foam, or other porous materials.

6.2. New, single-use items must be stored in clean, covered containers with solid sides and lids containing only new or disinfected items. New items in the original sealed packaging may be stored out in the open.

6.3. All nail files are single-use items unless made of metal, glass, or crystal. Ceramic nail files are single-use items unless completely sealed by a glaze. For the purpose of scoring the edges of sharp single-use files, one file may be repeatedly used to file down the edge of a supply of new files, provided that the practitioner wears gloves while preparing the new files and that the file used by the practitioner is kept in a disinfected container labeled "score file." Each salon may have only one score file.

§3-5-7. Waxing.

7.1. Wax pots and paraffin warmers must be kept covered and the exterior cleaned daily. A. If debris is found in the wax pot or paraffin warmer, or if the wax or paraffin has been contaminated by contact with skin, unclean applicators, or double-dipping, the wax pot or paraffin warmer must be emptied, the wax must be discarded, and the pot or warmer must be disinfected.

7.2. Disposable spatulas and wooden sticks must be dipped into the wax only once and then discarded without using the other end.

7.3. Applicators must be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service.

7.4. Any surface touched by a used wax stick must be cleaned and disinfected immediately after the service.

7.5. Paraffin wax must be portioned out for each client in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply.

~~§3-5-3.~~ §3-5-8. Duty to Carry Out Rules, Reporting and Complaints.

~~3-1.~~ 8.1. It shall be the duty of the proprietors of all salons and schools, and all ~~certificate holders, licensees,~~ practitioners, instructors, students, and others to assist in carrying out the provisions of this rule by reporting any violation to the Board or any of its duly authorized agents.

~~3-2.~~ 8.2. Complaints may be presented to an inspector at the time of inspection, filed online, or may be mailed to the Board. Complaints will be investigated as promptly as possible.

~~§ 3-5-4.~~ §3-5-9. Administrative Due Process.

~~4.1.~~ 9.1. Those persons adversely affected by the enforcement of this rule shall have the right to request a hearing in a manner pursuant to the provisions of W. Va. Code § 30-27-1*et seq.*