



WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Barbers And Cosmetologists

RULE TYPE: Legislative

TITLE-SERIES: 3-04

RULE NAME: Operational Standards for Schools of
Barbering, Cosmetology, Hair Styling,
Nail Technology and Aesthetics

CITE AUTHORITY: W. Va. Code § 30-27-6. Related - W. Va.
Code § 30-27-1 et seq.

The above proposed Legislative rules, 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.

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.

TITLE 3
LEGISLATIVE RULES
BOARD OF BARBERS AND COSMETOLOGISTS

SERIES 4
OPERATIONAL STANDARDS FOR SCHOOLS OF
BARBERING, COSMETOLOGY, HAIR STYLING, NAIL TECHNOLOGY, WAXING, AND AESTHETICS

§ 3-4-1. General.

1.1. Scope. -- This legislative rule establishes the operational standards for schools of cosmetology, hair styling, nail technology, waxing, aesthetics and barbering which operate in the State of West Virginia as adopted by the Board of Barbers and Cosmetologists (hereinafter Board).

1.2. Authority. -- W. Va. Code § 30-27-6. Related - W. Va. Code § 30-27-1 *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, 2036.

§ 3-4-2. Operation of Schools of Barbering Cosmetology, Hair Styling, Waxing, Nail Technology and Aesthetics

2.1. Record and Posting Requirements

~~2.1.a.~~ 2.1.1. The school shall prepare an accurate record of the number of hours devoted to the prescribed subjects during the previous month and the cumulative total of hours completed since the student's enrollment for each student by permit number. This record is to be posted on the schools bulletin board at all times and be made available to all students.

~~2.1.b.~~ 2.1.2. The school must post a copy of this rule on a bulletin board and make the rule available to all students in each school.

§ 3-4-3. Classroom and Equipment Standards for Schools of Cosmetology, Hair ~~styling~~ Styling, Waxing, Nail Technology, Aesthetics, and Barbering

3.1. Classrooms, Equipment - Each school shall have a minimum of two (2) rooms in use at all times. The school shall utilize a classroom for the teaching of theory, illustrations and lectures. The school shall also utilize a clinical room for clinical or demonstrative work. A school shall have the following equipment for the accommodation of each student enrolled. A school shall install additional equipment in proportion to any increase in enrollment.

~~3.1.a.~~ 3.1.1. One (1) blackboard or whiteboard, not less than 4 x 8 feet in size for all curriculums.

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~~3.1.b.~~ 3.1.2. Dresserettes and mirrors, or combination work tables with hydraulic chairs for haircutting. There must be a work station table and chair for each student enrolled in school during practical instruction for cosmetology, ~~and hair styling, and barbering.~~

~~3.1.c.~~ 3.1.3. One (1) shampoo bowl for every four (4) students in cosmetology and hair styling, maximum of five (5).

~~3.1.d.~~ 3.1.4. One (1) hood hair dryer for every ten (10) students in cosmetology and hair styling, maximum of ten (10).

~~3.1.e.~~ 3.1.5. One (1) facial chair for every seven (7) students in cosmetology and one (1) facial chair for every two (2) students in aesthetics or waxing, maximum of three (3).

~~3.1.f.~~ 3.1.6. One (1) facial supply tray for every student in cosmetology, waxing, and aesthetics.

~~3.1.g.~~ 3.1.7. One (1) manicure table for every five (5) students in cosmetology and (1) manicure table for every two (2) students in nail technology, maximum of three (3).

~~3.1.h.~~ 3.1.8. Sufficient clean linen cabinet space for all curriculums.

~~3.1.i.~~ 3.1.9. One ~~(1) dip (wet) disinfectant~~ compartment-type, individual disinfection container which must be of sufficient size to allow all multi-use implements including but not limited to, combs, brushes, and shears to be completely submerged for each booth and work table for all curriculums. The solution in each individual disinfection container must be diluted properly in accordance with the manufacturers label.

~~3.1.j.~~ 3.1.10. ~~Disinfectant, and sterilizing~~ Approved disinfectant products sufficient to accommodate as many students as are engaged in clinical work at any one time. 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.

~~3.1.k.~~ 3.1.11. Sufficient training aids for all curriculums.

~~3.1.l.~~ 3.1.12. One (1) hydraulic chair for every student in cosmetology, barbering, and hair styling during practical instruction.

~~3.1.m.~~ 3.1.13. Head mannequins to be furnished by the school for each student, as part of a kit for cosmetology, aesthetics, barbering, and hair styling.

~~3.1.n.~~ 3.1.14. One (1) classroom chair for every student (all curriculums) during practical instruction.

~~3.1.o.~~ 3.1.15. One (1) waste container for every two (2) students (all curriculums), maximum of ten (10).

~~3.1.p.~~ 3.1.16. One (1) large bulletin board conspicuously located for student permits, rules, regulations, notices, etc. (all curriculums).

~~3.1.g.~~ 3.1.17. One (1) set of books used solely for the records required by Section 7 of this rule (all curriculums).

3.2. General requirements for Schools of Cosmetology, Hair Styling, Nail Technology, Aesthetics and Barbering.

~~3.2.a.~~ 3.2.1. All schools shall provide and maintain adequate and sanitary facilities.

~~3.2.b.~~ 3.2.2. A school shall not permit any student to enter any class for study, or give credit for any work done in school, prior to the time his or her permit has been received from the Board.

~~3.2.c.~~ 3.2.3. Each school shall maintain a library of suitable reference books approved by the Board.

~~3.2.d.~~ 3.2.4. Each school shall hold regular classes for the teaching of both the theory and the practice of the profession being taught.

~~3.2.e.~~ 3.2.5. Schools shall not guarantee positions to students, nor guarantee financial aid to students for help in adequately equipping a ~~beauty~~ salon or shop.

~~3.2.f.~~ 3.2.6. Schools are not limited to any particular system of teaching cosmetology, hair styling, nail technology, barbering, waxing, or aesthetics. Students should be familiar with the various methods and practices in their profession and the different supplies and equipment used in the ~~beauty~~ industry. Each student must start studies at the beginning of the chapter being taught.

~~3.2.g.~~ 3.2.7. Each school must have an admission office, properly equipped with a filing cabinet, etc., and maintain duplicate copies of records sent to the Board.

~~3.2.h.~~ 3.2.8. Each school ~~shall advertise only under the designation of a "beauty school" and~~ shall display conspicuously at the entrance to the school a sign in plain block, display lettering at least one (1) inch in height, to read as follows: "All Work Done By Students Only."

~~3.2.i.~~ 3.2.9. The school must display all service prices in the clinic area. The prices must be followed by the words, "Student Work", in lettering at least one half (1/2) the size of the lettering used to display the price.

~~3.2.j.~~ 3.2.10. During school hours instructors, as well as students, shall wear washable uniforms which must be kept clean and neat at all times. Instructors shall wear different uniforms from those worn by the students so they may be easily recognized.

~~3.2.k.~~ 3.2.11. All bottles and containers in use must be distinctly and correctly labeled, showing the use for which the contents are intended.

~~3.2.l.~~ 3.2.12. The school shall furnish the Board with a copy of the current school catalog, student handbook, and a copy of its boilerplate student contracts and provide the Board with a copy upon changes to the boilerplate contracts. At any time when changes are made in the catalog or student handbook, the school shall furnish the Board with a copy of the catalog or handbook prior to implementing the proposed change or revision. At a minimum, student catalogs shall consist of course outlines, a school grading policy,

and class schedules. Student handbooks shall consist of at least a student attendance policy, student expectations, and school responsibilities.

~~3.2.m.~~ 3.2.13. Schools shall provide theory and instructor-led demonstrations on subject matters prior to a student performing the subject matter on a customer.

~~3.2.n.~~ 3.2.14. Students shall not be charged for products used to provide a service in the school when performed for training purposes or on a paying customer. This no charge requirement is when the student uses an acceptable amount of the product.

~~3.2.o.~~ ~~Schools shall furnish students with, disinfection, and sterilization products of adequate strength at all times.~~

~~3.2.p.~~ 3.2.15. Cosmetology and hair styling students shall be taught how to use clippers and have access to clippers while on the clinic floor.

~~3.2.q.~~ 3.2.16. Schools shall follow the approved catalog, student handbook, and student contract.

~~3.2.r.~~ 3.2.17. Each student shall periodically be tested on components of the curriculum as part of regular course study. Students shall receive official school reports on their progress and standing in classroom theory and practical instruction and clinical work at least on a quarterly basis.

~~§ 3-4-4. Classrooms and Equipment Standards for Schools of Barbering~~

~~4.1. Classrooms, Equipment—Each school of barbering shall have a minimum of two (2) clinic rooms in use at all times, one (1) to be known as the junior department and the other as the senior department. All beginners will receive instruction in the junior department and will advance to the senior department when they have completed the minimum number of hours specified by the Board. Both rooms shall be fully equipped and arranged in a manner to comply with the rules promulgated by the Board. There shall be a third room in every school of barbering where class study, examinations and lectures are held. A school shall have the following minimum equipment before being permitted to operate:~~

~~4.1.a. One (1) complete chair units consisting of one (1) chair, lavatory, and complete back stand and providing a proper cabinet for immediate linen supply and individual wet and dry disinfectant for each student enrolled during practical instruction.~~

~~4.1.b. One (1) recognized textbook on barbering for each student, approved by the Board.~~

~~4.1.c. Sufficient clean linen cabinet space.~~

~~4.1.d. One (1) blackboard or whiteboard, not less than 5' x 8' in size.~~

~~4.1.e. One (1) large bulletin board, conspicuously located, for the posting of rules and regulations, notices, etc.~~

~~4.1.f. One (1) file for duplicate copies of reports sent to the office of the West Virginia Board of Barbers and Cosmetologists.~~

~~4.1.g. One (1) set of books used solely for the records required by Section 7 of this rule.~~

~~4.2. The school shall equip the theory room with a blackboard and charts showing illustrations of the skin, circulation of the blood, muscles and bones of the face, scalp, neck, arms and hands. The school shall use this room for the sole purpose of giving theory instructions to students.~~

~~4.3. Each school of barbering shall maintain a library of suitable reference books, including those books as may be approved and published in a list by the Board.~~

~~4.4. Each school of barbering shall hold regular classes for the teaching of both the theory and practice of all phases of barbering as referenced in section 3.2(d) of this rule.~~

~~4.5. No one in any way connected with any school of barbering shall guarantee positions to students nor guarantee financial aid to help a student in equipping a barber shop.~~

~~4.6. Schools are urged not to advocate the use of any particular equipment. Students should be familiar with the different supplies and equipment used in barber shops.~~

~~4.7. Each school shall advertise only under the designation of a barber school, and shall display conspicuously at the entrance to the school a sign in plain, block, display lettering at least one (1) inch in height, as follows: "All Work In This School Done By Students Only."~~

~~4.8. When service prices are displayed, or in any manner advertised by a school of barbering, they must be followed by the words "STUDENT WORK" in lettering at least one half (1/2) the size of the lettering used to display the price.~~

~~4.9. During school hours, instructors, as well as students, shall wear washable uniforms which must be kept clean and neat at all times. Instructors shall wear different uniforms from those worn by the students so they may be easily recognized.~~

~~4.10. All bottles and containers in use must be distinctly and correctly labeled, showing the intended use of the contents.~~

~~4.11. A school shall not permit a student enrolled in a school of barbering to work on a patron who is paying for the service or materials, until such student has attended the school for a period of two hundred fifty (250) hours.~~

~~4.12. Each student in his senior year, before graduation, must act in the capacity of manager of the school for at least one (1) week; two (2) weeks, if possible. He or she shall be in full charge of the clinical division of the school, under the supervision of the manager of the school.~~

~~4.13. Each school of barbering shall furnish the Board with a copy of the class schedule being used in the school, and copies of all advertising material and student contracts. At any time, if any changes are made in class schedules, advertising material or student contracts, the school shall furnish the Board with such revised materials.~~

~~§ 3-4-5. Enrollment~~

~~5.1. The enrollment in a school of barbering shall not, at any time, exceed one student per chair during practical instruction.~~

~~§ 3-4-6.~~ **§ 3-4-4. Attendance at Schools of Barbering, Cosmetology, Hair Styling, Nail Technology, Waxing, and Aesthetics**

~~6.1.~~ 4.1. All schools of barbering cosmetology, hair styling, nail technology and aesthetics must establish regular school hours. For the purpose of this rule, hour means full clock hours.

~~6.2.~~ 4.2. All schools shall require that all students attend classes at least eighty percent (80%) of the time that they are enrolled in school. Schools shall not require attendance to exceed eight (8) hours in any twenty-four (24) hour period, exclusive of the lunch period.

~~6.3. The student must account for any absence for more than twenty percent (20%) of the time after enrollment by a written excuse from a doctor, dentist, or someone who can verify to the Board the necessity of the student's absence. Students that fall below 80% attendance and cannot provide reasonable explanation into the absences in excess of 20% may be reviewed by the Board for disciplinary action.~~

4.3. The Board shall not limit the number of hours a student earns online outside the physical premises of a school; Provided, those hours consist of theory work only. All practical work must be completed within the physical premises of a school and under the general supervision of a certified instructor.

~~§ 3-4-7.~~ **§ 3-4-5. Records**

~~7.1.~~ 5.1. Daily Records – Each school shall keep a daily class record of each student, showing the number hours earned daily, the total number of hours the student is in attendance and the days each student is absent. Daily hours shall be recorded by the school using a time tracking system that cannot be edited by a student. Each student shall clock himself or herself in and out of school.

~~7.2.~~ 5.2. Monthly Records - Schools shall keep a monthly record of the student's entire enrollment and send this record to the Board on forms furnished to the schools for that purpose, showing the permit number of each student; the number of months addressed by the report; the number of, and the days that each student is absent or present; the overall attendance percentage of each student over the course of the program.

~~7.3.~~ 5.3. Permanent Records - The school's manager shall compile a permanent record, including the information described in subsections ~~7.1. 5.1.~~ and ~~7.2. 5.2.~~, of each school from the daily class records. The manager shall keep this compilation up-to-date in a permanent file, subject to inspection at any time by any member of the Board or any authorized representative.

~~7.4.~~ 5.4. Final - The manager of each school shall compile from the school's records a summary of each student's subjects, clinical operations, grades, hours and attendance. The school shall present this record to the student upon graduation and this record shall also be made a part of the student's application to the Board for licensure by examination. The manager must sign each copy of the required records and must certify that the record is correct and that the student has received a diploma from the school.

~~7-5~~ 5.5. Student Rights to Records- Students shall be provided with an individual monthly report indicating the student's current monthly hours, current grades in each section of the curriculum outlined in 3CSR1, total attendance percentage, total hours, and any warnings, probation, or disciplinary action that has been taken by the school against the student. Students shall have an official transcript from the school attended to be eligible for licensure. A student may not receive his or her official transcript until they have paid the school in full.

~~§ 3-4-8,~~ § 3-4-6. Teaching Staff

~~8-1.~~ 6.1. No school may operate with less than two (2) ~~licensed~~ certified instructors. There must be one (1) instructor for every thirty (30) students. An instructor shall be in the classrooms of the school at all hours and supervise all practice student work.

~~8-2.~~ 6.2. No instructor in ~~either~~ a school of barbering, ~~or a school of~~ cosmetology, hair styling, nail technology, waxing, ~~and~~ or aesthetics may use any portion of the allotted time for school hours, in the performance of any public or private practice of his or her respective profession, for compensation or remuneration of any form.

~~8-3.~~ 6.3. ~~In schools of barbering, there must be at least one (1) monthly illustrated or demonstrated lecture during the course of instruction. This lecture must be given by a duly licensed physician or some person who has had special training in anatomy, hygiene, bacteriology, physiology, electricity and/or other science related to the study of barbering who is not related to any member of the present teaching staff.~~

~~8-4.~~ 6.3 A demonstrator may exhibit new processes, preparations, and appliances to the student only in the presence of the ~~licensed~~ certified instructors.

~~8-5.~~ 6.4. Schools may give private lessons to registered barbers, hair stylists, nail technicians, aestheticians, waxing specialists, or cosmetologists who desire to gain more knowledge in any subject, or subjects, which they are already entitled to practice.

~~§ 3-4-9,~~ § 3-4-7. Administrative Due Process

~~9-1.~~ 7.1. Those persons adversely affected by the enforcement of this rule have the right to request a contested case hearing in a manner pursuant to the provisions of W. Va. Code § 30-27-1 *et seq.*

~~§ 3-4-10,~~ § 3-4-8. Severability

~~10-1.~~ 8.1. If any provision of this rule, or the application thereof, to any person or circumstance is determined to be invalid, such invalidity shall not affect the provisions or applications of this rule which can be given effect without the invalid provision or application, and to this end, the provisions of this rule are severable.