WEST VIRGINIA CODE CHAPTER 30 ARTICLE 27

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§30-27-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice barbering, barber permanent waving, cosmetology, hairstyling, waxing, aesthetics or nail care in this state without a license or certification issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that the person is a licensed or certified aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist crossover, hairstylist, waxing specialist or nail technician unless the person has been licensed or obtained certification under the provisions of this article and the license or certification has not expired, been suspended or revoked.

(b) No salon, except through a licensee or certification, may render any service or engage in any activity which, if rendered or engaged in by an individual, would constitute the practices licensed or certified under the provisions of this article.

(c) No school, except through a certified instructor, may instruct, render any service or engage in any activity which, if taught, rendered or engaged in by an individual, would constitute the practices licensed under the provisions of this article.

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§30-27-2. Applicable law.

The practices licensed under the provisions of this article and the board of Barbers and Cosmetologists are subject to the provisions of article one of this chapter, the provisions of this article, and any rules promulgated hereunder.

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§30-27-3. Definitions.

NOTE: West Virginia Code §30-27-3 was amended by two bills passed during the 2020 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, both versions of this section are set out below.

House Bill 4607 (passed last on March 7, 2020) amended West Virginia Code §30-27-3 to read as follows:

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Aesthetics" or "esthetics" means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Administering cosmetic treatments to enhance or improve the appearance of the skin, including cleansing, toning, performing effleurage or other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin of the human body or scalp;

(2) Applying, by hand or with a mechanical or electrical apparatus, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams, or chemical preparations necessary for the practice of aesthetics to another person's face, neck, back, shoulders, hands, elbows and feet up to and including the knee;

(3) The rubbing, cleansing, exercising, beautifying, or grooming of another person's face, neck, back, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The waxing and tweezing of hair on another person's body;

(5) The wrapping of another person's body in a body wrap;

(6) Applying artificial eyelashes and eyebrows; and

(7) The lightening of hair on the body except the scalp.

(b) "Aesthetician" or "esthetician" means a person licensed under the provisions of this article who engages in the practice of aesthetics and has completed 600 clock hours of training.

(c) "Applicant" means a person making application for a professional license, license, certificate, registration, permit, or renewal under the provisions of this article.

(d) "Barber" means a person licensed under the provisions of this article who engages in the practice of barbering and has completed a 1,200 clock-hour barber training program without chemical services, or a 1,500 clock-hour barber training program with chemical services, or has successfully completed the barber apprenticeship program.

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(e) “Barbering” means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

(1) Shaving, shaping, and trimming the beard, or both;

(2) Cutting, singeing, arranging, dressing, tinting, bleaching, or applying lotions or tonics on human hair, or a wig or hairpiece; and

(3) Applications, treatments, or rubs of the scalp, face, or neck with oils, creams, lotions, cosmetics, antiseptics, powders, or other preparations in connection with the shaving, cutting, or trimming of the hair or beard.

(f) “Barber crossover” is a person who has completed 1,200 or 1,500 clock hours of training, is licensed as a barber, and completed additional hours of training in nails, aesthetics, and/or chemical services, to the total amount of 2,100 hours, to perform cosmetology.

(g) “Barber permanent waving” means the following acts performed on the head and neck for compensation and not for the treatment of disease:

(1) The bleaching or tinting of hair; and

(2) The permanent waving of hair.

(h) “Barber permanent wavist” means a person who has completed 2,000 clock hours of training and was licensed to perform barbering and barber permanent waiving enrolled by August 28, 2012.

(i) “Board” means the West Virginia Board of Barbers and Cosmetologists.

(j) “Certificate” means an instructor certificate to teach in a school under the provisions of this article or a document issued by the board for certification obtained pursuant to §30-27-8b of this code.

(k) “Certificate holder” means a person certified as an instructor to teach in a school under the provisions of this article, or who has obtained a certification pursuant to §30-27-8b of this code.

(l) “Cosmetologist” means a person licensed under the provisions of this article who engages in the practice of cosmetology and who has completed 1,800 clock hours of training.

(m) “Cosmetology” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, waving, permanent waving, relaxing, straightening, cleansing, singeing, bleaching, tinting, coloring, waxing, tweezing, or similarly, work on human hair, or a wig or hairpiece,

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by any means, including hands, mechanical, or electrical devices or appliances;

(2) Nail care;

(3) Applying by hand or with a mechanical or electrical device or appliance, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams or chemical preparations necessary for the practice of aesthetics to another person's face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The rubbing, cleansing, exercising, beautifying, or grooming of another person's face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(5) The wrapping of another person's body in a body wrap; and

(6) Performing aesthetics.

(n) "Cosmetology crossover" is a person who has completed 1,800 clock hours of training, is licensed as a cosmetologist, and completes an additional 300 hours of training in clipper cuts and face shaving to perform barbering, for a total of 2,100 hours.

(o) "General supervision" means:

(1) For schools, a master or certified instructor is on the premises and is quickly and easily available; or

(2) For salons, a professional licensee is on the premises and is quickly and easily available.

(p) "Hair styling" means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, facial hair trimming, scalp treatments, waving, permanent waving, relaxing, straightening, singeing, bleaching, tinting, coloring, or similar, work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices, or appliances.

(q) "Hair stylist" means a person licensed under the provisions of this article who engages in the practice of hair styling and who has completed 1,000 clock hours of training, effective July 1, 2016.

(r) "License" means a professional license, a salon license, or a school license.

(s) "Licensed school" means a facility which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE, or Department of Education in conjunction with the Department of Corrections pursuant to §18B-2B-9 of this code to educate persons to be licensed or issued certain permits under the provisions of this article.

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(t) “Licensee” means a person, corporation, or firm holding a license issued under the provisions of this article.

(u) “Mobile shop” means any self-contained, self-supporting, enclosed unit which is constructed in either a motorized vehicle or a towable trailer as a portable facility for providing any of the professional services set forth in this article to the public.

(v) “Nail care” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) The cleansing, dressing, or polishing of nails of a person;

(2) Performing artificial nail service; and

(3) The cosmetic treatment of the feet up to the knee and the hands up to the elbow.

(w) “Nail technician” or “manicurist” means a person licensed under the provisions of this article who engages in the practice of nail care and has completed 400 clock hours of training.

(x) “Permit” means a work permit.

(y) “Permitee” means a person holding a work permit.

(z) “Professional license” means a license to practice as an aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist crossover, hairstylist, or nail technician.

(aa) “Registration” means a registration issued by the board to a person who rents or leases a booth or chair from a licensed salon owner and operator, or both, or a registration issued by the board to a person who is a student in a school.

(bb) “Registrant” means a person who holds a registration under the provisions of this article.

(cc) “Salon” means a shop or other facility where a person practices under a professional license.

(dd) “Salon license” means a license to own and operate a salon.

(ee) “Student registration” means a registration issued by the board to a student to study at a school licensed under the provisions of this article.

(ff) “Waxing specialist” means a person certified under the provisions of this article who engages in the practice of waxing and tweezing of hair on another person’s body.

(gg) Hair braiding, threading, and any other item not spelled out are not regulated by the

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West Virginia Board of Barbers and Cosmetologists.

House Bill 4099 (passed first on March 4, 2020) amended West Virginia Code §30-27-3 to read as follows:

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Aesthetics" or "esthetics" means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Administering cosmetic treatments to enhance or improve the appearance of the skin, including cleansing, toning, performing effleurage or other related movements, stimulating, exfoliating or performing any other similar procedure on the skin of the human body or scalp;

(2) Applying, by hand or with a mechanical or electrical apparatus, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams or chemical preparations necessary for the practice of aesthetics to another person's face, neck, back, shoulders, hands, elbows and feet up to and including the knee;

(3) The rubbing, cleansing, exercising, beautifying or grooming of another person's face, neck, back, shoulders, hands, elbows and feet up to and including the knee;

(4) The waxing and tweezing of hair on another person's body;

(5) The wrapping of another person's body in a body wrap;

(6) Applying artificial eyelashes and eyebrows; and

(7) The lightening of hair on the body except the scalp.

(b) "Aesthetician" or "esthetician" means a person licensed under the provisions of this article who engages in the practice of aesthetics and has completed six hundred clock-hours of training.

(c) "Applicant" means a person making application for a professional license, license, certificate, registration, permit or renewal under the provisions of this article.

(d) "Barber" means a person licensed under the provisions of this article who engages in the practice of barbering and has completed a twelve hundred clock-hour barber training program without chemical services or a fifteen hundred clock-hour barber training program with chemical services, or has successfully completed the barber apprenticeship program.

(e) "Barbering" means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

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(1) Shaving, shaping and trimming the beard, or both;

(2) Cutting, singeing, arranging, dressing, tinting, bleaching, or applying lotions or tonics on human hair, or a wig or hairpiece; and

(3) Applications, treatments or rubs of the scalp, face, or neck with oils, creams, lotions, cosmetics, antiseptics, powders, or other preparations in connection with the shaving, cutting or trimming of the hair or beard.

(f) "Barber crossover" is a person who has completed twelve hundred or fifteen hundred clock-hours of training, is licensed as a barber, and completed additional hours of training in nails, aesthetics and/or chemical services, to the total amount of twenty-one hundred hours, to perform cosmetology.

(g) "Barber permanent waving" means the following acts performed on the head and neck for compensation and not for the treatment of disease:

(1) The bleaching or tinting of hair; and

(2) The permanent waving of hair.

(h) "Barber permanent wavist" means a person who has completed two thousand clock-hours of training and was licensed to perform barbering and barber permanent waiving enrolled by August 28, 2012.

(i) "Board" means the West Virginia Board of Barbers and Cosmetologists.

(j) "Certificate" means an instructor certificate to teach in a school under the provisions of this article or a document issued by the board for certification obtained pursuant to section eight-b of this article.

(k) "Certificate holder" means a person certified as an instructor to teach in a school under the provisions of this article or who has obtained a certification pursuant to section eight-b of this article.

(l) "Cosmetologist" means a person licensed under the provisions of this article who engages in the practice of cosmetology and who has completed eighteen hundred clock-hours of training.

(m) "Cosmetology" means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, waving, permanent waving, relaxing, straightening, cleansing, singeing, bleaching, tinting, coloring, waxing, tweezing, or similarly work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices or appliances;

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(2) Nail care;

(3) Applying by hand or with a mechanical or electrical device or appliance, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams or chemical preparations necessary for the practice of aesthetics to another person's face, neck, shoulders, hands, elbows and feet up to and including the knee;

(4) The rubbing, cleansing, exercising, beautifying or grooming of another person's face, neck, shoulders, hands, elbows and feet up to and including the knee;

(5) The wrapping of another person's body in a body wrap; and

(6) Performing aesthetics.

(n) "Cosmetology crossover" is a person who has completed eighteen hundred clock-hours of training, is licensed as a cosmetologist and completes an additional three hundred hours of training in clipper cuts and face shaving to perform barbering, for a total of twenty-one hundred hours.

(o) "General supervision" means:

(1) For schools, a master or certified instructor is on the premises and is quickly and easily available; or

(2) For salons, a professional licensee is on the premises and is quickly and easily available.

(p) "Hair styling" means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, facial hair trimming, scalp treatments, waving, permanent waving, relaxing, straightening, singeing, bleaching, tinting, coloring, or similarly work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices or appliances.

(q) "Hair stylist" means a person licensed under the provisions of this article who engages in the practice of hair styling and who has completed one thousand clock-hours of training, effective July 1, 2016.

(r) "License" means a professional license, a salon license or a school license.

(s) "Licensed school" means a facility which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE or Department of Education in conjunction with the Department of Corrections pursuant to section nine, article two-b, chapter eighteen-b of this code to educate persons to be licensed or issued certain permits under the provisions of this article.

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(t) “Licensee” means a person, corporation or firm holding a license issued under the provisions of this article.

(u) “Nail care” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) The cleansing, dressing, or polishing of nails of a person;

(2) Performing artificial nail service; and

(3) The cosmetic treatment of the feet up to the knee and the hands up to the elbow.

(v) “Nail technician” or “manicurist” means a person licensed under the provisions of this article who engages in the practice of nail care and has completed four hundred clock-hours of training.

(w) “Permit” means a work permit.

(x) “Permitee” means a person holding a work permit.

(y) “Professional license” means a license to practice as an aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist crossover, hairstylist or nail technician.

(z) “Registration” means a registration issued by the board to a person who rents or leases a booth or chair from a licensed salon owner and operator, or both, or a registration issued by the board to a person who is a student in a school.

(aa) “Registrant” means a person who holds a registration under the provisions of this article.

(bb) “Salon” means a shop or other facility where a person practices under a professional license.

(cc) “Salon license” means a license to own and operate a salon.

(dd) “Student registration” means a registration issued by the board to a student to study at a school licensed under the provisions of this article.

(ee) “Waxing specialist” means a person certified under the provisions of this article who engages in the practice of waxing and tweezing of hair on another person’s body.

(ff) Hair braiding, threading and any other item not spelled out are not regulated by the West Virginia Board of Barbers and Cosmetologists.

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§30-27-4. Board of Barbers and Cosmetologists.

(a) The West Virginia Board of Barbers and Cosmetologists is continued. The members of the board in office on July 1, 2016, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) The Governor, by and with the advice and consent of the Senate, shall appoint:

(1) One licensed cosmetologist;

(2) One licensed barber or barber permanent wavist;

(3) One licensed aesthetician who is not a cosmetologist;

(4) One licensed nail technician who is not a cosmetologist;

(5) One representative from a privately owned beauty school licensed by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE or Department of Education with the Department of Corrections; and

(6) Four citizen members representing the public;

(c) After the initial appointment term, the term shall be for five years. All appointments to the board shall be made by the Governor by and with the advice and consent of the Senate.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a professional license in this state for a period of not less than three years immediately preceding the appointment.

(e) Each member of the board must be a resident of this state during the appointment term.

(f) A member may not serve more than two consecutive full terms. A member may continue to serve until a successor has been appointed and has qualified. A member serving on the board on June 30, 2016, may be reappointed in accordance with the provisions of this section.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty days of the vacancy.

(h) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(i) A member of the board immediately and automatically forfeits membership to the board if his or her license to practice is suspended or revoked, is convicted of a felony under the laws

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of any jurisdiction or becomes a nonresident of this state.

(j) The board shall elect annually one of its members as chairperson who serves at the will of the board.

(k) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

(l) A majority of the members of the board constitutes a quorum.

(m) The board shall hold at least two annual meetings. Other meetings may be held at the call of the chairperson or upon the written request of two members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article IV of the constitution of this state.

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§30-27-5. Powers and duties of the board.

(a) The board has all the powers and duties set forth in this article, by rule, provided such rule does not contradict the provisions of this article and does not exceed the authorities granted in this article, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings, conduct hearings and administer examinations;

(2) Establish requirements for licenses, permits, certificates and registrations;

(3) Establish procedures for submitting, approving and rejecting applications for licenses, permits, certificates and registrations;

(4) Determine the qualifications of any applicant for licenses, permits, certificates and registrations;

(5) Prepare, conduct, administer and grade examinations for professional licenses and certificates: Provided, That the examinations must meet national standards;

(6) Determine the passing grade for the examinations;

(7) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examinations and the pass and fail rate;

(8) Set operational standards and requirements for licensed schools: Provided, That a licensed school shall have a minimum of one chair per student available during practical instruction;

(9) Hire, discharge, establish the job requirements and fix the compensation of the executive director;

(10) Maintain an office and hire, discharge, establish the job requirements and fix the compensation of employees, investigators/inspectors and contracted employees necessary to enforce the provisions of this article: Provided, That any investigator/inspector employed by the board on July 1, 2009, shall retain their coverage under the classified service, including job classification, job tenure and salary, until that person retires or is dismissed: Provided, however, That nothing may prohibit the disciplining or dismissal of any investigator/inspector for cause;

(11) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;

(12) Establish the criteria for the training of investigators/inspectors;

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(13) Set the requirements for investigations and inspections;

(14) Conduct disciplinary hearings of persons regulated by the board;

(15) Determine disciplinary action and issue orders;

(16) Institute appropriate legal action for the enforcement of the provisions of this article;

(17) Report violations of the provisions of this article, and legislative rules promulgated pursuant to this article, alleged to have been committed by a licensed school to the West Virginia Council for Community and Technical College Education or the Department of Education. If the board determines that probable cause exists that a violation occurred, the board immediately shall advise and provide its investigation file to the West Virginia Council for Community and Technical College Education or the Department of Education;

(18) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(19) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(20) Establish the continuing education requirements for professional licensees and certificate holders;

(21) Issue, renew, combine, deny, suspend, revoke or reinstate licenses, permits, certificates and registrations;

(22) Establish a fee schedule;

(23) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(24) Take all other actions necessary and proper to effectuate the purposes of this article.

(c) The board may:

(1) Establish joint licenses;

(2) Contract with third parties to administer the examinations required under the provisions of this article;

(3) Sue and be sued in its official name as an agency of this state;

(4) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

(d) Notwithstanding any other provision of this code, the board may not restrict a certificate

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holder or licensee from practicing his or her licensed craft at temporary on-site events in connection with, but not limited to: Fairs, carnivals, weddings, pageants or photographs: Provided, That the certificate holder or licensee is compliant with all other prescribed requirements and rules under this code. If an out-of-state licensee works in a temporary capacity, less than five days, in connection with an event or temporary commercial enterprise, he or she may be granted a temporary permit to work after submitting his or her current license certification to this state and paying the applicable fee: Provided, however, That the licensee shall display or have immediately available their license for the duration of his or her practice at a temporary event.

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§30-27-5a. Criminal history record checks.

(a) The West Virginia Board of Barbers and Cosmetologists may require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Barbers and Cosmetologists may, to comply with the Interstate Cosmetology Licensure Compact, require an applicant for initial privilege to practice in a remote state under the compact to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for privilege to practice.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may propose rules or amendments to existing rules for legislative approval, pursuant to the provisions of §29A-3-1 *et seq.* of this code, or may promulgate emergency rules, pursuant to §29A-3-15 of this code, to comply with the provisions of this section.

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§30-27-6. Rulemaking.

The board shall propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Standards and requirements for licenses, permits, certificates and registrations;

(2) Procedures for examinations and reexaminations: Provided, That the board shall offer examinations in all languages other than English if available to the board and requested by the applicant;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements;

(5) The passing grade on the examinations;

(6) Standards for approval of courses and curriculum;

(7) Procedures for the issuance and renewal of licenses, permits, certificates and registrations;

(8) A fee schedule;

(9) Continuing education requirements for professional licensees and certificate holders;

(10) The procedures for denying, suspending, revoking, reinstating or limiting the practice of licensees, permitees, certificate holders and registrants;

(11) Designating the regions for investigators/inspectors;

(12) Criteria for the training of investigators/inspectors;

(13) Requirements for investigations and inspections;

(14) Requirements for inactive or revoked licenses, permits, certificates and registrations;

(15) Establishing the training program and requirements for instructors for schools licensed under this article;

(16) Establishing operating procedures for salons; and

(17) Any other rules necessary to effectuate the provisions of this article.

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§30-27-7. Fees; special revenue account; administrative fines.

(a) All fees in effect on January 1, 2009, shall remain in effect until they are amended or repealed by legislative rule or statute.

(b) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the state Treasury designated the "Barbers and Beauticians Special Fund", which is continued and shall be known as the "Board of Barbers and Cosmetologists Special Fund". The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(c) Any amount received as fines, imposed pursuant to this article, shall be deposited into the General Revenue Fund of the state Treasury.

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§30-27-8. Professional license requirements.

(a) An applicant for a professional license to practice as an aesthetician, barber, barber crossover, cosmetologist, hair stylist, cosmetologist crossover or nail technician shall present satisfactory evidence that he or she:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Has a high school diploma, a GED, or has passed the "ability to benefit test" approved by the United States Department of Education;

(4) Has graduated from a licensed school which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE or Department of Education with the Department of Corrections or has completed education requirements in another state and meets the licensure provisions of the board;

(5) Has passed an examination that tests the applicant's knowledge of subjects specified by the board: Provided, That the board may recognize a certificate or similar license in lieu of the examination or part of the examination that the board requires: Provided, however, That any examination meets national standards;

(6) Has paid the applicable fee;

(7) Presents a certificate of health from a licensed physician;

(8) Is a citizen of the United States or is eligible for employment in the United States; and

(9) Has fulfilled any other requirement specified by the board.

(b) A license to practice issued by the board prior to July 1, 2016, shall for all purposes be considered a professional license issued under this article: Provided, That a person holding a license issued prior to July 1, 2016, must renew the license pursuant to the provisions of this article.

(c) A person, who by education and experience qualifies to be a barber and a cosmetologist or a barber crossover or cosmetologist crossover, may elect at any time to practice solely as a barber and, after notice and application to the board, may be licensed as a barber without other designation.

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§30-27-8a. Barber and cosmetologist apprentice.

(a) The board may establish an apprenticeship program to become a barber or cosmetologist. A barber or cosmetologist apprentice shall work at all times under the direct supervision of a licensed barber or cosmetologist and any permit issued by the board to work as a barber or cosmetologist apprentice does not allow a person to practice individually as a barber or cosmetologist.

(b) An applicant for a barber or cosmetologist apprenticeship shall present satisfactory evidence that he or she:

(1) Is at least 16 years of age;

(2) Is of good moral character;

(3) Is in high school or has a high school diploma, a GED, or has passed the "ability to benefit test" approved by the United States Department of Education;

(4) Has paid the applicable fee;

(5) Has a certificate of health from a licensed physician;

(6) Is a citizen of the United States or is eligible for employment in the United States; and

(7) Has fulfilled any other requirement specified by the board.

(c) An applicant for a sponsor of a barber or cosmetologist apprentice shall present satisfactory evidence that he or she:

(1) Is licensed as a barber or cosmetologist under the provisions of this article;

(2) Has paid the applicable fee; and

(3) Has fulfilled any other requirement specified by the board.

(d) A sponsor of a barber or cosmetologist apprentice shall be a current licensed barber or cosmetologist with at least five years' experience and has worked in a shop for the last five years.

(e) The board may propose emergency rules and rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.*, to implement the provisions of this section, including:

(1) The requirements for:

(A) The barber or cosmetologist apprenticeship program;

(B) The barber or cosmetologist apprentice permit; and

WV Legislature

(C) A licensed barber or cosmetologist to sponsor a barber or cosmetologist apprentice;

(2) Procedures for an examination;

(3) A fee schedule; and

(4) Any other rules necessary to effectuate the provisions of this section.

WV Legislature

§30-27-8b. Certifications.

(a) The board shall issue a certification to an applicant who obtains training at a licensed school or continuing education provider, in West Virginia, in the following area:

Waxing Specialist. —

An applicant for a waxing specialist shall present satisfactory evidence that he or she:

(A) Is at least 18 years of age;

(B) Is of good moral character;

(C) Has a high school diploma, a GED, or has passed the "ability to benefit test" approved by the United States Department of Education;

(D) Has paid the applicable fee;

(E) Has a certificate of health from a licensed physician;

(F) Is a citizen of the United States or is eligible for employment in the United States;

(G) Has completed a 100-hour class that consists of: Professional requirements, safety and health, skin structure, disorders and diseases, removal of superfluous hair and 25 hours on the clinic floor, supervised, for a total of 125 hours;

(H) If not currently licensed, must take the West Virginia state law test; and

(I) Has fulfilled any other requirement specified by the board.

(b) The board shall issue to any barber the 1500 clock-hour level licensure who has previously completed a 1200 clock-hour training program, and who subsequently completes a 300 clock-hour certification program in chemical services.

(c) A cosmetologist who obtains the necessary hours of training in an apprenticeship program outlined in §30-27-8a of this code shall be issued the necessary certification as if the apprentice had completed beauty school, so long as the apprentice has completed the necessary requirements outlined in that section. The apprenticeship program established by the board may allow individuals to participate in beauty school to the extent necessary to obtain any other classroom instruction or technical training that is not otherwise provided in the apprenticeship.

WV Legislature

§30-27-9. Professional license from another state; license to practice in this state; provisional license to practice in this state.

(a) The board shall issue a professional license to practice to an applicant of good moral character who holds a valid license or other authorization to practice in that particular field from another state, if the applicant demonstrates that he or she:

(1) Holds a valid license or other authorization to practice in another state which was granted after completion of educational requirements required in another state;

(2) Does not have charges pending against his or her valid license or other authorization to practice and has never had a valid license or other authorization to practice revoked;

(3) Has paid the applicable fee;

(4) Is at least 18 years of age;

(5) Has a high school diploma, a GED, or has passed the "ability to benefit test" approved by the United States Department of Education;

(6) Is a citizen of the United States or is eligible for employment in the United States;

(7) Has presented a certificate of health issued by a licensed physician; and

(8) Has fulfilled any other requirement specified by the board.

(b) The board shall award an applicant holding an expired license from another state a provisional license to practice in this state: Provided, That applicant does not have charges pending against his or her expired license or other authorization to practice and has never had a license revoked or other authorization to practice revoked. The provisional license will become a full license after the applicant:

(1) Has worked for one year under the supervision of someone with a valid license in this state;

(2) Does not have any complaints filed against him or her during the year the applicant holds a provisional license;

(3) Has paid all applicable fees for a provisional license and valid license;

(4) Is at least 18 years of age;

(5) Has a high school diploma, a GED, or has passed the "ability to benefit test" approved by the United States Department of Education;

(6) Is a citizen of the United States or is eligible for employment in the United States;

WV Legislature

(7) Has presented a certificate of health issued by a licensed physician; and

(8) Has fulfilled any other requirement specified by the board.

The board may determine the applicable fees for a provisional license: Provided, That the cost shall not exceed one-half the cost of a full license.

WV Legislature

§30-27-10. Professional license and certificate renewal requirements.

(a) A professional licensee and certificate holder shall annually on or before January 1, renew his or her professional license or certificate by completing a form prescribed by the board, paying the renewal fee, and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a license or certificate, and a late fee for any renewal not paid by the due date.

(c) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license or certificate.

(d) The board shall recognize reciprocity for military barbers for the purpose of the state examination for barbers.

WV Legislature

§30-27-10a.

Repealed.

Acts, 2009 Reg. Sess., Ch. 175.

WV Legislature

§30-27-11. Work permit.

(a) The board may issue a work permit to practice to an applicant who meets the following conditions:

(1) Has graduated from a licensed school approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE or Department of Education with the Department of Corrections or has completed education requirements in another state and meets the licensure provisions of the board;

(2) Is waiting to take the examination;

(3) Has employment in the field in which he or she applied to take the examination and is working under the general supervision of a professional licensee;

(4) Has paid the work permit fee;

(5) Has presented a certificate of health issued by a licensed physician;

(6) Is a citizen of the United States or is eligible for employment in the United States; and

(7) Meets all the other requirements specified by the board.

(b) A work permit expires at the end of the month after issuance following the next examination in the specific field. A work permit may be renewed once.

(c) While in effect, a work permitee is subject to the restrictions and requirements imposed by this article.

WV Legislature

§30-27-11a. Shampoo assistant.

[Repealed.]

WV Legislature

§30-27-12. Student registration; classes.

(a) Prior to commencing studies in a licensed school, a student shall acquire a student registration issued by the board.

(b) An applicant for a student registration shall present satisfactory evidence that he or she meets the following conditions:

(1) Is enrolled as a student in a licensed school;

(2) Is of good moral character;

(3) Has paid the required fee;

(4) Has presented a certificate of health issued by a licensed physician; and

(5) Is a citizen of the United States or is eligible for employment in the United States.

(c) The student registration is good during the prescribed period of study for the student.

(d) The student may perform acts constituting barbering, hairstyling, cosmetology, aesthetics or nail care in a school under the general supervision of a master or certified instructor.

(e) The student is not required to take class hours that are consecutive.

WV Legislature

§30-27-13. Display of professional license and permits.

(a) The board shall prescribe the form for a professional license and work and student permits, including a photograph, and may issue a duplicate license or permit upon payment of a fee.

(b) Every professional licensee and work permitee shall display his or her license or permit in a conspicuous place at his or her work station.

(c) Every student shall have available his or her student permit and be able to produce it upon request.

(d) Every professional licensee, work permitee, or certificate holder must present such license, permit, certification or registration to an investigator/inspector or a board member upon request.

WV Legislature

§30-27-14. Health certificate requirements.

(a) It is unlawful for a person to practice as a professional licensee, certificate holder or be a permitee or be a certified instructor while having an infectious, contagious or communicable disease.

(b) The board may, with cause, require a professional licensee, permitee, certificate holder or certified instructor to submit to a physical examination and file a certificate of health.

WV Legislature

§30-27-15. Schools may provide certain classes at different locations.

A licensed school may provide clinical instruction and theory instruction in separate locations. Any school authorized under this article cannot be established within the same physical structure as a salon, spa or similar business licensed under W. Va. Code §30-27-17.

WV Legislature

§30-27-16. Certification requirements to be an instructor in a school.

(a) The board may issue a certificate to be an instructor in a school to an applicant who meets the following requirements:

(1) Meets the educational requirements established by the board;

(2) Has completed and passed a course in teaching techniques at a post-secondary educational level;

(3) Has passed the instructor examination;

(4) Has paid the appropriate fees;

(5) Presents a certificate of health from a licensed physician;

(6) Is a citizen of the United States or is eligible for employment in the United States; and

(7) Has fulfilled any other requirement specified by the board.

(b) All instructor certifications must be renewed annually or biennially on or before January 1 and pay a renewal fee.

(c) A certification to be an instructor issued by the board prior to January 1, 2009, shall for all purposes be considered a certification issued under this article: Provided, That a person holding a certification issued prior to January 1, 2009, must renew the certification pursuant to the provisions of this article.

(d) An instructor with an expired certificate must comply with the following to renew his or her certificate:

(1) Notify the board that he or she wants to be placed on inactive status; or

(2) Pay all lapsed renewal fees;

(3) Present a new certificate of health; and

(4) Meet the qualifications for certification set out in this article.

(e) A certified instructor is not required to have an active professional license, unless the instructor is in fact practicing outside the scope of his or her employment as an instructor.

WV Legislature

§30-27-17. Salon license requirements.

(a) Prior to opening a salon, any person, firm or corporation owning and/or operating a salon, and any person, firm or corporation practicing in a field authorized by this article, shall meet the following requirements to acquire a salon license to do business:

(1) The salon has been approved by the board as having met all the requirements and qualifications for the place of business as are required by this article;

(2) Notify the board, in writing, at least twenty days before the proposed opening date, so there can be an inspection of the salon: Provided, That if an inspection is not made within ten days of the opening of the salon, or a salon license to open has not been granted or refused, then the salon may open provisionally subject to a later inspection and to all other provisions and rules provided in this article;

(3) Pay all applicable fees;

(4) All rooms, facilities, bathrooms, toilets and adjoining rooms used in the place of business are kept clean, sanitary, well lighted and ventilated at all times. The use of chunk alum, powder puffs and styptic pencils in any shop is prohibited;

(5) Every professional licensee, certificate holder, or permitee in the place of business thoroughly cleans his or her hands with soap and water immediately before serving any patron; and

(6) Every patron is served with clean, freshly laundered linen that is kept in a closed cabinet used for that purpose only. All linens, immediately after being used, must be placed in a receptacle used for that purpose only.

(b) All rules shall be kept posted in a conspicuous place in each place of business.

(c) All salon licenses must be renewed annually on or before July 1 and pay a renewal fee.

(d) A license to operate a salon issued by the board prior to July 1, 2009, shall for all purposes be considered a salon license issued under this article: Provided, That a person holding a license issued prior to July 1, 2009, must renew the license pursuant to the provisions of this article.

(e) The salon license shall be permanently displayed in the salon and a suitable sign shall be displayed at the main entrance of the salon which shall plainly indicate what type of salon is being operated.

WV Legislature

§30-27-17a. Mobile shops.

(a) Every mobile shop in this state offering services set forth in this article shall be operated under the supervision and management of a professional licensee or certificate holder licensed under this article.

(b) Prior to opening a mobile shop, any person, firm, or corporation owning and/or operating the mobile shop shall meet the following requirements to acquire a mobile shop license to do business:

(1) Provide to the board a physical description and photographs of the exterior of the mobile shop and, if applicable, its vehicle registration number to facilitate ready identification of the mobile shop;

(2) Meet all board requirements and qualifications for a place of business, not incompatible with a mobile facility, as are required by this article;

(3) Notify the board, in writing, at least 20 days before the proposed opening date, so there can be an inspection of the mobile shop: *Provided*, That if an inspection is not made within 10 days of the opening of the mobile shop, or a mobile shop license to open has not been granted or refused, then the mobile shop may open provisionally subject to a later inspection and to all other provisions and rules provided in this article; and

(4) Pay all applicable fees.

(c) Every mobile shop shall be equipped with an electronic device, approved by the board, capable of transmitting its location, as well as an identifying label or call sign, to the board at all times. This device shall be in operation at all times that the mobile shop is open and at additional times specified by the board.

(d) If the mobile shop visits identified locations on a regular schedule, the managing licensee shall provide a copy of the schedule to the board and shall notify the board in writing of any changes to the regular schedule within five days of changing the schedule.

(e) Each mobile unit shall, at a minimum, be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply of not less than 100 gallons, and waste water collection tanks shall be of adequate capacity;

(2) Continuous, on-demand hot water tanks which shall have not less than a six-gallon capacity; and

(3) A cooling and heating system sufficient to maintain a comfortable room temperature in the mobile shop during all hours of operation.

WV Legislature

(f) All mobile shop licenses must be renewed annually on or before July 1 and pay a renewal fee.

(g) The mobile shop license shall be permanently displayed in the mobile shop, and a suitable sign shall be displayed at the entrance of the mobile shop which shall plainly indicate the business conducted therein.

WV Legislature

§30-27-18. Salon management requirements.

(a) Every salon in this state offering the services set forth in this article shall be operated under the supervision and management of a professional licensee or certificate holder licensed under this article.

(b) Any services set forth in this article may be conducted within the same salon. A suitable sign shall be displayed at the main entrance of all salons plainly indicating the business conducted therein.

WV Legislature

§30-27-19. Booth or chair rental registration requirements.

(a) Any professional licensee or certificate holder who elects to rent or lease a booth or chair from a licensed salon owner and/or operator must comply with the following to receive a registration from the board:

(1) Register with the board;

(2) Register with the state Tax Division and present the registration to the board;

(3) Pay a registration fee;

(4) Notify the board of the length of any rental or lease agreement;

(5) State the name of the person or salon from which a chair or booth is being rented or leased; and

(6) State the effective date of the rental or lease.

(b) If a person registered with the board pursuant to this section elects to move from one salon to rent or lease a chair or booth from another salon, then he or she must register again with the board and pay a fee.

(c) Each licensed salon owner and/or operator who elects to rent or lease chairs or booths shall notify the board in writing of such rental or lease within ten days of the effective date of the rental or lease.

(d) The board shall quarterly notify the state Tax Commissioner of all persons registered pursuant to this section during the previous quarter. Such notice shall be in writing and shall include the following:

(1) The names of all the registered professional licensees or certificate holders;

(2) The names of the salons where space is being rented or leased; and

(3) The length of time of each rental or lease agreement.

(e) All registrations must be renewed annually on or before July 1 and pay a renewal fee.

(f) A registration to rent or lease a booth or chair issued by the board prior to July 1, 2009, shall for all purposes be considered a registration issued under this article: Provided, That a person holding a registration to rent or lease a booth or chair issued prior to July 1, 2009, must renew the registration pursuant to the provisions of this article.

WV Legislature

§30-27-20. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules of the board.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee, permittee, registrant or certificate holder.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee, permittee, registrant or certificate holder has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee, permittee, registrant or certificate holder has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license, permit, registration or certification or the imposition of sanctions against the licensee, permittee, registrant or certificate holder. Any hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive director of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive director may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, permit, registration or certification of, impose probationary conditions upon or take disciplinary action against, any licensee, permittee, registrant or certificate holder for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license, permit, registration or certification by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk, as defined by legislative rule of the board;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary

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action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the public.

(h) For the purposes of subsection (g) of this section, effective July 15, 2009, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative fine, not to exceed $1,000 per day per violation;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the licensee, permittee, registrant or certificate holder to report to the board for periodic interviews for a specified period of time; or

(7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

WV Legislature

§30-27-21. Procedures for hearing; right of appeal.

(a) Hearings shall be governed by the provisions of section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the executive director of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee, permittee, registrant or certificate holder has violated subsection (g) of this section or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

WV Legislature

§30-27-22. Judicial review.

Any licensee, permittee, registrant or certificate holder adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

WV Legislature

§30-27-23. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee, permitee, registrant or certificate holder has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.

(b) Effective July 15, 2009, a person violating a provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000 or confined in jail not more than six months, or both fined and confined.

WV Legislature

§30-27-24. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

WV Legislature