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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2531**

(By Delegates Morgan, Stephens and Argento)

Passed April 11, 2009

In Effect Ninety Days from Passage

HB 2531

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COMMITTEE SUBSTITUTE

FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 2531

(BY DELEGATES MORGAN, STEPHENS AND ARGENTO)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to repeal §16-14-1, §16-14-2 and §16-14-3 of the Code of West Virginia, 1931, as amended; to repeal §30-27-10a of said code; to amend and reenact §30-27-1, §30-27-2, §30-27-3, §30-27-4, §30-27-5, §30-27-6, §30-27-7, §30-27-8, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-27-15, §30-27-16, §30-27-17 and §30-27-18; and to amend said code by adding thereto six new sections, designated §30-27-19, §30-27-20, §30-27-21, §30-27-22, §30-27-23 and §30-27-24, all relating to the Board of Barbers and Cosmetologists; prohibiting the practice of barbering, permanent waving, cosmetology, aesthetics, or nail care without a license; providing other applicable sections; providing definitions; providing for board composition; setting forth the powers and duties of the board; clarifying rulemaking authority; continuing a special revenue account; establishing license requirements; providing for licensure for persons licensed in another state;

establishing renewal requirements; providing permit requirements; requiring display of license; prohibiting practice when a person has an communicable disease; providing requirements for school licensure; providing requirement to be an instructor; providing requirements for a salon license; providing salon management requirements; providing booth and chair rental requirements; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal penalties; providing that a single act is evidence of practice; establishing fees; and establishing continuing education requirements.

Be it enacted by the Legislature of West Virginia:

That §16-14-1, §16-14-2 and §16-14-3 of the Code of West Virginia, 1931, as amended, be repealed; that §30-27-10a of said code be repealed; that §30-27-1, §30-27-2, §30-27-3, §30-27-4, §30-27-5, §30-27-6, §30-27-7, §30-27-8, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-27-15, §30-27-16, §30-27-17 and §30-27-18 of said code be amended and reenacted; and that said code be amended by adding thereto six new sections, designated §30-27-19, §30-27-20, §30-27-21, §30-27-22, §30-27-23 and §30-27-24, all to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-1. Unlawful acts.

- 1 (a) It is unlawful for any person to practice or offer to
- 2 practice barbering, barber permanent waving, cosmetology,
- 3 aesthetics, or nail care in this state without a license issued
- 4 under the provisions of this article, or advertise or use any

5 title or description tending to convey the impression that the
6 person is a licensed aesthetician, barber, barber crossover,
7 barber permanent wavist, cosmetologist, cosmetologist
8 crossover or nail technician, unless the person has been
9 licensed under the provisions of this article, and the license
10 has not expired, been suspended or revoked.

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

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

§30-27-2. Applicable law.

1 The practices licensed under the provisions of this article
2 and the Board of Barbers and Cosmetologists are subject to
3 the provisions of article one of this chapter, the provisions of
4 this article, and any rules promulgated hereunder.

§30-27-3. Definitions.

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

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

7 (1) Administering cosmetic treatments to enhance or
8 improve the appearance of the skin, including cleansing,

9 toning, performing effleurage or other related movements,
10 stimulating, exfoliating or performing any other similar
11 procedure on the skin of the human body or scalp;

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

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

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

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

25 (6) Applying artificial eyelashes and eyebrows; and

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

27 (b) "Aesthetician" or "esthetician" means a person
28 licensed under the provisions of this article who engages in
29 the practice of aesthetics.

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

33 (d) "Barber" means a person licensed under the
34 provisions of this article who engages in the practice of
35 barbering.

36 (e) "Barbering" means any one or any combination of the
37 following acts when done on the human body for
38 compensation and not for the treatment of disease:

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

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

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

47 (f) "Barber crossover" or "cosmetologist crossover" is a
48 person who is licensed to perform barbering and
49 cosmetology.

50 (g) "Barber permanent waving" means the following acts
51 done on the human body for compensation and not for the
52 treatment of disease:

53 (1) The bleaching or tinting of hair; and

54 (2) The permanent waving of hair.

55 (h) "Barber permanent wivist" means a person licensed
56 to perform barbering and barber permanent waving.

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

59 (j) "Certificate" means an instructor certificate to teach in
60 a school under the provisions of this article.

61 (k) "Certificate holder" means a person certified as an
62 instructor to teach in a school under the provisions of this
63 article.

64 (l) "Cosmetologist" means a person licensed under the
65 provisions of this article who engages in the practice of
66 cosmetology.

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

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

77 (2) Nail care;

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

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

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

89 (6) Performing aesthetics.

90 (n) "General supervision" means:

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

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

95 (o) "Hair braiding" means any one or any combination of
96 the following acts when done on the human body for
97 compensation and not for the treatment of disease: Braiding,
98 plaiting, twisting, wrapping, threading, weaving, extending
99 or locking of natural human hair by hand or mechanical
100 device.

101 (p) "License" means a professional license, a salon
102 license or a school license.

103 (q) "Licensee" means a person, corporation or firm
104 holding a license issued under the provisions of this article.

105 (r) "Nail care" means any one or any combination of the
106 following acts when done on the human body for
107 compensation and not for the treatment of disease:

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

110 (2) Performing artificial nail service; and

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

113 (s) "Nail technician" or "manicurist" means a person
114 licensed under the provisions of this article who engages in
115 the practice of nail care.

116 (t) "Permit" means a work permit.

117 (u) "Permitee" means a person holding a work permit.

118 (v) "Professional license" means a license to practice as
119 a aesthetician, barber, barber crossover, barber permanent
120 wavist, cosmetologist, cosmetologist crossover or nail
121 technician.

122 (w) "Registration" means a registration issued by the
123 board to a person who rents or leases a booth or chair from a
124 licensed salon owner and/or operator or a registration issued
125 by the board to a person who is a student in a school.

126 (x) "Registrant" means a person who holds a registration
127 under the provisions of this article.

128 (y) "Salon" means a shop or other facility where a person
129 practices under a professional license.

130 (z) "Salon license" means a license to own and operate a
131 salon.

132 (aa) "School" means a facility to educate persons to be
133 licensed with professional licenses under the provisions of
134 this article.

135 (bb) "School license" means a license to own and operate
136 a school.

137 (cc) "Student registration" means a registration issued by
138 the board to a student to study at a school licensed under the
139 provisions of this article.

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

1 (a) The West Virginia Board of Barbers and
2 Cosmetologists is continued. The members of the board in
3 office on July 1, 2009, shall, unless sooner removed, continue
4 to serve until their respective terms expire and until their
5 successors have been appointed and qualified.

6 (b) To be effective on July 1, 2009, the Governor shall
7 appoint, by and with the advice and consent of the Senate:

8 (1) One person who is a licensed cosmetologist for a term
9 of five years;

10 (2) One person who is a licensed barber for a term of five
11 years;

12 (3) One person who is a licensed barber crossover or a
13 licensed barber permanent wavist for a term of four years;

14 (4) One person who is a licensed aesthetician for a term
15 of four years;

16 (5) One person who is a licensed nail technician for a
17 term of four years;

18 (6) One person who is a licensed cosmetologist for a term
19 of three years; and

20 (7) One citizen member, who is not licensed under the
21 provisions of this article and who does not perform any
22 services related to the practice of the professions regulated
23 under the provisions of this article, for a term of three years.

24 (c) After the initial appointment term, the term shall be
25 for five years. All appointments to the board shall be made

26 by the Governor by and with the advice and consent of the
27 Senate.

28 (d) Commencing July 1, 2009, the board shall consist of
29 the following seven members:

30 (1) Two licensed cosmetologists;

31 (2) One licensed barber;

32 (3) One licensed barber crossover or licensed barber
33 permanent waviest;

34 (4) One licensed aesthetician;

35 (5) One licensed nail technician; and

36 (6) One citizen member.

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

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

43 (g) A member may not serve more than two consecutive
44 full terms. A member may continue to serve until a successor
45 has been appointed and has qualified. A member serving on
46 the board on June 30, 2009, may be reappointed in
47 accordance with the provisions of this section.

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

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

55 (j) A member of the board immediately and automatically
56 forfeits membership to the board if his or her license to
57 practice is suspended or revoked, is convicted of a felony
58 under the laws of any jurisdiction, or becomes a nonresident
59 of this state.

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

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

65 (m) A majority of the members of the board constitutes
66 a quorum.

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

71 (o) Prior to commencing his or her duties as a member of
72 the board, each member shall take and subscribe to the oath
73 required by section five, article four of the Constitution of
74 this state.

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

1 (a) The board has all the powers and duties set forth in
2 this article, by rule, in article one of this chapter and
3 elsewhere in law.

4 (b) The board shall:

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

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

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

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

14 (5) Prepare, conduct, administer and grade examinations
15 for professional licenses and certificates;

16 (6) Determine the passing grade for the examinations;

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

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

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

32 (10) Investigate alleged violations of the provisions of
33 this article, legislative rules, orders and final decisions of the
34 board;

35 (11) Establish the criteria for the training of
36 investigators/inspectors;

37 (12) Set the requirements for investigations and
38 inspections;

39 (13) Conduct disciplinary hearings of persons regulated
40 by the board;

41 (14) Determine disciplinary action and issue orders;

42 (15) Institute appropriate legal action for the enforcement
43 of the provisions of this article;

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

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

49 (18) Establish the continuing education requirements for
50 professional licensees and certificate holders;

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

53 (20) Establish a fee schedule;

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

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

59 (c) The board may:

60 (1) Establish joint licenses;

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

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

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

§30-27-6. Rulemaking.

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

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

7 (2) Procedures for examinations and reexaminations;

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

10 (4) Educational and experience requirements;

11 (5) The passing grade on the examinations;

12 (6) Standards for approval of courses and curriculum;

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

15 (8) A fee schedule;

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

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

21 (11) Designating the regions for investigators/inspectors;

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

23 (13) Requirements for investigations and inspections;

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

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

28 (16) Establishing operating procedures for salons; and

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

31 (b) All of the board's rules in effect on July 1, 2009, shall
32 remain in effect until they are amended or repealed, and
33 references to provisions of former enactments of this article
34 are interpreted to mean provisions of this article.

35 (c) The board is authorized to file an emergency rule for
36 the implementation of its fee schedule in 2009.

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

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

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

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

§30-27-8. Professional license requirements.

1 (a) An applicant for a professional license to practice as
2 a aesthetician, barber, barber crossover, barber permanent
3 wavist, cosmetologist, cosmetologist crossover or nail
4 technician shall present satisfactory evidence that he or she:

5 (1) Is at least eighteen years of age;

6 (2) Is of good moral character;

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

10 (4) Has graduated from a school which has been
11 approved by the board;

12 (5) Has passed an examination that tests the applicant's
13 knowledge of subjects specified by the board: *Provided*,
14 That the board may recognize a certificate or similar license
15 in lieu of the examination or part of the examination that the
16 board requires;

17 (6) Has paid the applicable fee;

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

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

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

24 (b) A license to practice issued by the board prior to July
25 1, 2009, shall for all purposes be considered a professional
26 license issued under this article: *Provided*, That a person
27 holding a license issued prior to July 1, 2009, must renew the
28 license pursuant to the provisions of this article.

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

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

6 (1) Holds a license or other authorization to practice in
7 another state which was granted after completion of
8 educational requirements substantially equivalent to those
9 required in this state and passed an examination that is
10 substantially equivalent to the examination required in this
11 state;

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

15 (3) Has not previously failed an examination for
16 professional licensure in this state;

17 (4) Has paid the applicable fee;

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

20 (6) Has presented a certificate of health issued by a
21 licensed physician; and

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

24 (b) In its discretion, the board may examine a person by
25 a written, oral or skills test for licensing under this section,
26 and may enter into agreements for reciprocal licensing with
27 other jurisdictions having substantially similar requirements
28 for licensure.

29 (c) The provisions of this section do not apply to nail
30 technicians or manicurists from another state or jurisdiction.
31 A nail technician or manicurist from another state or
32 jurisdiction is required to show that he or she has completed
33 the required curriculum and has successfully passed the

34 board's practical skills examination to apply for licensure
35 under the provisions of this article.

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

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

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

9 (c) The board shall require as a condition of renewal of a
10 professional license or certificate that each licensee or
11 certificate holder complete continuing education.

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

§30-27-11. Work permit.

1 (a) The board may issue a work permit to practice to an
2 applicant who:

3 (1) Has graduated from a school approved by the board
4 or has completed the course requirements in a specific field;

5 (2) Is waiting to take the examination;

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

9 (4) Has paid the work permit fee;

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

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

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

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

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

§30-27-12. Student registration.

1 (a) Prior to commencing studies in a school licensed
2 under the provisions of this article, a student shall acquire a
3 student registration issued by the board.

4 (b) An applicant for a student registration shall present
5 satisfactory evidence that he or she:

6 (1) Is a student in an approved school or enrolled in an
7 approved course;

8 (2) Is of good moral character;

9 (3) Has paid the required fee;

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

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

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

16 (d) The student may perform acts constituting barbering,
17 barber permanent waving, cosmetology, aesthetics or nail
18 care in a school under the general supervision of a master or
19 certified instructor.

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

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

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

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

10 (d) Every professional licensee, work permittee or student
11 must present such license, permit or registration to an
12 investigator/inspector or a board member upon request.

§30-27-14. Health certificate requirements.

1 (a) It is unlawful for a person to practice as a professional
2 licensee, be a permittee or be a certified instructor while
3 having an infectious, contagious or communicable disease.

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

§30-27-15. School license requirements.

1 (a) Any person, firm or corporation, whether public or
2 private, and whether organized for profit or not, must have a
3 school license issued by the board to own and/or operate a
4 school.

5 (b) The board may issue a school license to own and/or
6 operate a school, if the applicant meets the following
7 requirements:

8 (1) A completed application in writing on forms
9 prescribed by the board, which forms have been signed and
10 verified by the applicant;

11 (2) Is professionally competent and financially
12 responsible;

13 (3) Posts a bond in an amount specified by the board;

14 (4) There is proof that adequate physical facilities will be
15 available for the school;

16 (5) The proposed school has been inspected by an
17 investigator/inspector to determine whether it is properly
18 fitted and equipped for instruction in the specific fields to be
19 offered;

20 (6) That persons teaching or instructing at the school are
21 certified by the board as fully qualified instructors; and

22 (7) Has paid the appropriate fees.

23 (c) If an applicant desires to own and/or operate more
24 than one school, a separate application shall be made and a
25 separate school license shall be issued for each school.

26 (d) The board may suspend, revoke or refuse to renew the
27 school license of any school failing to meet the minimum
28 standards and qualifications required for the issuance of an
29 original school license, as set out in this section.

30 (e) All school licenses must be renewed annually or
31 biennially on or before January 1 and pay a renewal fee.

32 (f) A license to operate a school issued by the board prior
33 to January 1, 2009, shall for all purposes be considered a
34 school license issued under this article: *Provided*, That a
35 person holding a school license issued prior to January 1,
36 2009, must renew the license pursuant to the provisions of
37 this article.

38 (g) The school license shall be permanently displayed in
39 the school, and a suitable sign shall be displayed at the main
40 entrance of the school plainly indicating what type of school
41 is being operated.

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

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

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

6 (2) Has completed the required instructor's training;

7 (3) Has passed the instructor examination;

8 (4) Has paid the appropriate fees;

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

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

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

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

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

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

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

27 (2) Pay all lapsed renewal fees;

28 (3) Present a new certificate of health; and

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

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

§30-27-17. Salon license requirements.

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

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

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

16 (3) Pay all applicable fees;

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

22 (5) Every professional licensee or permittee in the place
23 of business thoroughly cleans his or her hands with soap and
24 water immediately before serving any patron; and

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

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

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

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

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

§30-27-18. Salon management requirements.

1 (a) Every salon in this state offering the services set forth
2 in this article shall be operated under the supervision and
3 management of a professional licensee licensed under this
4 article.

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

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

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

5 (1) Register with the board;

6 (2) Register with the State Tax Division and present the
7 registration to the board;

8 (3) Pay a registration fee;

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

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

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

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

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

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

26 (1) The names of all the registered professional licensees;

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

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

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

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

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

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

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

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

14 (d) Upon a finding that probable cause exists that the
15 licensee, permittee, registrant or certificate holder has
16 violated subsection (g) of this section or rules promulgated
17 pursuant to this article, the board may enter into a consent
18 decree or hold a hearing for the suspension or revocation of
19 the license, permit, registration or certification or the
20 imposition of sanctions against the licensee, permittee,

21 registrant or certificate holder. Any hearing shall be held in
22 accordance with the provisions of this article.

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

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

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

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

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

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

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

46 (5) Having had a license or other authorization revoked
47 or suspended, other disciplinary action taken, or an

48 application for licensure or other authorization revoked or
49 suspended by the proper authorities of another jurisdiction;

50 (6) Aiding or abetting unlicensed practice; or

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

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

56 (1) Reprimand;

57 (2) Probation;

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

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

62 (5) Practicing under supervision or other restriction;

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

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

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

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

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

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

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

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

§30-27-22. Judicial review.

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

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

1 (a) When, as a result of an investigation under this article
2 or otherwise, the board has reason to believe that a licensee,

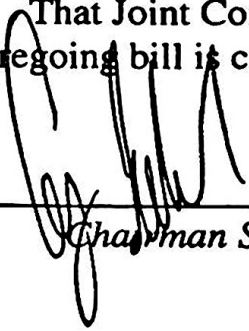
3 permitee, registrant or certificate holder has committed a
4 criminal offense under this article, the board may bring its
5 information to the attention of an appropriate
6 law-enforcement official.

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

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

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



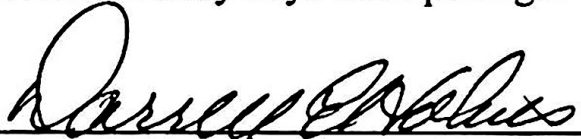
Chairman Senate Committee



Chairman House Committee

Originating in the House.


In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 17th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY 6 2009

Time 3:45 pm