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
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:


ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice barbering, barber permanent waving, cosmetology, aesthetics, or nail care in this state without a license 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 aesthetician, barber, barber crossover,
barber permanent wavist, cosmetologist, cosmetologist
crossover or nail technician, unless the person has been
licensed under the provisions of this article, and the license
has not expired, been suspended or revoked.

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

(c) No school, except through a licensee, 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.


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.


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, tweezing and threading 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.

(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.
(e) "Barbering" 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) Shaving, shaping and/or trimming the beard;

(2) Cutting, singeing, shampooing, 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" or "cosmetologist crossover" is a person who is licensed to perform barbering and cosmetology.

(g) "Barber permanent waving" means the following acts done on the human body 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 licensed to perform barbering and barber permanent waving.

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

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

(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, shampooing, 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;

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) "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.

(o) "Hair braiding" 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: Braiding, plaiting, twisting, wrapping, threading, weaving, extending or locking of natural human hair by hand or mechanical device.

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

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

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

(t) "Permit" means a work permit.

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

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

(w) "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/or operator or a registration issued by the board to a person who is a student in a school.

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

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

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

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

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

(cc) "Student registration" means a registration issued by the board to a student to study at a school licensed under the provisions of this article.
§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, 2009, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

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

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

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

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

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

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

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

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

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

(1) Two licensed cosmetologists;

(2) One licensed barber;

(3) One licensed barber crossover or licensed barber permanent wavist;

(4) One licensed aesthetician;

(5) One licensed nail technician; and

(6) One citizen member.

(e) 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.

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

(g) 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, 2009, may be reappointed in accordance with the provisions of this section.

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

(j) 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 of any jurisdiction, or becomes a nonresident of this state.

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

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

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

(n) 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.

(o) 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 four of the Constitution of this state.

§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, 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;

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. Hire, discharge, establish the job requirements and fix the compensation of the executive director;

9. 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;
Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;

Establish the criteria for the training of investigators/inspectors;

Set the requirements for investigations and inspections;

Conduct disciplinary hearings of persons regulated by the board;

Determine disciplinary action and issue orders;

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

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

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

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

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

Establish a fee schedule;

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
(22) 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; and,

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


(a) The board shall propose rules for legislative approval, in accordance with the provisions of 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;

(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.

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

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

§30-27-8. Professional license requirements.

(a) An applicant for a professional license to practice as a aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, 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 school which has been approved by 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;

(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, 2009, 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, 2009, must renew the license pursuant to the provisions of this article.

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

(a) The board may 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 license or other authorization to practice in another state which was granted after completion of educational requirements substantially equivalent to those required in this state and passed an examination that is substantially equivalent to the examination required in this state;

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

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

(4) Has paid the applicable fee;

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

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

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

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

(c) The provisions of this section do not apply to nail technicians or manicurists from another state or jurisdiction. A nail technician or manicurist from another state or jurisdiction is required to show that he or she has completed the required curriculum and has successfully passed the
board's practical skills examination to apply for licensure under the provisions of this article.

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

(a) A professional licensee and certificate holder shall annually or biennially 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 shall require as a condition of renewal of a professional license or certificate that each licensee or certificate holder complete continuing education.

(d) 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.


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

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

(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 permittee is subject to the restrictions and requirements imposed by this article.

§30-27-12. Student registration.

(a) Prior to commencing studies in a school licensed under the provisions of this article, 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:

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

(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, barber permanent waving, cosmetology, aesthetics or nail care in a school under the general supervision of a master or certified instructor.


(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 student must present such license, permit or registration to an investigator/inspector or a board member upon request.


(a) It is unlawful for a person to practice as a professional licensee, 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, permittee or certified instructor to submit to a physical examination and file a certificate of health.
§30-27-15. School license requirements.

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

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

1. A completed application in writing on forms prescribed by the board, which forms have been signed and verified by the applicant;

2. Is professionally competent and financially responsible;

3. Posts a bond in an amount specified by the board;

4. There is proof that adequate physical facilities will be available for the school;

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

6. That persons teaching or instructing at the school are certified by the board as fully qualified instructors; and

7. Has paid the appropriate fees.

(c) If an applicant desires to own and/or operate more than one school, a separate application shall be made and a separate school license shall be issued for each school.
(d) The board may suspend, revoke or refuse to renew the school license of any school failing to meet the minimum standards and qualifications required for the issuance of an original school license, as set out in this section.

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

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

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

§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 the required instructor's training;

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.
§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 for 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 or permittee 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 or biennially 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.


(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 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.


(a) Any professional licensee 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;

(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 or biennially 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.

§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 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.


(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.


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.

§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,
permittee, 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.


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.
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 15th day of May, 2009.

Governor