

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4597**

BY DELEGATES FLEISCHAUER, P. SMITH, SHAFFER,

CAPUTO, MORGAN, LYNCH, FERRO, FAIRCLOTH,

MOFFATT, PUSHKIN AND ELDRIDGE

[Introduced February 17, 2016; Referred  
to the Committee on Government Organization.]

1 A BILL to amend and reenact §30-27-5 of the Code of West Virginia, 1931, as amended, relating  
 2 to expanding duties of Board of Barbers and Cosmetologists to permit students to perform  
 3 acts of public service, including practicing their craft at temporary off-site events.

*Be it enacted by the Legislature of West Virginia:*

1 That §30-27-5 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.**

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

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

3 (b) The board shall:

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

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

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

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

10 (5) Prepare, conduct, administer and grade examinations for professional licenses and  
 11 certificates;

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

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

15 (8) Set operational standards and requirements for licensed schools;

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

18 (10) Maintain an office, and hire, discharge, establish the job requirements and fix the

19 compensation of employees, investigators/inspectors and contracted employees necessary to  
20 enforce the provisions of this article: *Provided*, That any investigator/inspector employed by the  
21 board on July 1, 2009, shall retain their coverage under the classified service, including job  
22 classification, job tenure and salary, until that person retires or is dismissed: *Provided, however*,  
23 That nothing may prohibit the disciplining or dismissal of any investigator/inspector for cause;

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

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

27 (13) Set the requirements for investigations and inspections;

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

29 (15) Determine disciplinary action and issue orders;

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

31 (17) Report violations of the provisions of this article, and legislative rules promulgated  
32 pursuant to this article, alleged to have been committed by a licensed school to the West Virginia  
33 Council for Community and Technical College Education. The board may continue to investigate  
34 any alleged violation that it receives by May 1, 2013, and shall conclude any such investigation  
35 by July 1, 2013. If the board determines that probable cause exists that a violation occurred, the  
36 board immediately shall advise and provide its investigation file to the West Virginia Council for  
37 Community and Technical College Education;

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

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

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

44 (21) Issue, renew, combine, deny, suspend, revoke or reinstate licenses, permits,

45 certificates and registrations;

46 (22) Establish a fee schedule;

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

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

50 (c) The board may:

51 (1) Establish joint licenses;

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

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

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

57 (d) (1) Notwithstanding any other provision of this code, the board may permit a certificate  
58 holder or licensee to perform acts of public service, including practicing his or her licensed craft  
59 at temporary, off-site events in connection with, but not limited to, fairs, carnivals, fund-raisers,  
60 and pageants if:

61 (A) The off-site event is for the benefit of a nonprofit entity;

62 (B) The certificate holder or licensee is compliant with all other prescribed requirements  
63 and rules under this code, including requirements relating to supervision; and

64 (C) The board has been notified in advance of the date, time, and location of the event.

65 (2) The board may issue guidelines for what constitutes public service and the amount of  
66 public service that students may perform.

NOTE: The purpose of this bill is to expand the duties of the board of Barbers and Cosmetologists to permit students to perform acts of public service, including practicing their craft at temporary off-site events.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.