

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4550

BY DELEGATES BARRETT AND HOUSEHOLDER

[Originating in the Committee on Government

Organization; February 21, 2018.]

1 A BILL to repeal §30-27-11a of the Code of West Virginia, 1931, as amended; to amend and
2 reenact §30-27-1 and §30-27-3 of said code; and to amend said code by adding thereto
3 a new section, designated §30-27-8c, all relating to permits issued by the Board of Barbers
4 and Cosmetologists; repealing the requirement for shampoo assistant to have permits;
5 amending defined terms; and authorizing the board to establish an apprenticeship
6 program for cosmetologists.

Be it enacted by the Legislature of West Virginia:

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 practice barbering, barber permanent
2 waving, cosmetology, hairstyling, waxing, ~~shampoo assisting~~, aesthetics or nail care in this state
3 without a license or certification issued under the provisions of this article, or advertise or use any
4 title or description tending to convey the impression that the person is a licensed or certified
5 aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist
6 crossover, hairstylist, ~~shampoo assistant~~, waxing specialist or nail technician unless the person
7 has been licensed or obtained certification under the provisions of this article and the license or
8 certification has not expired, been suspended or revoked.

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

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

§30-27-3. Definitions.

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

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

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

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

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

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

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

16 (6) Applying artificial eyelashes and eyebrows; and

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

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

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

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

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

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

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

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

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

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

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

42 (2) The permanent waving of hair.

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

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

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

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

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

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

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

62 (2) Nail care;

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

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

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

70 (6) Performing aesthetics.

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

75 (o) "General supervision" means:

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

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

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

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

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

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

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

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

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

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

100 (2) Performing artificial nail service; and

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

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

105 (w) "Permit" means a work permit.

106 (x) "Permitee" means a person holding a work permit.

107 (y) "Professional license" means a license to practice as an aesthetician, barber, barber
108 crossover, barber permanent waviest, cosmetologist, cosmetologist crossover, hairstylist or nail
109 technician.

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

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

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

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

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

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

122 ~~(ff) "Shampoo assistant" means a person certified under the provisions of this article who~~
123 ~~engages in the practice of shampooing and rinsing hair; removing rollers or permanent rods and~~
124 ~~cleansing or other sink-related functions not requiring the skill of a license. They must work at all~~
125 ~~times under the direct supervision of a licensed barber, hairstylist or cosmetologist.~~

126 ~~(gg)~~ Hair braiding, shampooing, rinsing hair, removing rollers or permanent rods,
127 threading, sink-related functions not requiring the skill of a licensee, and any other item not spelled
128 out are not regulated by the West Virginia Board of Barbers and Cosmetologists.

§30-27-8c. Cosmetologist apprentice.

1 (a) The board may establish an apprenticeship program to become a cosmetologist. A
2 cosmetologist apprentice shall work at all times under the direct supervision of a licensed

3 cosmetologist, and any permit issued by the board to work as a cosmetologist apprentice does
4 not allow a person to practice individually as a cosmetologist.

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

7 (1) Is at least 16 years of age;

8 (2) Is of good moral character;

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

11 (4) Has paid the applicable fee;

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

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

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

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

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

18 (2) Has paid the applicable fee; and

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

20 (d) A sponsor of a cosmetologist apprentice shall be a currently licensed cosmetologist
21 with at least five years' experience who has worked in a shop for the last five years.

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

25 (1) The requirements for:

26 (A) The cosmetologist apprenticeship program;

27 (B) The cosmetologist apprentice permit; and

28 (C) A licensed cosmetologist to sponsor a cosmetologist apprentice.

- 29 (2) Procedures for an examination:
30 (3) A fee schedule; and
31 (4) Any other rules necessary to effectuate the provisions of this section.

§30-27-11a. Shampoo assistant.

1 [Repealed.]

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