

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4868

BY DELEGATES FOSTER, HOWELL, PORTERFIELD AND

WAXMAN

[Introduced February 11, 2020; 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 restricting the authority of the Board of Barbers and Cosmetologists to regulate the use
3 of commonly available, retail beauty products.

Be it enacted by the Legislature of West Virginia:

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, provided such
2 rule does not contradict the provisions of this article and does not exceed the authorities granted
3 in this article, in §30-1-1 *et seq.* of this code, and elsewhere in law.

4 (b) The board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (15) Determine disciplinary action and issue orders;

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

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

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

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

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

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

47 certificates and registrations;

48 (22) Establish a fee schedule;

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

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

52 (c) The board may:

53 (1) Establish joint licenses;

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

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

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

59 (d) The board may not restrict or regulate the use, application or administration, by
60 unlicensed persons whether for compensation or not, of hair, nail, skin and other beauty products
61 that are generally available through retail sale at groceries, drug stores and other stores offering
62 a broad variety of consumer products.

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

NOTE: The purpose of this bill is to prevent the Board of Barbers and Cosmetologists from regulating the use of hair, nail, skin and other beauty products that are commonly available as retail, consumer products.

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