

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

H. B. 2131

(By Delegates Howell, J. Nelson, Statler, Moffatt, Walters, Arvon,
Blair, Kessinger, Border, Zatezalo and McGeehan)

[Introduced January 20, 2015; referred to the
Committee on Government Organization then Finance.]

A BILL to amend and reenact §30-27-3 and §30-27-11a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-27-11b, all relating to shampoo assistants and persons practicing hair braiding; exempting shampoo assistants and persons practicing hair braiding from oversight and regulation by the Board of Barbers and Cosmetologists.

Be it enacted by the Legislature of West Virginia:

That §30-27-3 and §30-27-11a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-27-11b, all to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-3. Definitions.

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

1 done on the human body for compensation and not for the treatment of disease:

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

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

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

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

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

13 (6) Applying artificial eyelashes and eyebrows; and

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

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

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

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

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

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

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

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

7 (f) “Barber crossover” or “cosmetologist crossover” is a person who is licensed to perform
8 barbering and cosmetology.

9 (g) “Barber permanent waving” means the following acts done on the human body for
10 compensation and not for the treatment of disease:

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

12 (2) The permanent waving of hair.

13 (h) “Barber permanent waviest” means a person licensed to perform barbering and barber
14 permanent waving.

15 (i) “Board” means the West Virginia Board of Barbers and Cosmetologists.

16 (j) “Certificate” means an instructor certificate to teach in a school under the provisions of
17 this article.

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

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

22 (m) “Cosmetology” means any one or any combination of the following acts when done on

1 the human body for compensation and not for the treatment of disease:

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

6 (2) Nail care;

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

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

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

14 (6) Performing aesthetics.

15 (n) "General supervision" means:

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

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

19 (o) "Hair braiding" means any one or any combination of the following acts when done on
20 the human body for compensation and not for the treatment of disease: Braiding, plaiting, twisting,
21 wrapping, threading, weaving, interweaving, extending or locking of natural human hair or
22 manufactured materials around human hair by hand or mechanical device.

1 (p) "Hair Styling" means any one or any combination of the following acts when done on the
2 human body for compensation and not for the treatment of disease:

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

7 (2) The rubbing, cleansing, exercising, beautifying or grooming of another person's face,
8 neck, shoulders, hands, elbows and feet up to and including the knee.

9 (q) "Hair Stylist" means a person licensed under the provisions of this article who engages
10 in the practice of hair styling.

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

12 (s) "Licensed school" means a facility which has been approved by the West Virginia Council
13 for Community and Technical College Education pursuant to section nine, article two-b, chapter
14 eighteen-b of this code, to educate persons to be licensed or issued certain permits under the
15 provisions of this article.

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

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

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

21 (2) Performing artificial nail service; and

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

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

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

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

5 (y) "Professional license" means a license to practice as a aesthetician, barber, barber
6 crossover, barber permanent waviest, cosmetologist, cosmetologist crossover or nail technician.

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

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

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

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

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

16 **§30-27-11a. Shampoo assistant; exemption from licensure and oversight.**

17 (a) ~~The board may establish a shampoo assistant permit. A shampoo assistant shall work at~~
18 ~~all times under the direct supervision of a licensed barber or cosmetologist and any permit issued by~~
19 ~~the board to work as a shampoo assistant does not allow a person to practice individually as a~~
20 ~~shampoo assistant~~ Notwithstanding any provision of this code, a shampoo assistant is not required
21 to obtain a permit or any other authorization from a professional board of this state and is not subject
22 to educational or training requirements. A shampoo assistant ~~shall~~ may work ~~all times under the~~

1 ~~direct supervision of a licensed barber or cosmetologist and any permit issued by the board to work~~
2 ~~as a shampoo assistant does not allow a person to practice individually as a shampoo assistant at or~~
3 ~~be employed by a salon or a basic barbering business or may practice individually as a shampoo~~
4 ~~assistant.~~

5 (b) A shampoo assistant ~~is only authorized to perform~~ may perform the following services:

6 (1) Shampooing and rinsing hair;

7 (2) Removing rollers or permanent rods; and

8 (3) Cleansing or other sink-related functions not requiring the skill of a licensee.

9 (c) ~~An applicant for a shampoo assistant permit shall present satisfactory evidence that he~~
10 ~~or she:~~

11 (1) ~~Is at least sixteen years of age;~~

12 (2) ~~Is of good moral character;~~

13 (3) ~~Is in high school or has a high school diploma, a GED, or has passed the “ability to~~
14 ~~benefit test” approved by the United States Department of Education;~~

15 (4) ~~Has paid the applicable fee;~~

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

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

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

19 (d) ~~The board may propose rules for legislative approval, in accordance with the provisions~~
20 ~~of article three, chapter twenty-nine-a of this code, to implement the provisions of this section,~~
21 ~~including:~~

22 (1) ~~The requirements and procedures for a shampoo assistant permit:~~

1 ~~(2) A fee schedule; and~~

2 ~~(3) Any other rules necessary to effectuate the provisions of this section.~~

3 **§30-27-11b. Hair braiding; exemption from licensure and oversight.**

4 (a) Notwithstanding any provision of this code, a person may practice hair braiding without
5 obtaining a license or any other authorization from a professional board of this state and is not
6 subject to educational or training requirements. A person practicing hair braiding may work at or
7 be employed by a salon or other place of business or may practice hair braiding individually.

8 (b) Notwithstanding any provision of this code, the board has no authority to propose
9 legislative rules to implement the provisions of this section or to exercise any jurisdiction or
10 authority over the practice of or any acts of hair braiding or the qualifications for a person to practice
11 hair braiding.

NOTE: The purpose of this bill is to exempt shampoo assistants and persons practicing hair braiding from oversight and regulation by the Board of Barbers and Cosmetologists.

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