

H. B. 3125

(By Delegates Raines, Arvon, Border, Ferns,
E. Nelson, Pasdon and Reynolds)

[Introduced March 25, 2013; referred to the
Committee on Government Organization then Education.]

A BILL to repeal §30-27-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-27-3, §30-27-8, §30-27-11 and §30-27-12 of said code; and to amend and reenact §30-37-7 of said code, all relating to the Board of Barbers and Cosmetologists; licensing schools of aesthetics, barbering, cosmetology, manicuring and massage; transferring authority to approve licensure for certain schools; providing requirements for professional licensing, license renewal and work permits; and establishing certain student registration requirements.

Be it enacted by the Legislature of West Virginia:

That §30-27-15 of the Code of West Virginia, 1931 as amended, be repealed; that §30-27-3, §30-27-8, §30-27-11 and §30-27-12 of said code be amended and reenacted; and that §30-37-7 of said code be amended and reenacted, all to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

1 **§30-27-3. Definitions.**

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

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

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

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

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

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

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

1 (6) Applying artificial eyelashes and eyebrows; and

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

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

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

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

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

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

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

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

22 (f) "Barber crossover" or "cosmetologist crossover" is a
23 person who is licensed to perform barbering and cosmetology.

24 (g) "Barber permanent waving" means the following acts done on

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

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

4 (2) The permanent waving of hair.

5 (h) "Barber permanent wavist" means a person licensed to
6 perform barbering and barber permanent waving.

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

9 (j) "Certificate" means an instructor certificate to teach in
10 a school under the provisions of this article.

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

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

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

20 (1) Cutting, styling, shaping, arranging, braiding, weaving,
21 dressing, adding extensions, curling, waving, permanent waving,
22 relaxing, straightening, shampooing, cleansing, singeing,
23 bleaching, tinting, coloring, waxing, tweezing, or similarly work
24 on human hair, or a wig or hairpiece, by any means, including

1 hands, mechanical or electrical devices or appliances;

2 (2) Nail care;

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

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

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

13 (6) Performing aesthetics.

14 (n) "General supervision" means:

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

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

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

24 (p) "Hair Styling" means any one or any combination of the

1 following acts when done on the human body for compensation and not
2 for the treatment of disease:

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

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

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

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

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

22 ~~(s)~~ (t) "Licensee" means a person, corporation or firm holding
23 a license issued under the provisions of this article.

24 ~~(t)~~ (u) "Nail care" means any one or any combination of the

1 following acts when done on the human body for compensation and not
2 for the treatment of disease:

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

5 (2) Performing artificial nail service; and

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

8 ~~(u)~~ (v) "Nail technician" or "manicurist" means a person
9 licensed under the provisions of this article who engages in the
10 practice of nail care.

11 ~~(v)~~ (w) "Permit" means a work permit.

12 ~~(w)~~ (x) "Permitee" means a person holding a work permit.

13 ~~(x)~~ (y) "Professional license" means a license to practice as
14 a aesthetician, barber, barber crossover, barber permanent waviest,
15 cosmetologist, cosmetologist crossover or nail technician.

16 ~~(y)~~ (z) "Registration" means a registration issued by the
17 board to a person who rents or leases a booth or chair from a
18 licensed salon owner and operator, or both, or a registration
19 issued by the board to a person who is a student in a school.

20 ~~(z)~~ (aa) "Registrant" means a person who holds a registration
21 under the provisions of this article.

22 ~~(aa)~~ (bb) "Salon" means a shop or other facility where a
23 person practices under a professional license.

24 ~~(bb)~~ (cc) "Salon license" means a license to own and operate

1 a salon.

2 ~~(cc) "School" means a facility to educate persons to be~~
3 ~~licensed under the provisions of this article.~~

4 ~~(dd) "School license" means a license to own and operate a~~
5 ~~school.~~

6 ~~(ee)~~ (dd) "Student registration" means a registration issued
7 by the board to a student to study at a school licensed under the
8 provisions of this article.

9 **§30-27-8. Professional license requirements.**

10 (a) An applicant for a professional license to practice as a
11 aesthetician, barber, barber crossover, barber permanent waviest,
12 cosmetologist, hair stylist, cosmetologist crossover or nail
13 technician shall present satisfactory evidence that he or she:

14 (1) Is at least eighteen years of age;

15 (2) Is of good moral character;

16 (3) Has a high school diploma, a GED, or has passed the
17 "ability to benefit test" approved by the United States Department
18 of Education;

19 (4) Has graduated from a licensed school which has been
20 approved by the ~~board~~ West Virginia Council for Community and
21 Technical College Education;

22 (5) Has passed an examination that tests the applicant's
23 knowledge of subjects specified by the board: *Provided*, That the
24 board may recognize a certificate or similar license in lieu of the

1 examination or part of the examination that the board requires;

2 (6) Has paid the applicable fee;

3 (7) Presents a certificate of health from a licensed
4 physician;

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

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

9 (b) A license to practice issued by the board prior to July 1,
10 2009, shall for all purposes be considered a professional license
11 issued under this article: *Provided*, That a person holding a
12 license issued prior to July 1, 2009, must renew the license
13 pursuant to the provisions of this article.

14 **§30-27-11. Work permit.**

15 (a) The board may issue a work permit to practice to an
16 applicant who meets the following conditions:

17 (1) Has graduated from a licensed school approved by the ~~board~~
18 West Virginia Council for Community and Technical College
19 Education; ~~or has completed the course requirements in a specific~~
20 ~~field;~~

21 (2) Is waiting to take the examination;

22 (3) Has employment in the field in which he or she applied to
23 take the examination and is working under the general supervision
24 of a professional licensee;

1 (4) Has paid the work permit fee;

2 (5) Has presented a certificate of health issued by a licensed
3 physician;

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

6 (7) Meets all the other requirements specified by the board.

7 (b) A work permit expires at the end of the month after
8 issuance following the next examination in the specific field. A
9 work permit may be renewed once.

10 (c) While in effect, a work permittee is subject to the
11 restrictions and requirements imposed by this article.

12 **§30-27-12. Student registration.**

13 (a) Prior to commencing studies in a licensed school, ~~licensed~~
14 ~~under the provisions of this article~~ a student shall acquire a
15 student registration issued by the board.

16 (b) An applicant for a student registration shall present
17 satisfactory evidence that he or she meets the following
18 conditions:

19 (1) Is enrolled as a student in ~~an approved~~ a licensed school;
20 ~~or enrolled in an approved course;~~

21 (2) Is of good moral character;

22 (3) Has paid the required fee;

23 (4) Has presented a certificate of health issued by a licensed
24 physician; and

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

3 (c) The student registration is good during the prescribed
4 period of study for the student.

5 (d) The student may perform acts constituting barbering,
6 barber permanent waving, cosmetology, aesthetics or nail care in a
7 school under the general supervision of a master or certified
8 instructor.

9 **ARTICLE 37. MASSAGE THERAPISTS.**

10 **§30-37-7. Requirements for licensure; renewal of licenses;**
11 **reinstatement; penalties.**

12 (a) The board shall propose rules for legislative approval in
13 accordance with article three, chapter twenty-nine-a of this code,
14 establishing a procedure for licensing of massage therapists.
15 License requirements shall include the following:

16 (1) Completion of a program of massage education at a school
17 approved by the West Virginia ~~Higher Education Policy Commission~~
18 Council for Community and Technical College Education pursuant to
19 section nine, article two-b, chapter eighteen-b of this code or by
20 a state agency in another state, the District of Columbia or a
21 United States territory which approves educational programs and
22 which meets qualifications for the National Certification Exam
23 administered through the National Certification Board for
24 Therapeutic Massage and Bodywork. This school shall require a

1 diploma from an accredited high school, or the equivalent, and
2 require completion of at least five hundred hours of supervised
3 academic instruction;

4 (2) Successful completion of the National Certification for
5 Therapeutic Massage and Bodywork (NCTMB) examination, or other
6 board approved examination; and

7 (3) Payment of a reasonable fee every two years required by
8 the board which shall compensate and be retained by the board for
9 the costs of administration.

10 (b) A license to practice massage therapy issued by the board
11 prior to July 1, 2006, shall for all purposes be considered a
12 license issued under this section: *Provided*, That a person holding
13 a license to practice massage therapy issued prior to July 1, 2006,
14 must renew the license pursuant to the provisions of this article:
15 *Provided, however*, That a person whose license was issued by the
16 board prior to July 1, 2006, and whose license subsequently lapses
17 may, in the discretion of the board, be subject to the licensing
18 requirements of this section.

19 (c) In addition to provisions for licensure, the rules shall
20 include:

21 (1) Requirements for completion of continuing education hours
22 conforming to NCTMB guidelines; and

23 (2) Requirements for issuance of a reciprocal license to
24 licensees of states with requirements which may include the

1 successful completion of the NCTMB examination or other board
2 approved examination.

3 (d) Subject to the provisions of subsection (b) of this
4 section, the board may deny an application for renewal for any
5 reason which would justify the denial of an application for initial
6 licensure.

7 (e) Any person practicing massage therapy during the time his
8 or her license has lapsed is in violation of this article and is
9 subject to the penalties provided in this article.

10 (f) A massage therapist who is licensed by the board shall be
11 issued a certificate and a license number. The current, valid
12 license certificate shall be publicly displayed and available for
13 inspection by the board and the public at a massage therapist's
14 work site.

NOTE: The purpose of this bill is to place the authority to license cosmetology, barber, and massage schools with the West Virginia Council for Community and Technical College Education. Current law places authority for approving cosmetology and barber schools with the professional licensing board and authority for approval of massage schools with the West Virginia Higher Education Policy Commission.

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