

**Senate Bill No. 586**

(By Senators Plymale, Prezioso, Snyder and Beach)

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[Introduced March 21, 2013; referred to the Committee on  
Government Organization; and then to the Committee on Education.]

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That §30-27-15 of the Code of West Virginia, 1931, as amended, be repealed; that §30-27-3, §30-27-8, §30-27-11 and §30-27-12 of said code be amended and reenacted; and that §30-37-7 of said code be amended and reenacted, all to read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

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

2 **§30-27-3. Definitions.**

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

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

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

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

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

23 (4) The waxing, tweezing and threading of hair on another

1 person's body;

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

3 (6) Applying artificial eyelashes and eyebrows; and

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

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

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

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

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

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

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

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

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

3 (g) "Barber permanent waving" means the following acts done on  
4 the human body for compensation and not for the treatment of  
5 disease:

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

7 (2) The permanent waving of hair.

8 (h) "Barber permanent waviest" means a person licensed to  
9 perform barbering and barber permanent waving.

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

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

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

17 (l) "Cosmetologist" means a person licensed under the  
18 provisions of this article who engages in the practice of  
19 cosmetology.

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

23 (1) Cutting, styling, shaping, arranging, braiding, weaving,

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

6 (2) Nail care;

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

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

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

17 (6) Performing aesthetics.

18 (n) "General supervision" means:

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

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

23 (o) "Hair braiding" 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: Braiding, plaiting, twisting,  
3 wrapping, threading, weaving, extending or locking of natural human  
4 hair by hand or mechanical device.

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

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

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

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

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

22 (s) "Licensed school" means a facility which has been approved  
23 by the West Virginia Council for Community and Technical College

1 Education pursuant to section nine, article two-b, chapter  
2 eighteen-b of this code, to educate persons to be licensed or  
3 issued certain permits under the provisions of this article.

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

6 ~~(t)~~ (u) "Nail care" means any one or any combination of the  
7 following acts when done on the human body for compensation and not  
8 for the treatment of disease:

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

11 (2) Performing artificial nail service; and

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

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

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

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

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

22 ~~(y)~~ (z) "Registration" means a registration issued by the  
23 board to a person who rents or leases a booth or chair from a

1 licensed salon owner and operator, or both, or a registration  
2 issued by the board to a person who is a student in a school.

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

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

7 ~~(bb)~~ (cc) "Salon license" means a license to own and operate  
8 a salon.

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

11 ~~(dd)~~ "School license" means a license to own and operate a  
12 school.

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

16 **§30-27-8. Professional license requirements.**

17 (a) An applicant for a professional license to practice as a  
18 aesthetician, barber, barber crossover, barber permanent wavist,  
19 cosmetologist, hair stylist, cosmetologist crossover or nail  
20 technician shall present satisfactory evidence that he or she:

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

22 (2) Is of good moral character;

23 (3) Has a high school diploma, a GED, or has passed the



1 "ability to benefit test" approved by the United States Department  
2 of Education;

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

6 (5) Has passed an examination that tests the applicant's  
7 knowledge of subjects specified by the board: *Provided*, That the  
8 board may recognize a certificate or similar license in lieu of the  
9 examination or part of the examination that the board requires;

10 (6) Has paid the applicable fee;

11 (7) Presents a certificate of health from a licensed  
12 physician;

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

15 (9) Has fulfilled any other requirement specified by the  
16 board.

17 (b) A license to practice issued by the board prior to July 1,  
18 2009, shall for all purposes be considered a professional license  
19 issued under this article: *Provided*, That a person holding a  
20 license issued prior to July 1, 2009, must renew the license  
21 pursuant to the provisions of this article.

22 **§30-27-11. Work permit.**

23 (a) The board may issue a work permit to practice to an

1 applicant who meets the following conditions:

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

6 (2) Is waiting to take the examination;

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

10 (4) Has paid the work permit fee;

11 (5) Has presented a certificate of health issued by a licensed  
12 physician;

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

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

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

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

21 **§30-27-12. Student registration.**

22 (a) Prior to commencing studies in a licensed school, ~~licensed~~  
23 ~~under the provisions of this article~~ a student shall acquire a

1 student registration issued by the board.

2 (b) An applicant for a student registration shall present  
3 satisfactory evidence that he or she meets the following  
4 conditions:

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

7 (2) Is of good moral character;

8 (3) Has paid the required fee;

9 (4) Has presented a certificate of health issued by a licensed  
10 physician; and

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

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

15 (d) The student may perform acts constituting barbering,  
16 barber permanent waving, cosmetology, aesthetics or nail care in a  
17 school under the general supervision of a master or certified  
18 instructor.

19 **ARTICLE 37. MESSAGE THERAPISTS.**

20 **§30-37-7. Requirements for licensure; renewal of licenses;**  
21 **reinstatement; penalties.**

22 (a) The board shall propose rules for legislative approval in  
23 accordance with article three, chapter twenty-nine-a of this code,

1 establishing a procedure for licensing of massage therapists.

2 License requirements shall include the following:

3       (1) Completion of a program of massage education at a school  
4 approved by the West Virginia ~~Higher Education Policy Commission~~  
5 Council for Community and Technical College Education pursuant to  
6 section nine, article two-b, chapter eighteen-b of this code or by  
7 a state agency in another state, the District of Columbia or a  
8 United States territory which approves educational programs and  
9 which meets qualifications for the National Certification Exam  
10 administered through the National Certification Board for  
11 Therapeutic Massage and Bodywork. This school shall require a  
12 diploma from an accredited high school, or the equivalent, and  
13 require completion of at least five hundred hours of supervised  
14 academic instruction;

15       (2) Successful completion of the National Certification for  
16 Therapeutic Massage and Bodywork (NCTMB) examination, or other  
17 board approved examination; and

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

21       (b) A license to practice massage therapy issued by the board  
22 prior to July 1, 2006, shall for all purposes be considered a  
23 license issued under this section: *Provided*, That a person holding

1 a license to practice massage therapy issued prior to July 1, 2006,  
2 must renew the license pursuant to the provisions of this article:  
3 *Provided, however,* That a person whose license was issued by the  
4 board prior to July 1, 2006, and whose license subsequently lapses  
5 may, in the discretion of the board, be subject to the licensing  
6 requirements of this section.

7 (c) In addition to provisions for licensure, the rules shall  
8 include:

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

11 (2) Requirements for issuance of a reciprocal license to  
12 licensees of states with requirements which may include the  
13 successful completion of the NCTMB examination or other board  
14 approved examination.

15 (d) Subject to the provisions of subsection (b) of this  
16 section, the board may deny an application for renewal for any  
17 reason which would justify the denial of an application for initial  
18 licensure.

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

22 (f) A massage therapist who is licensed by the board shall be  
23 issued a certificate and a license number. The current, valid

1 license certificate shall be publicly displayed and available for  
2 inspection by the board and the public at a massage therapist's  
3 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.