

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2325

BY DELEGATE FOSTER

[Originating in the Committee on Government

Organization; February 15, 2021]

1 A BILL to amend and reenact §30-27-5 and §30-27-10 of the Code of West Virginia, 1931, as
2 amended, all relating to barbers and cosmetology; restricting the authority of the Board of
3 Barbers and Cosmetologists to regulate the use of commonly available retail beauty
4 products; and removing the requirement of continuing education for barbers and
5 cosmetologists.

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, §30-1-1 *et seq.* of this chapter, 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)~~ (20) Issue, renew, combine, deny, suspend, revoke or reinstate licenses, permits,
47 certificates and registrations;

48 ~~(22)~~ (21) Establish a fee schedule;

49 ~~(23)~~ (22) Propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code
50 to implement the provisions of this article; and

51 ~~(24)~~ (23) Take all other actions necessary and proper to effectuate the purposes of this
52 article.

53 (c) The board may:

54 (1) Establish joint licenses;

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

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

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

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

64 ~~(d)~~ (e) Notwithstanding any other provision of this code, the board may not restrict a
65 certificate holder or licensee from practicing his or her licensed craft at temporary on-site events
66 in connection with, but not limited to: Fairs, carnivals, weddings, pageants or photographs:
67 *Provided*, That the certificate holder or licensee is compliant with all other prescribed requirements
68 and rules under this code. If an out-of-state licensee works in a temporary capacity, less than five
69 days, in connection with an event or temporary commercial enterprise, he or she may be granted

70 a temporary permit to work after submitting his or her current license certification to this state and
71 paying the applicable fee: *Provided, however,* That the licensee shall display or have immediately
72 available their license for the duration of his or her practice at a temporary event.

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-10. Professional license and certificate renewal requirements.

1 (a) A professional licensee and certificate holder shall annually on or before January 1,
2 renew his or her professional license or certificate by completing a form prescribed by the board,
3 paying the renewal fee, and submitting any other information required by the board.

4 (b) The board shall charge a fee for each renewal of a license or certificate, and a late fee
5 for any renewal not paid by the due date.

6 ~~(c) The board shall require as a condition of renewal of a professional license or certificate~~
7 ~~that each licensee or certificate holder complete continuing education; subject to the following~~
8 ~~exceptions:~~

9 ~~(1) When a barber or cosmetologist has been licensed and in practice for ten years, that~~
10 ~~barber or cosmetologist will not be required to complete any continuing education other than a~~
11 ~~three-hour sanitation class every other year for a period of ten years; and~~

12 ~~(2) A person, who by education and experience qualifies to be a barber and a~~
13 ~~cosmetologist or a barber crossover or cosmetologist crossover, may elect to be licensed solely~~
14 ~~as a barber and shall not be required to attend or participate in continuing education programs~~
15 ~~that are not required of licensed barbers.~~

16 ~~(d) The board may approve for continuing education credit any education course providing~~
17 ~~instruction in any curriculum, subject matter or discipline included in the education required for~~
18 ~~licensure that is submitted to the board or offered by:~~

19 ~~(1) A licensed school or instructor, outside of school instruction;~~

20 ~~(2) A manufacturer or distributor of barbering, aesthetics, nail technology or cosmetology~~
21 ~~products;~~

22 ~~(3) A barber or cosmetology trade organization; or~~

23 ~~(4) Any course offered at an accredited private or public university, college or community~~
24 ~~college in this state that relates to the profession or a general business class~~

25 ~~(e)~~ (c) The board may deny an application for renewal for any reason which would justify
26 the denial of an original application for a license or certificate.

27 ~~(f)~~ (d) The board shall recognize reciprocity for military barbers for the purpose of the state
28 examination for barbers.

NOTE: The purpose of this bill is to remove the requirement that barbers and cosmetologists must complete continuing education to renew their licenses and 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.