



## Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 41-20 Barbering and Cosmetology Regulations**  
**18 VAC 41-70 Esthetics Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 5815/9386**  
October 7, 2021

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to recommendations from its Standing Committee on Training, the Board for Barbers and Cosmetology (Board) proposes to implement transfer policies in 18 VAC 41-20 *Barbering and Cosmetology Regulations* and 18 VAC 41-70 *Esthetics Regulations*.

### **Background**

The current training requirements put forth in 18 VAC 41-20 *Barbering and Cosmetology Regulations*, which cover not only barbers and cosmetologists but also nail and wax technicians, generally do not address transferring credit hours between schools or programs. The Board issued a guidance document regarding transfers; as per the document, applicants may only transfer between accredited and licensed schools and the transfer period is limited to two years.<sup>1</sup> The Board reports that only 15 percent of licensed schools are accredited, which limits students' options.<sup>2</sup> It also makes unaccredited schools ineligible to receive U.S. Department of Veterans Affairs (VA) financial aid, and several licensed schools in Virginia have specifically asked the Board to reconsider its current policy limiting transfers due to this issue.<sup>3</sup>

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<sup>1</sup> See <https://townhall.virginia.gov/l/ViewGDoc.cfm?gdid=5502> for the guidance document effective May 12, 2014.

<sup>2</sup> Agency Background Document (ABD), page 3. See [https://townhall.virginia.gov/l/GetFile.cfm?File=134\5815\9386\AgencyStatement\\_DPOR\\_9386\\_v1.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=134\5815\9386\AgencyStatement_DPOR_9386_v1.pdf)

<sup>3</sup> In an e-mail to the Department of Planning and Budget, the Board stated that the VA requires all schools to be able to evaluate prior credit, grant credit as appropriate, notify the student of the evaluation, and shorten the program certified accordingly. Whenever a student initially enrolls in a school or changes programs at a school the VA requires the school to complete a credit evaluation. VA will then review credit evaluations during compliance surveys and credit evaluation records must be kept and made available to VA upon request. This requirement is found in Title 38, Code of Federal Regulations, Sections 21.4253(d)(3) and 21.4254(C)(4).

Currently, section 50 *Exceptions to training requirements* addresses transfers between barber and cosmetology schools as follows:

Virginia licensed master barbers with less than two years of work experience and Virginia master barber students enrolling in a Virginia cosmetology training school shall be given educational credit for the training received for the performances completed at a barber school; likewise, licensed Virginia cosmetologists with less than two years of work experience and Virginia cosmetology students enrolling in a Virginia barber or master barber training school shall be given educational credit for the training received for the performances completed at a cosmetology school.

The Board seeks to repeal this language and replace it with a more general transfer policy, which would be modeled on the current transfer policy for esthetics schools.

The proposed amendments, which would be added to 18 VAC 41-20-210 *Curriculum requirements*, would allow all licensed schools with an approved training program to conduct an assessment of a student's competence in the respective profession and accordingly give credit towards the hours requirements specified in section 210 as well as section 220 *Hours of instruction and performances*. This policy would apply to schools with approved barber, master barber, dual barber/master barber, cosmetology, nail technician, and wax technician programs. The proposed amendments include the following requirements and guidelines for the school's assessment: (i) the school's assessment shall be based on a review of the student's transcript and the successful completion of a board-approved competency examination administered by the school, (ii) the school may request a copy of a catalog or bulletin giving the full course description when making the evaluation, and (iii) the number of credit hours awarded shall not exceed the actual hours of instruction verified on the transcript or the number of hours specified in the board-approved curriculum for a specific topic.

The amendments described above are analogous to the policy governing transfer hours for estheticians, which would be amended to match these by removing a 300-hour cap currently in place. Specifically, 18 VAC 41-70-190 *Curriculum and hours of instruction requirements* currently limits the number of transfer credit hours for esthetician students to 300 hours, which can be allocated towards the theory or practical components of the training requirements. The Board reports that there is no available evidence to support maintaining the cap in terms of the potential impacts on the health, safety, and welfare of the public.<sup>4</sup>

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<sup>4</sup> See ABD, page 9. (Link in note 2.)

## **Estimated Benefits and Costs**

The proposed amendments would primarily benefit students enrolled in approved barber, master barber, dual barber/master barber, cosmetology, nail technician, and wax technician programs at schools that are licensed but unaccredited, who seek to transfer to a different school or a different program with overlapping curricular requirements. Such students would save the tuition they would have had to pay to re-take coursework as well as the time spent repeating practical training hours that could not be transferred under the current regulation.

The option to transfer to a different school, as stipulated in the proposed amendments, benefits all enrolled students by providing greater flexibility in response to unforeseen circumstances that might cause a student to pause their coursework for more than two years, and/or relocate to or within Virginia. Thus, all students enrolling in any of these training programs would benefit from having the option of transferring between schools without losing all their completed training hours, even if they do not necessarily intend to transfer at the time of enrollment. Similarly, the proposed amendments would benefit students in esthetician training programs by allowing them to transfer more than 300 hours, provided the school approved the hours based on their assessment of the student's transcript and the student's performance on the board-approved competency examination.

The proposed amendments would also benefit licensed schools that offer approved training programs by allowing them to accept transfer credit hours, which would in turn make them eligible to receive VA financial aid and make them attractive to students who wish to transfer from out-of-state schools. In order to accept transfer students, schools would have to assess the applicant's transcript and offer a competency test that would have to be approved by the Board; they would likely incur some costs to implement this process. However, the proposed amendments would not require training schools to accept transfer students. The fact that training schools have petitioned the Board to make the proposed changes suggests that the costs of assessing transfer credits and maintaining the corresponding paperwork are small relative to the value of enrolling transfer students. The Board reports that esthetics schools, some of which have been conducting assessments for transfer credits for 15 years, do not charge an assessment fee for transfer students and therefore expect that training schools that would be newly allowed to conduct such assessments would not charge fees for assessments either.

The Board reports that roughly 1-2 students per year transfer from a master barber training program to a cosmetology training program or vice versa under the current language in 18 VAC 41-20-50 that would be repealed. These students would no longer be guaranteed transfer credits and would have to go through the same assessment process as other transfer students, which would require a transcript review and a board-approved test. Transfer students who are unable to meet the assessment criteria to receive full transfer credits at one school may either go to another school or raise the issue with the Board.

To the extent that implementation of the board-approved competency examination is standardized across schools, failing the exam would indicate insufficient training and thus requiring the exam protects public health and safety. However, implementation of the transcript review may vary significantly across schools; some schools may be improperly incentivized to deny transfer credits because they would lose the income that would result from providing that training. To the extent that licensed schools seeking to attract transfer students operate in a competitive market, as the Board reports, competition would tend to create disincentives for schools to improperly deny transfer credit hours or to charge students for conducting assessments. Although there is no reporting requirement, the proposed amendments would require training schools to document the basis for transfer, which would be implicitly reviewed by the Board when transfer students eventually submit their transcripts for their license applications. Thus, even in the absence of local competition, the Board would maintain some oversight of the transfer credit assessment process.

### **Businesses and Other Entities Affected**

The Board reports that there are currently 67 barber schools, 155 cosmetology schools, 40 nail schools, 13 wax schools and 47 licensed esthetic schools that would all be affected by the proposed changes.

### **Small Businesses<sup>5</sup> Affected**

The Board estimates that all schools are likely small businesses, and that most are owned and operated by experienced practitioners. The proposed amendments would benefit these businesses by allowing them to accept transfer students and grant credits towards prior training.

### **Localities<sup>6</sup> Affected<sup>7</sup>**

The proposed amendments do not introduce new costs for local governments and are unlikely to affect any locality in particular.

### **Projected Impact on Employment**

The proposed amendments increase the flexibility for students enrolling in training programs to become barbers, master barbers, cosmetologists, nail and wax technicians, and estheticians by allowing them to transfer credit hours between schools and between programs with overlapping requirements. This may lead to more individuals enrolling in these programs and eventually working in these professions. The magnitude of the potential increase in the number of professionals working in these fields is difficult to predict without data on current training costs, enrollment rates, and costs of becoming licensed and starting to work in these fields.

### **Effects on the Use and Value of Private Property**

The proposed amendments would increase the value of licensed training schools by allowing them to potentially serve more students, including students transferring from other states, and by making them eligible for VA financial aid. Real estate development costs are not affected.

### **Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities

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<sup>5</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>6</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>7</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.