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Final Regulation Agency Background Document

Agency name	Board for Barbers and Cosmetology
Virginia Administrative Code (VAC) citation	18VAC41-70
Regulation title	Esthetics Regulations
Action title	General Review
Date this document prepared	May 9, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed regulations are the result of a periodic review of the regulations conducted by the Board. The last non-fee related regulatory change was made in 2007.

The proposed changes in the regulations will make clarifying changes, ensure consistency with other board regulations as well as state and federal law, ensure compliance with current industry standards, and make other necessary changes to better protect the public health, safety and welfare. The proposed changes will also allow for esthetics apprenticeships as an additional method of entry into the profession.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

“Department” means the Department of Professional and Occupational Regulation.

“Board” means the Board for Barbers and Cosmetology.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

At its meeting of February 9, 2016, The Board for Barbers and Cosmetology adopted as final these regulations that amend the Esthetics Regulations (18 VAC 41-70).

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Code of Virginia § 54.1-201.5 gives authority to the Board to promulgate regulations. It states, in part, that the Board has the power and duty “To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.”

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Board seeks to amend its current regulations to ensure they are as least intrusive and burdensome as possible, in order to assist in providing an environment with unnecessary regulatory obstacles while still protecting the health, safety, and welfare of the public. Additionally, to ensure regulations are clearly written and easily understandable, and are representative of the current advancements and standards of the industries. Furthermore, the Board seeks to strengthen some of its reporting requirements and prohibited acts to address areas of vulnerabilities for the perpetration of fraud by applicants and regulants. The Board is also adding regulations to allow for esthetics apprenticeships as an additional method of entry into the profession.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

18 VAC 41-70-10. Definitions. New definitions of business entity, firm, responsible management, sole proprietor, and post-secondary education level have been added and licensee amended to further clarify terms used in subsequent regulations.

18 VAC 41-70-20. General Requirements for an esthetician license or master esthetician license. The proposed amendments update this section to further clarify and standardize entry requirements. The proposed amendments require applicants disclose all felony convictions within 20 years of the date of application and certain misdemeanors within the last two years. The proposed amendments also add that the Board may deny licensure to any applicant having prior disciplinary violations for which the Board deems the applicant unfit to engage in the profession.

18 VAC 41-70-30. License by endorsement. The proposed amendments update this section to further clarify endorsement requirements and extend this avenue to master estheticians.

18 VAC 41-70-35. Apprenticeship training. The proposed new regulation establishes requirements for esthetics apprenticeships and allows exam eligibility upon successful completion of the apprenticeship.

18 VAC 41-70-40. Examination requirements and fees. The proposed amendments update this section to further clarify and standardize entry requirements. The proposed amendments also add requirements that if an applicant does not apply for licensure within five years of passing both exams, he must reapply, and that the Board will only retain examination records for 'non-applicants' for a maximum of five years.

18 VAC 41-70-60. Examination administration. The proposed amendments update this section to further clarify and standardize requirements for examiners and chief examiners. The changes bring the esthetics regulations in line with other Board regulations.

18 VAC 41-70-70. Esthetician temporary license. The proposed amendments clarify that no fees will be charged for a temporary license and that the license will not be issued where grounds exist to deny the license.

18 VAC 41-70-80. Spa license. The proposed amendments update this section to further clarify and standardize the regulations. The proposed amendments add the requirement that the applicant's license be in good standing and requires applicants and all members of responsible management disclose all felony convictions within 20 years of the date of application, certain misdemeanors within the last two years and any prior discipline by a licensing entity. The proposed also add that the Board may deny licensure to any applicant having prior disciplinary violations for which the Board deems the applicant unfit to engage in the profession. The proposed amendments require disclosure of the applicant's physical address, the firm's responsible management, and certification that the applicant has read applicable laws and regulations. The proposed amendments add the requirement that voided licenses be returned to the Board within 30 days and sets forth what events void a license. The proposed amendments also require any change in responsible management be reported to the Board within 30 days of the change. The proposed amendments allow the Board to inspect a shop or salon during reasonable hours, and define reasonable hours.

18 VAC 41-70-90. School license. The proposed amendments update this section to further clarify and standardize the regulations. The proposed amendments add the requirement that the applicant's license

be in good standing and requires applicants and all members of responsible management to disclose all felony convictions within 20 years of the date of application, certain misdemeanors within the last two years, and any prior discipline by a licensing entity. The proposed amendments also add that the Board may deny licensure to any applicant having prior disciplinary violations for which the Board deems the applicant unfit to engage in the profession. The proposed amendments also require disclosure of the applicant's physical address, the firm's responsible management, and certify that the applicant has read applicable laws and regulations. The proposed amendments incorporate 18 VAC 41-70-170 and add the requirement that voided licenses be returned to the Board within 30 days and sets forth what events void a license. The proposed amendments also require any change in responsible management be reported to the Board within 30 days of the change. The proposed amendments exempt schools under the Virginia Department of Education. The proposed amendments allow the Board to inspect a school during reasonable hours, and define reasonable hours.

18 VAC 41-70-100. General requirements for an esthetics instructor certificate. The proposed amendments update this section to further clarify and standardize the requirements. The proposed amendments require applicants disclose all felony convictions within 20 years of the date of application and certain misdemeanors within the last two years. The proposed amendments also require reporting any prior discipline by a licensing entity and allows for application denial where the Board deems the applicant unfit or unsuited to engage in the profession.

18 VAC 41-70-110. General requirements for a master esthetics instructor license. The proposed amendments update this section to further clarify and standardize the requirements. The proposed amendments require applicants disclose all felony convictions within 20 years of the date of application and certain misdemeanors within the last two years. The proposed amendments also require reporting any prior discipline by a licensing entity and allows for application denial where the Board deems the applicant unfit or unsuited to engage in the profession.

18 VAC 41-70-160. Failure to renew. The proposed amendments update this section to further clarify and standardize the requirements.

18 VAC 41-70-170. Applicants for school licensure. The proposed amendments repeal this regulation, which is incorporated into 18 VAC 41-70-90.

18 VAC 41-70-180. General Requirements. The proposed amendment makes explicit the requirement that schools must submit curriculum changes to the Board.

18 VAC 41-70-220. School identification. The proposed amendments repeal this regulation, which is already contained within 18 VAC 41-70-90.

18 VAC 41-70-230. Records. The proposed amendments update this section to further clarify the regulations and add specific requirements for record keeping. The proposed amendments also add a requirement that schools provide certain documentation to the Board within specified time periods.

18 VAC 41-70-240. Hours reported. The proposed amendments update this section to further clarify the requirements and add the requirement that schools provide student rosters to the Board twice a year at specified intervals.

18 VAC 41-70-260. Display of license. The proposed amendments update this section to further clarify and standardize the requirements. The proposed amendments also add display requirements for apprentices.

18 VAC 41-70-270. Sanitation and safety standards for spas and schools. The proposed amendments update this section to further clarify the requirements. The proposed amendments also clarify the disinfection process between clients. The proposed amendments also add language about disinfecting tubs and bowls used for nail care, upkeep of the immediate area around wax pots, and requiring client

bathrooms with hot and cold water. The proposed amendments also add regulations regarding sanitary storage of soiled and clean linens, sanitary containers, labeling, and disinfectant for nail care, and specified what should be included in the blood spill cleanup kit.

18 VAC 41-70-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty. The proposed amendments update this section to further clarify and simplify the requirements. The proposed amendments also provide grounds for discipline for failing to teach the approved curriculum, bribery, failing to respond or providing false or misleading information to the Board or its agents and refusing to allow inspection of any spa or school. They also clarify and refine grounds for discipline for certain criminal convictions and failing to report convictions within a certain time period. The proposed amendments provide grounds for discipline for allowing unlicensed activity, failing to take sufficient measures to prevent transmission of communicable disease and failing to comply with all procedures with regard to conduct at the examination.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1) The primary advantage of the proposed amendments to the public is the addition of the apprenticeship program as a method of entry. Currently, the only avenue for entry is through training at proprietary schools which may be financially burdensome for some who seek to enter the profession, potentially limiting the number of estheticians who enter the workforce, thus small businesses may have a reduced number of qualified employees to hire. The existence of the DOLI apprenticeship structure will facilitate an efficient and expeditious outcome to this change while providing an avenue to pursue training while being paid at least minimum wage as required by the apprenticeship program. Additionally, the Board will continue to approve applicants and license professionals for which it has safeguards to ensure proper competency and standards of conduct as required by statute. The addition of prohibited acts will reduce fraud and better ensure the regulant population is minimally competent. The clarification of requirements regarding sanitation and health safety will ensure that the health, safety, and welfare of the public are better served. Further, regulants and applicants within these professions will be able to read the Board's requirements with greater clarity and understanding. The added clarity of the language in the proposed regulations will facilitate a quicker and more efficient process for applicants and regulants by enhancing their understanding of their individual requirements. Further, consumers in the public, as well as regulators from related agencies, will have a better understanding of the Board's requirements which will also allow them to conduct their business with greater efficiency.

2) The primary advantage to the Commonwealth will be the positive economic impact of an increase of eligible estheticians entering the workforce who go through the apprenticeship program and potentially contributing to an increase in small businesses, the strengthening of existing small businesses, and a segment of the population with higher earning potential. Additionally, the proposed regulations would provide an avenue to pursue training while being paid at least minimum wage as required by the apprenticeship program. Another advantage is the continued successful regulation of estheticians and master estheticians who meet the minimum entry standards as required by statute. The proposed amendments strengthen the Department's ability to investigate and discipline regulants who disregard the health, safety, and welfare of the public. No disadvantage has been identified.

3) The addition of apprenticeship as a method of entry will likely have a multifaceted positive economic impact. The clarification of the proposed language will facilitate greater understanding of the Board's requirements for all involved.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements in the proposed regulations that would be more restrictive than those currently required in Federal Law.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No localities will be particularly affected.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

- 1) The proposed regulations will have no impact on the authority and rights of parents in the education, nurturing, and supervision of their children.
- 2) The proposed regulations should encourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents through a simplified and clarified regulatory environment. The proposed amendments should make entering and engaging in the regulated professions more easily understood for individuals and businesses.
- 3) The proposed regulations will have no impact on marital commitment.
- 4) The proposed regulations should have a positive impact on disposable family income. By allowing individuals to obtain esthetics training in a paid apprenticeship, rather than only through a school program costing thousands of dollars, this regulation will allow individuals to enter the profession while maintaining family income.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
18 VAC 41-70-20	New subsection A.4 includes a new requirement that certain misdemeanors and all felonies must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant's criminal history.	New subsection A.4 specifies that the only felony convictions within 20 years and certain misdemeanors within 2 years of the date of application require disclosure.	When the Governor approved the proposed regulations, he requested the Board consider whether more specific disclosure requirements can be used and still protect the public. The Board believes that it can exempt felony convictions greater than 20 years old without increasing the risk to public safety.
18 VAC 41-70-80.A.1	New subsection A.1 adds the requirement that the applicant and members of responsible management be in good standing as a licensed spa, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances.	<p>All references to "applicant" changed to "applicant and all members of responsible management".</p> <p>New subsection A.4 specifies that the only felony convictions within 20 years and certain misdemeanors within 2 years of the date of application require disclosure.</p>	<p>The proposed regulatory change was to ensure the Board is licensing spas which are minimally competent to engage in the profession. The proposed stage document inconsistently referred to "applicant" and "applicant and responsible management." This change adds consistency within the section and reflects the original intention of the change.</p> <p>When the Governor approved the proposed regulations, he requested the Board consider whether more specific disclosure requirements can be used and still protect the public. The Board believes that it can exempt felony convictions greater than 20 years old without</p>

			increasing the risk to public safety.
18 VAC 41-70-90.A.1	New subsection A.1 adds the requirement that the applicant and members of responsible management be in good standing as a licensed school, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances.	All references to “applicant” changed to “applicant and responsible management”. New subsection A.4 specifies that the only felony convictions within 20 years and certain misdemeanors within 2 years of the date of application require disclosure.	Implements the same change listed above, for 18 VAC 41-70-80.A.1, for the same reasons. When the Governor approved the proposed regulations, he requested the Board consider whether more specific disclosure requirements can be used and still protect the public. The Board believes that it can exempt felony convictions greater than 20 years old without increasing the risk to public safety.
18 VAC 41-70-100.A.4	New subsection A.4 includes a new requirement that certain misdemeanors and all felonies must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant’s criminal history.	New subsection A.4 specifies that the only felony convictions within 20 years and certain misdemeanors within 2 years of the date of application require disclosure.	When the Governor approved the proposed regulations, he requested the Board consider whether more specific disclosure requirements can be used and still protect the public. The Board believes that it can exempt felony convictions greater than 20 years old without increasing the risk to public safety.
18 VAC 41-70-110.A.4	New subsection A.4 includes a new requirement that certain misdemeanors and all felonies must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant’s criminal history.	New subsection A.4 specifies that the only felony convictions within 20 years and certain misdemeanors within 2 years of the date of application require disclosure.	When the Governor approved the proposed regulations, he requested the Board consider whether more specific disclosure requirements can be used and still protect the public. The Board believes that it can exempt felony convictions greater than 20 years old without increasing the risk to public safety.
18 VAC 41-70-180.6	No Changes.	Adds “All changes to curricula must be resubmitted and approved by the Board.”	This requirement is already implicit in the regulation and 18 VAC 41-70-280 allows for discipline of schools for teaching items outside

			their Board approved curriculum. This clarifying change is meant to make the requirement explicit in the requirements section, and reduce the need for schools to contact the Board to determine if resubmission is required.
18 VAC 41-70-270.B.9.c	New subsection B incorporates old subsection C and expands on disinfection of reusable items. These additions bring esthetics and master esthetics in line with other professions regulated by the Board.	Reference to “appropriate disinfectant” is changed to “EPA-registered hospital (grade) and tuberculocidal disinfectant.”	The use of “appropriate” was vague, and the new language is consistent with type of disinfectant required in other subsections of the section.
18 VAC 41-70-270.C.4	Subsection C.4 is amended with the added requirements that a bathroom be maintained for exclusive client use, have hot and cold water, and allows for a hand air-drying device.	Subsection C is reworded to allow for an exemption for shops and salons that located to the non-compliant facility prior to January 1, 2017.	When the Governor approved the proposed regulations, he requested the Board utilize more flexibility in creating this requirement, such as a an extended period for compliance. A grandfathering provision such as the one proposed will have the smallest economic impact.
18 VAC 41-70-270.D.4	No Changes	Current language requires lotions, ointments, creams, and powders “be kept in closed containers”. Adds “label and” before kept in closed containers.	These products come from the manufacture/retailer with labels. There is danger of confusion and misuse by removing the label. This change should not require any action on the part of the licensee, beyond maintaining pre-existing labels.
18 VAC 41-70-270.E.1	No Changes	Replace “Material Safety Data Sheets (MSDS)” with “Safety Data Sheets (SDS)”.	MSDS has been replaced by the international standard SDS. Industry was required under federal law to complete the switch by December 1, 2015 and MSDS are no longer provided by manufacturers or distributors.
18 VAC	No Changes	Adds “label and” before “stored in	These products come

<p>41-70-270.E.3</p>		<p>nonflammable storage cabinet...".</p>	<p>from the manufacture/retailer with labels. There is danger of confusion and misuse by removing the label. This change should not require any action on the part of the licensee, beyond maintaining pre-existing labels.</p>
<p>18 VAC 41-70-270.E.4</p>	<p>No Changes</p>	<p>Adds "label and" before "separated in storage."</p>	<p>These products come from the manufacture/retailer with labels. There is danger of confusion and misuse by removing the label. This change should not require any action on the part of the licensee, beyond maintaining pre-existing labels.</p>
<p>18 VAC 41-70-280.A.11</p>	<p>This section is reworded to read with greater clarity.</p>	<p>Remove two uses of "other", so that section applies to "any jurisdiction", rather than "any other jurisdiction."</p>	<p>This wording was creating a situation where the Board was able to discipline individuals for disciplinary action outside of the state, but not for disciplinary action within the state by another board. This change will enable the Board to properly address all disciplinary action taken against licensees.</p>
<p>18 VAC 41-70-280.A.14 & 15</p>	<p>New subsection 14 adds the grounds for discipline for any spa or school owner or operator who allows an unlicensed person to practice, unless that person is a registered apprentice.</p> <p>New subsection 15 adds the grounds for discipline for an owner or operator of a school who allows the practice of an unlicensed instructor.</p>	<p>Replaces "owner or operator" with "responsible management."</p>	<p>A significant part of the proposed regulations is a change in the definitions to use the term "responsible management" rather than owner. This reference was overlooked in the proposed stage, and will add consistency to the regulations.</p>
<p>18 VAC 41-70-280.A.17</p>	<p>New subsection 17 adds the grounds for discipline of failing to comply with procedures established by the Board and testing service with regard to</p>	<p>Replace "conduct at the examination" with "conduct at any Board examination."</p>	<p>This change allows the Board to better address fraudulent activities occurring during examinations. Specifically, this allows</p>

	conduct during examination.		the Board to address conduct of a licensee at any board exam, rather than only the exam by which they were licensed.
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Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Recommended Response
Danielle Good	Opposes esthetics apprenticeship. Concerned apprentices will not be adequately prepared to provide services to the public and will drive down wages for estheticians in Virginia.	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board’s statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>While it is not clear that an esthetics apprenticeship program will impact wages in the profession, such considerations are outside of the statutory scope of the Board’s authority. The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The Board is tasked to do this by ensuring licensees are minimally competent to practice in the profession. The Board’s recommendation is that an apprenticeship program can provide training that protects the public by ensuring minimal competence, the same standard required in those trained in schools. It would be</p>

		inappropriate and beyond the Board's authority to limit entry into the profession in order to protect wages of licensed professionals.
Deborah Maffie	Opposes esthetics apprenticeship. As a student enrolled in the esthetics program, concerned that apprenticeship program will diminish DPOR's ability to ensure consistent educational standards and that the apprenticeship would reduce professionalism and increase risk to consumers.	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
J. S. Massingill	Supports esthetics apprenticeship. On the job training is a time-honored tradition and allows apprentices to learn a trade while supporting a family.	<p>The Board concurs. The Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. Apprenticeships combine paid, on-the-job training with classroom instruction. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p>
Jessica Olsen	Opposes esthetics apprenticeship. Concerned	The Board is charged by statute and executive order with protecting the public while regulating

	<p>apprenticeship would lead to lower standard of education resulting in lower quality service, lower wages, and new treatments being deemed outside the scope of practice. Also concerned that apprentices would be used as cheap labor and now receive hands on experience.</p>	<p>its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>While it is not clear that an esthetics apprenticeship program will impact wages in the profession, such considerations are outside of the statutory scope of the Board's authority. The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The Board accomplishes this by ensuring licensees are minimally competent to practice in the profession. The Board's recommendation is that an apprenticeship program can provide training that protects the public by ensuring minimal competence, the same standard required in those trained in schools. It would be inappropriate and beyond the Board's authority to limit entry into the profession in order to protect wages of licensed professionals.</p> <p>Apprenticeships combine paid, on-the-job training with classroom instruction.</p>
<p>Katie Mercado</p>	<p>Opposes esthetics apprenticeship. Believes apprenticeship would discredit the formal schooling currently required. Questions how proper information will be provided if not regulated and who will confirm hours and training. Believes taking away formal schooling is a step backwards for the esthetics field.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The</p>

		<p>Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
Jonathan J. Rawson	Opposes esthetics apprenticeship. Stated proper training is needed for the health and wellbeing of clients.	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven</p>

		<p>structured training program under the Department of Labor and Industry’s oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
<p>Alessia Spielvogel</p>	<p>Opposes esthetics apprenticeship. Concerned apprenticeships will make it more difficult for the state to enforce basic curriculum requirements, causing the whole industry to suffer. Believes apprenticeships will result in less knowledgeable estheticians and put client safety at risk.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board’s statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board’s regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry’s oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
<p>Christine Commons</p>	<p>Opposes esthetics apprenticeship. Feels that apprenticeships would put the safety of the public at risk and harm the reputation of estheticians who completed formal education, because many parts of esthetics curriculum cannot be taught through an apprenticeship. Believes apprenticeships would move</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board’s statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for</p>

	<p>the esthetics field backwards.</p>	<p>Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p> <p>Prior to initiating this regulatory action, a Board committee composed of licensed estheticians studied the practicability of teaching esthetics in an apprenticeship format. After in depth review, the committee recommended the Board pursue an apprenticeship program.</p>
<p>Shiva Vahid</p>	<p>Opposes esthetics apprenticeship. Concerned that oversight of this training would not be done by DPOR, and expects lower standards that could impact health and safety of the public and also cause the reputation of the industry to suffer.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor</p>

		<p>apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
<p>Renee Gilanshah</p>	<p>Opposes esthetics apprenticeship. Concerned that without structure of classroom, health and safety of public will be jeopardized. Also concerned that apprenticeship program will be exploited as low cost method to service clients.</p>	<p>Apprenticeships combine paid, on-the-job training with classroom instruction. On-the-job training is required to be supplemented with related classroom instruction.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p> <p>While it is not clear that an esthetics apprenticeship program will impact wages in the profession, such considerations are outside of the statutory scope of the Board's authority. The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The Board accomplishes this by ensuring licensees are minimally competent to practice in the profession. The Board's recommendation is that an apprenticeship program can provide training that protects the public by ensuring minimal competence, the same standard required in those trained in schools. It would be inappropriate and beyond the Board's authority to limit entry into the profession in order to protect wages of licensed professionals.</p>
<p>Kathleen A Conn DSI Academy Teacher</p>	<p>Opposes esthetics apprenticeship. Questions</p>	<p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves</p>

	<p>who will offer apprenticeships, how their qualifications will be known, and who will regulate them. Believes that apprenticeship program will be a terrible hit to the esthetics industry and a big mistake.</p>	<p>shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p>
<p>Sheila Clemmer</p>	<p>Opposes esthetics apprenticeship. Thinks formal education provides credibility, safety, experience, and gives esthetician knowledge to educate the public. Believes apprenticeship program cannot adequately train someone. Feels esthetics should be given respect by upholding the current laws.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Prior to initiating this regulatory action, a Board committee composed of licensed estheticians studied the practicability of teaching esthetics in an apprenticeship format. After in depth review, the committee recommended the Board pursue an apprenticeship program.</p>

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Valarie Salley	<p>Supports esthetics apprenticeship in Virginia. Believes apprenticeships provide a more realistic industry insight than traditional classroom instruction, in areas such as building clientele, business experience, processing payments, scheduling, marketing, ordering products, supplies, learning from an experienced professional, etc.</p>	<p>The Board concurs. The Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. Apprenticeships combine paid, on-the-job training with classroom instruction. Apprenticeships have a longstanding history contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p>
Valarie Salley – VASal Institute	<p>Supports esthetics apprenticeship in Virginia. Believes apprenticeships provide a more realistic industry insight than traditional classroom instruction, in areas such as building clientele, business experience, processing payments, scheduling, marketing, ordering products, supplies, learning from an experienced professional, etc.</p>	<p>The Board concurs. The Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. Apprenticeships combine paid, on-the-job training with classroom instruction. Apprenticeships have a longstanding history contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p>
Wendy Lawson	<p>Opposes esthetics apprenticeship. Believes regulation of the industry by DPOR is imperative for maintaining client safety and without regulation the standards will drop. Concerned apprenticeship will lower the credibility for the industry as well.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for</p>

		<p>Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Prior to initiating this regulatory action, a Board committee composed of licensed estheticians studied the practicability of teaching esthetics in an apprenticeship format. After in depth review, the committee recommended the Board pursue an apprenticeship program.</p> <p>Owners of esthetics spas who sponsor apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
<p>Nalini Mims</p>	<p>Opposes esthetics apprenticeship. Stated this is a nightmare waiting to happen. Believes safety, honesty, and general well-being that is formed from formal education needs to be applied to the field of esthetics and apprenticeships would be insulting to all in the field.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Owners of esthetics spas who sponsor</p>

		<p>apprentices and the apprentices themselves shall comply with the Board's regulations and standards for apprenticeship training established collaboratively by the Board and the Division of Apprenticeship Training of the Virginia Department of Labor and Industry. Rather than reducing oversight, the apprenticeship program provides a proven structured training program under the Department of Labor and Industry's oversight, that combines on-the-job training and related technical instruction to effectively train apprentices.</p>
<p>Deborah Smallwood</p>	<p>Opposes esthetics apprenticeship. Concerned apprenticeship program puts graduates of the school programs in an unfair position as shop owners could hire apprentices at lower wages under the guise of training them.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>While it is not clear that an esthetics apprenticeship program will impact wages in the profession, such considerations are outside of the statutory scope of the Board's authority. The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The Board is tasked to do this by ensuring licensees are minimally competent to practice in the profession. The Board's recommendation is that an apprenticeship program can provide training that protects the public by ensuring minimal competence, the same standard required in those trained in schools. It would be inappropriate and beyond the Board's authority to limit entry into the profession in order to protect wages of licensed professionals.</p>

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<p>Lourdes Garzan</p>	<p>Opposes esthetics apprenticeship.</p>	<p>The Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The standards of apprenticeship and curriculum content will be as rigorous as the requirements for schools, while meeting the Board's statutory requirement to protect the public.</p> <p>Additionally, the Board currently accepts apprenticeship through the Va. Dept. of Labor and Industry (DOLI) as a method of entry for Barbers, Cosmetologists, Nail Technicians. The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p> <p>Prior to initiating this regulatory action, a Board committee composed of licensed estheticians studied the practicability of teaching esthetics in an apprenticeship format. After in depth review, the committee recommended the Board pursue an apprenticeship program.</p>
<p>Concerned Citizen</p>	<p>Opposes esthetics apprenticeship. Believes apprenticeships in the field of esthetics are logistically different from cosmetology apprenticeships, and are not conducive to a second person in the treatment room. Concerned the end result of the program would be apprentices serving as</p>	<p>Prior to initiating this regulatory action, a Board committee composed of licensed estheticians studied the practicability of teaching esthetics in an apprenticeship format. After in depth review, the committee recommended the Board pursue an apprenticeship program.</p> <p>While it is not clear that an esthetics apprenticeship program will impact wages in the profession, such considerations are outside of the statutory scope of the Board's authority. The</p>

	<p>cheap labor. Believes that based on pass rates from the Richmond technical center, obtained from the Board's testing vendor's website, the cosmetology and barber apprenticeships have dismal pass rates. Believes that because of these pass rates; it is a proven fact that apprenticeships are not a viable method of gaining licensure and cosmetology apprenticeships should be shut down. Concerned that as master esthetics deal with more technical chemicals, apprenticeships will cause harm by exposing the public to unsafe practices.</p>	<p>Board is charged by statute and executive order with protecting the public while regulating its licensees in the least intrusive, least burdensome and most efficient manner. The Board is tasked to do this by ensuring licensees are minimally competent to practice in the profession. The Board's recommendation is that an apprenticeship program can provide training that protects the public by ensuring minimal competence, the same standard required in those trained in schools. It would be inappropriate and beyond the Board's authority to limit entry into the profession in order to protect wages of licensed professionals.</p> <p>The statistics the commenter cited are for high school pass rates from the Virginia Department of Education's cosmetology program, and do not reflect pass rates for barber and cosmetology apprentices.</p> <p>The Board is not aware of any complaints specific to those completing apprenticeship programs in their minimum abilities nor ability to pass the requisite examinations. Apprenticeships have a longstanding history of contributing to a competent workforce in Virginia dating back to 1938 when the General Assembly approved the Virginia Apprenticeship Act.</p>
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All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 41-70-10		Establishes definitions of terms used throughout the chapter.	<p>"Business Entity" is added to provide a comprehensive list of the forms of legal organization permitted under law. Adding this definition precludes the need to consistently repeat this language.</p> <p>"Firm" is added to provide a short hand explanation of business entities recognized under the laws of the Commonwealth.</p>

			<p>Adding this definition precludes the need to consistently repeat this language.</p> <p>“Licensee” is amended to reflect all business entities allowed under the laws of the Commonwealth.</p> <p>“Post-Secondary educational level” is added to distinguish educational levels and recognize accredited colleges or universities.</p> <p>“Responsible Management” is added to identify those who are responsible for the business and regulatory activity of a firm. Adding this definition precludes the need to consistently repeat this language.</p> <p>“Sole Proprietorship” is added to distinguish an individual, not a corporation, trading under his own or an assumed name.</p>
18 VAC 41-70-20		Establishes the general requirements for a barber, cosmetology, or nail technician license.	<p>Subsection A.1 is reworded for greater clarity. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances. This enables the Board to ensure that it is licensing individuals who are minimally competent to engage in the profession.</p> <p>Old subsection A.4. is removed and reworded in subsections A.1 and new subsection A.4.</p> <p>New subsection A.4 includes a new requirement that certain misdemeanors in the last two years and all felonies within the last 20 years must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant’s criminal history.</p>
18 VAC 41-70-30		Establishes licensure by endorsement for certain individuals.	This section is amended to allow master estheticians to be eligible for endorsement.
18 VAC 41-70-35		Allows for apprenticeships as a means for exam eligibility.	This new regulation will result in a new avenue for individuals to enter into the profession. The apprenticeship method of obtaining exam eligibility will also provide a way to obtain the required training without investing significant financial resources.

<p>18 VAC 41-70-40</p>		<p>Establishes examination requirements and fees.</p>	<p>Subsection A is reworded for greater clarity.</p> <p>New subsection E establishes that any candidate who fails to apply for licensure within five years of passing the examination will have to retake both portions of the exam. It also provides that records of exams will be kept for no more than five years. A candidate who does not apply within five years of their exam is less likely to be knowledgeable of their training or the trade. As no candidate can apply if their exam is more than five years old, there is no purpose in maintaining records beyond this point.</p>
<p>18 VAC 41-70-60</p>		<p>Establishes examination administration requirements.</p>	<p>Subsection A is amended to require the practical examination be supervised by a chief examiner. This ensures the practical examiners have experience, thus providing responsible oversight while conducting the exam.</p> <p>New subsection B requires every esthetics and master esthetics examiner to hold a current license in their respective profession, have three years experience, be currently practicing, and attend training workshops. This brings the examiner qualifications in line with other professions regulated by the Board and ensures competent exam administration.</p> <p>New subsection C prohibits esthetics or master esthetics instructors who are actively teaching, school owners, or apprentice sponsors from being examiners. This brings the examiner qualifications in line with other professions regulated by the Board and ensures unbiased exam administration.</p> <p>New subsection D requires every esthetics and master esthetics chief examiner to hold a current license in their respective profession, have five years experience, be currently practicing, and attend training workshops. This brings the examiner qualifications in line with other professions regulated by the Board and ensures competent exam administration.</p>
<p>18 VAC 41-70-70</p>		<p>Establishes the barber, cosmetology and nail</p>	<p>Subsection A is amended to specify that there shall be no fee for a temporary</p>

		<p>technician temporary permits.</p>	<p>license. This addition makes explicit current practice.</p> <p>Subsection C is amended to include additional statutory authority.</p> <p>New subsection E adds the language that temporary permits will not be issued where grounds for denial exist. This ensures that candidates who may disqualify under the Board's regulations are not given temporary licenses and allowed to practice on the public.</p>
<p>18 VAC 41-70-80</p>		<p>Establishes the general requirements for a spa license.</p>	<p>Subsection A.1 is amended to add the requirement that the applicant and members of responsible management be in good standing as a licensed spa, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances. This enables the Board to ensure that it is licensing spas which are minimally competent to engage in the profession.</p> <p>New subsection A.2 requires the applicant to disclose his physical address. This ensures the Board can maintain appropriate oversight and communication with the licensee, should the license be granted.</p> <p>New subsection A.3 requires the applicant certify that he has read and understands Virginia's laws and regulations regarding its profession. This will help ensure that every licensee understands its professional obligations and is minimally competent.</p> <p>New subsection A.4 includes a new requirement that certain misdemeanors in the last two years and all felonies within the last 20 years must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant's criminal history.</p> <p>New subsection A.5 requires the applicant to disclose the firm's responsible management. This will ensure that the</p>

			<p>Board is informed as to who is actually operating the business.</p> <p>Subsection B is amended to read with greater clarity. The disclaimer from old section 280.A.7 is added, noting that the Board is not responsible for a licensee's failure to receive communications if the licensee has not notified the Board of a change of address. This requirement ensures that every applicant is aware that it is responsible for updating its address with the Board.</p> <p>Subsection C is reworded to read with greater clarity and specificity.</p> <p>New subsection D requires that any change to officers, managers or directors of certain business entities be reported to the Board within 30 days of the change. This will ensure that the Board is informed as to who is actually operating the business.</p> <p>New subsection E requires the shop/salon allow the Board to inspect the shop/salon during reasonable hours, and defines reasonable hours as 9 a.m. to 5 p.m. This addition ensures that the Board will have access to the regulated shops and salon and that compliance with the Board's regulations can be verified. This is particularly important if the Board is to fulfill its duty to protect the health, safety and welfare of the public.</p>
<p>18 VAC 41-70-90</p>		<p>Establishes general requirements for a school license.</p>	<p>Subsection A incorporates the requirement from repealed section 170.A that applicants must apply at least 60 days before the date for which approval is sought.</p> <p>Subsection A.1 is amended to add the requirement that the applicant and members of responsible management be in good standing as a licensed school, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances. This enables the Board to ensure that it is licensing schools which are minimally competent to engage in the</p>

		<p>profession.</p> <p>New subsection A.2 requires the applicant to disclose his physical address. This ensures the Board can maintain communication and appropriate oversight of the licensee, should the license be granted.</p> <p>New subsection A.3 requires the applicant certify that he has read and understands Virginia’s laws and regulations regarding its profession. This will help ensure that every licensee understands its professional obligations and is minimally competent.</p> <p>New subsection A.4 includes a new requirement that certain misdemeanors in the last two years and all felonies within the last 20 years must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant’s criminal history.</p> <p>New subsection A.5 requires the applicant to disclose the firm’s responsible management. This will ensure that the Board is informed as to who is actually operating the business.</p> <p>Subsection B is amended to read with greater clarity. A disclaimer is added that the Board is not responsible for a licensee’s failure to receive communications if the licensee has not notified the Board of a change of address. This new requirement ensures that every applicant is aware that he is responsible for updating his address with the Board.</p> <p>Old subsections C and D are removed and replaced with new subsection C, in order to provide greater clarity.</p> <p>Subsection C is added requiring a school to return its license within 30 days of when it becomes void and identifies what will void a license. This regulation will assist the Board in keeping track of which licensees are active and which are inactive. This, in turn, will allow for more accurate information to be distributed to the public regarding licensees.</p>
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<p>18 VAC 41-70- 100</p>		<p>Establishes the requirements for esthetics instructor certificates.</p>	<p>Subsection A.1 is amended to add the requirement that the applicant and members of responsible management be in good standing as a licensed school, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances. This enables the Board to ensure that it is licensing schools which are minimally competent to engage in the profession.</p> <p>Old subsection A.3 is removed.</p> <p>New subsection A.4 includes a new requirement that certain misdemeanors in the last two years and all felonies within the last 20 years must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant's criminal history.</p> <p>Subsection B is amended to read with greater clarity.</p>
<p>18 VAC</p>		<p>Establishes the requirements</p>	<p>Subsection A.1 is amended to add the</p>

<p>41-70-110</p>		<p>for master esthetics instructor certificates.</p>	<p>requirement that the applicant and members of responsible management be in good standing as a licensed school, and requires the applicant disclose any disciplinary action taken against the license. It also adds that the Board may deny licensure to any applicant it deems unfit to engage in the profession, taking into account the totality of the circumstances. This enables the Board to ensure that it is licensing schools which are minimally competent to engage in the profession.</p> <p>Old subsection A.3 is removed.</p> <p>New subsection A.4 includes a new requirement that certain misdemeanors in the last two years and all felonies within the last 20 years must be disclosed by the applicant. In order to conduct the proper analysis required by §54.1-204 of the Virginia Code, the Board needs to be aware of each applicant's criminal history.</p> <p>Subsection B is amended to read with greater clarity.</p>
<p>18 VAC 41-70-160</p>		<p>Establishes provision for when licensees fail to renew.</p>	<p>Subsection A is amended to add greater clarity.</p> <p>Subsection B is replaced with simplified language and adds business entities to the its requirements.</p> <p>Old subsection C and a portion of subsection D is removed and incorporated into subsection B.</p>
<p>18 VAC 41-70-170</p>		<p>Established requirements for applicants for state approval.</p>	<p>This section is repealed and its requirements are incorporated into section 90.</p>
<p>18 VAC 41-70-220</p>		<p>Establishes requirements for school identification.</p>	<p>This section is repealed to provided greater simplicity to the regulations.</p>
<p>18 VAC 41-70-230</p>		<p>Establishes recordkeeping requirements for schools.</p>	<p>Old subsection A is reworded and expanded for greater clarity. The added portion specifies for the regulant which records must be kept.</p> <p>Old Subsections B and C are incorporated into subsection A.</p> <p>New subsection B adds the requirement</p>

			<p>that schools must produce to the Board any document concerning a student within 10 days of the request. This will better enable the Board to prevent fraud, investigate regulatory violations, and better assist the regulant community.</p> <p>New subsection C requires that schools, within 21 days of a student's request, produce documentation and performances completed by that student. This provision will assist students in obtaining their records and addresses a frequent complaint that schools are withholding progress documentation from their students.</p> <p>Subsection E is amended to require that schools, for a period of one year after a change in ownership, provide records within 21 days of a request of a current student.</p>
18 VAC 41-70- 240		Establishes reporting requirements for schools.	<p>This section is amended to read with greater clarity. The language from this section is moved to new subsection B.</p> <p>New subsection A adds the requirement that schools submit a roster of all current students twice a year, at specified intervals. This will better enable the Board to prevent fraud, investigate regulatory violations and better assist the regulant community.</p>
18 VAC 41-70- 260		Establishes a requirement for licenses to be displayed.	<p>Subsection A is amended to read with greater clarity.</p> <p>New subsection requires apprenticeship cards issued by DOLI to be displayed in plain view of the public.</p>
18 VAC 41-70- 270		Establishes sanitation and safety standards for shops, salons, and schools.	<p>This section is reworded and reorganized to read with better clarity.</p> <p>The new requirements in this section are added to provide a more sanitary and safe environment for the public and licensed professionals.</p> <p>New subsection B incorporates old subsection C and expands on disinfection of reusable items. These additions bring esthetics and master esthetics in line with</p>

			<p>other professions regulated by the Board.</p> <p>Old Subsection B is amended to add greater clarity.</p> <p>Old subsection B.7 is incorporated into new subsection C.6.</p> <p>Subsection C.4 is amended with the added requirements that a bathroom be maintained for exclusive client use (except for shops and salons that located to the non-compliant facility prior to January 1, 2017), have hot and cold water, and allows for a hand air-drying device.</p> <p>New subsection C.7 adds requirements for safely keeping tools.</p> <p>Subsection D.4 is amended to add that certain applications should be kept in closed containers and that cotton or sponges shall be used to apply said applications.</p> <p>Subsection D.7 is amended to require clean towels and linens for each patron and specify how these items must be stored.</p> <p>Subsection E.2 is amended to include specific requirements for blood spill cleanup kits.</p>
<p>18 VAC 41-20- 280</p>		<p>Establishes grounds for disciplinary action.</p>	<p>This section is reworded to read with greater clarity.</p> <p>New prohibited acts are added to better enable the Board to prevent fraud, investigate regulatory violations, and better protect the public.</p> <p>Old subsection A.2 is combined with old subsection A.3.</p> <p>New subsection A.5 adds the grounds for discipline of bribing a public official.</p> <p>New subsection A.6 adds the grounds for discipline of failing to respond to the Board, or providing false, misleading, or incomplete information to an inquiry of the Board.</p> <p>New subsection A.7 adds the grounds for</p>

		<p>discipline of failing or refusing to allow the Board or its agent to inspect any licensed shop, salon, or school.</p> <p>Old subsection A.7 is re-numbered and a portion of it is removed as duplicative.</p> <p>Old subsection A.8 is re-numbered and adds the ground for discipline of making a misrepresentation.</p> <p>Old subsection A.10 is repealed. This section was duplicative with old section 20.A.4.</p> <p>Old subsection A.11 is re-numbered and a portion of it is removed as duplicative.</p> <p>New subsection 12 adds grounds for discipline for having been convicted of certain misdemeanor and any felony.</p> <p>New subsection 13 adds grounds for discipline for failing to report to the Board any conviction within 30 days of being convicted.</p> <p>New subsection 14 adds the grounds for discipline for any spa or school owner or operator who allows an unlicensed person to practice, unless that person is a registered apprentice.</p> <p>New subsection 15 adds the grounds for discipline for an owner or operator of a school who allows the practice of an unlicensed instructor.</p> <p>New subsection 16 adds the grounds for discipline of failing to take sufficient measures to prevent the transmission of communicable diseases or fails to comply with laws and regulations pertaining to sanitation and safety.</p> <p>New subsection 17 adds the grounds for discipline of failing to comply with procedures established by the Board and testing service with regard to conduct during any Board examination.</p> <p>Old subsections B, C, and D are removed.</p>
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