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## Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

<b>Agency name</b>	Board for Barbers and Cosmetology
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC41-70
<b>Regulation title</b>	Esthetics Regulations
<b>Date</b>	November 6, 2015

This information is required pursuant to Executive Order 17 (2014).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.*

*Code of Virginia § 54.1-201 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."*

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapters 2 and 7 of Title

54.1 of the *Code of Virginia*. Further, the regulation is necessary to ensure that the Board’s statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Diana M. Pengitore	The state should maintain licensing regulations in their current form. Licensing fees should be lowered, especially for owners who have multiple licenses.	<p>Comments taken under advisement. The Code of Virginia (Callahan Act) mandates fee adjustments are implemented to ensure revenues are adequate for operating expenses, but not excessive. The last time fees for licensees regulated by this Board were revised was in March 2014.</p> <p>The Board is charged with completing its responsibilities in the most efficient and effective manner. When possible the Board strives to reduce costs, but so not to limit services which would result in delays in issuing licenses, creating barriers to citizen’s ability to work, and decrease the Board’s effectiveness in ensuring that licensees conduct their activities in a manner adequate to protect the public health, safety, and welfare.</p>

An informal advisory group was not formed for purposes of assisting in the periodic review.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The regulation meets the criteria set forth in Executive Order 17 (2014). The regulation contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, standards of professional conduct, to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in spas, salons, schools, and other facilities where esthetics and master esthetics services are provided, and administer the regulatory program in accordance with Chapter Chapters 2 and 7 of Title 54.1 of the *Code of Virginia*. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

**Result**

*Please state that the reason why the agency is recommending that the regulation should stay in effect without change.*

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The Board is recommending that the regulation stay in effect without change.

### Small business impact

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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Code of Virginia § 54.1-201.5 mandates the Board for Barbers and Cosmetology to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The Board for Barbers and Cosmetology provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals that meet specific criteria set forth in the statutes and regulations are eligible to receive an esthetics, master esthetics, instructor, spa, or school license, or temporary permit. The Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations.

The sole comment received during the public comment period supported the regulations and suggested a fee reduction. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

There is an ongoing general review of these regulations currently in the proposed stage.

On November 2, 2015, the Board reviewed the regulation and, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.