



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	41
<b>VAC Chapter Number:</b>	10
<b>Regulation Title:</b>	Board for Barbers and Cosmetology Public Participation Guidelines
<b>Action Title:</b>	Promulgating
<b>Date:</b>	May 10, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board for Barbers and Cosmetology Public Participation Guidelines (PPGs) mandate public participation in the promulgation process of regulations. The agency will maintain a mailing list to notify persons and organizations of intended regulatory action. The agency will mail such documents or provide notification of how to obtain a copy electronically of "Notice of Intended Regulatory Actions," "Notice of Comment Period" and a notice that final regulations have been adopted. The PPGs outline the necessary procedures for being placed on or deleted from the mailing list. The Notice of Intended Regulatory Action will provide for a comment period of at least 30 days and will state whether or not a public hearing will be held. The PPGs give specific instances on when the agency must hold a comment period and when the agency must reevaluate the regulations. The PPGs establish the procedures to be taken when substantial changes have been made prior to final adoption of the regulations. The use of and input from advisory

committees to formulate regulations are established in the PPGs. The PPGs specify what meetings and notices will be published in The Virginia Register.

18 VAC 41-10-10 contains definitions for Administrative Process Act, Agency, Notification Lists, Organization, and Person.

18 VAC 41-10-20 states that the agency will mail such documents or notification of how to obtain a copy electronically of “Notice of Intended Regulatory Actions,” “Notice of Comment Period” and a notice that final regulations have been adopted.

18 VAC 41-10-30 outlines the necessary procedures, by writing or electronically, for person or organization being placed on or deleted from the mailing list and information provided.

18 VAC 41-10-40 directs who may petition the agency to adopt or amend regulations and the process by reference to direction by the Code of Virginia.

18 VAC 41-10-50 outlines procedures requiring publishing of Notice of Intended Regulatory Action that will provide for a comment period of at least 30 days and will state whether or not a public hearing will be held and gives specific instances on when the agency must hold a comment period and when the agency must reevaluate the regulations.

18 VAC 41-10-60 states process for evaluating existing regulation within two years of promulgation including conducting informal proceeding, notice of proceedings, and how proceeding held.

18 VAC 41-10-70 describes notification of meeting required when anticipation or adoption of regulation will occur, provides for submittals on changes to the regulations, and the agency’s action to submittals.

18 VAC 41-10-80 gives direction on formulation of advisory committees to participate in the formulation, promulgation, adoption, and review of regulations.

18 VAC 41-10-90 gives applicability of section to promulgated and adopted regulations.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

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The proposed regulatory changes will promulgate public participation guidelines for the newly combined Board for Barbers and Cosmetology as directed by Acts 2000,c.726,cl.3.

§ 2.2-4007.D. describes that public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

§ 54.1-201.5. describes each regulatory boards 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.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed public participation guidelines and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

Public Participation Guideline are promulgated to ensure that the public has knowledge and opportunity to participate in the formation and development of regulations and in so doing protects the health, safety, or welfare of the citizens of the Commonwealth.

18 VAC 41-10-10 contains definitions for Administrative Process Act, Agency, Notification Lists, Organization, and Person. These definitions ensure that to protect the health, safety, or welfare of the citizens, the public has knowledge of subjects included in the regulations.

18 VAC 41-10-20 states that the agency will mail such documents or notification of how to obtain a copy electronically of “Notice of Intended Regulatory Actions,” “Notice of Commend Period” and a notice that final regulations have been adopted. This action ensures that to protect the health, safety, or welfare of the citizens, the regulatory action is accessible to the public and that the public is knowledgeable of the regulations.

18 VAC 41-10-30 outlines the necessary procedures, by writing or electronically, for person or organization being placed on or deleted from the mailing list and information provided. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of regulatory action.

18 VAC 41-10-40 directs who may petition the agency to adopt or amend regulations and the process by reference to direction by the Code of Virginia. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of who may participate in regulatory action.

18 VAC 41-10-50 outlines procedures requiring publishing of Notice of Intended Regulatory Action that will provide for a comment period of at least 30 days and will state whether or not a public hearing will be held and gives specific instances on when the agency must hold a comment period and when the agency must reevaluate the regulations. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of regulatory action and the participation through public comment.

18 VAC 41-10-60 states process for evaluating existing regulation within two years of promulgation including conducting informal proceeding, notice of proceedings, and how proceeding held. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of mandated regulatory action.

18 VAC 41-10-70 describes notification of meeting required when anticipation or adoption of regulation will occur, provides for submittals on changes to the regulations, and the agency's action to submittals. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of regulatory action by the board, directions for submittals and action in response to submittals.

18 VAC 41-10-80 gives direction on formulation of advisory committees to participate in the formulation, promulgation, adoption, and review of regulations. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of participation in the regulatory action through committees.

18 VAC 41-10-90 gives applicability of section to promulgated and adopted regulations. This action ensures that to protect the health, safety, or welfare of the citizens, the public is knowledgeable of applicability of the regulations to the regulatory action.

The intent of the proposed regulatory action is to promulgate public participation guidelines is to comply with state mandates and to increase the efficient and economical performance of an important governmental function by adopting the least burdensome alternatives allowed by state law.

The Board proposes to promulgate 18 VAC 41-10-10 et seq., Board for Barbers and Cosmetology Public Participation Guidelines. The Board proposes to do so because the Board requires public participation guidelines, as directed by Acts 2000,c. 726,cl. 3.

Chapter 40 - Administrative Process Act § 2.2-4007. D. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

The Board for Barbers and Cosmetology Public Participation Guidelines are new regulations. The proposed regulatory change will establish Public Participation Guidelines for the newly combined Board for Barbers and Cosmetology under 18 VAC 41-10-10 et seq., as directed by Acts 2000,c.726,cl.3., to ensure that the Board is meeting its statutory mandate without burdensome requirements and to ensure that the public has knowledge and opportunity to participate in the formation and development of regulations and in so doing protects the health, safety, or welfare of the citizens of the Commonwealth..

18 VAC 41-10-10 contains definitions for Administrative Process Act, Agency, Notification Lists, Organization, and Person.

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18 VAC 41-10-90 gives applicability of section to promulgated and adopted regulations.

### Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 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 include a sentence to that effect.*

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The proposed regulatory action is an advantage to the public in that it will establish guidelines that provide for public participation in the promulgation and amending of regulations pertaining to the Board for Barbers and Cosmetology.

There are no disadvantages to the public or the Commonwealth.

### Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency’s best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

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There is no anticipated fiscal impact.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

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The Board for Barbers and Cosmetology Public Participation Guidelines are new regulations.

**18 VAC 41-10-10 et seq.** – establishes Public Participation Guidelines for the newly combined Board for Barbers and Cosmetology.

Pertaining to the expired Board for Barbers Public Participation Guidelines and the expired Board for Cosmetology Public Participation Guidelines, the proposed regulatory action will consist of the following substantive changes:

**18 VAC 41-10-10.** – definition of Administrative Process Act is added to clarify reference to Administrative Process Act. Definition of Notification lists is added to clarify lists available.

**18 VAC 41-10-20.** – language was added for notification of how to obtain copy of documents electronically.

**18 VAC 41-10-30.** – language was added to clarify activities pertaining to an organization and activities conducted electronically.

**18 VAC 41-10-40.** – language was added to update rulemaking provisions.

## Alternatives

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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Failure to promulgate new regulations will result in the newly combined Board for Barbers and Cosmetology maintaining two sets of Public Participation Guidelines and the Board would not be in compliance with Acts 2000, c.726, cl.3.

Other regulatory provisions would not provide for less burdensome alternatives.

## Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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No public comment was received during the NORI comment period.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The Board submits that the proposed regulations are clearly written and understandable for both the regulants and the public.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The regulations will be reviewed during the Board’s normal course of regulatory review that shall in no case exceed three years from the effective date of these regulations. Fees are evaluated at the end of every biennium. If fee adjustments are necessary, the regulatory review process is initiated. Otherwise, within 24 to 36 months of the effective date of these regulations, this matter will be placed on the Board’s agenda for consideration.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.*

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The proposed regulatory actions are not anticipated to have any significant impact on Virginia’s families.