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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Barbers and Cosmetology
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 41-20
VAC Chapter title(s)	Barbers and Cosmetology
Action title	Lower Cosmetology Training to 1,000 Hours
Date this document prepared	August 23, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Board for Barbers and Cosmetology proposes to lower the training hours for the cosmetology license from 1,500 hours to 1,000 hours. This change is expected to revise the training topics in the cosmetology curriculum to create uniform training among cosmetology schools. The Board will also look at streamlining training requirements in other training programs under the Barbers and Cosmetology Regulations.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

"Department" means the Department of Professional and Occupational Regulation.

“Board” means the Board for Barbers and Cosmetology

“RAP” means Regulatory Advisory Panel

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

On July 11, 2022, the Board approved a Notice of Intended Regulatory Action to lower the cosmetology hours from 1,500 to 1,000 hours. During the 2022 General Assembly session, the Board was asked to look at their hours requirement during a legislative subcommittee meeting that was voting on a bill that would lower cosmetology training hours. After convening an expert panel to review their curriculum, the Board determined that the hours could be lowered while ensuring students were adequately trained to perform services on the public safely.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’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

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of this action is to reduce unnecessary burdens in the cosmetology training program and reduce the training hours for the cosmetology license, to better reflect the minimum number of hours necessary for a student to become a safe practitioner. During the 2022 General Assembly session, members of the General Laws committee narrowly rejected a bill that would lower the cosmetology hours to 1,000 hours. In doing so, members expressed the desire for the Board to take action itself. Following that session, the Board created a Regulatory Advisory Panel composed of school owners, curriculum writers, public school and private school instructors, as well as a salon safety expert and industry leaders, to review a proposed cosmetology curriculum. The RAP completed surveys assessing each curriculum item for whether there was a safety risk addressed by the training, whether training was the least

restrictive means to address that risk, and if so, what were the minimum number of hours needed for the student to perform that service safely. The average number of training hours from the RAP was 892 hours. The Board reviewed the RAP's recommendations, and taking into consideration license portability, national trends in hours, and minimum safety requirements, voted to lower the hours from 1,500 hours to 1,000 hours. The Board will need to finalize a new curriculum under this new hour amount, as well as determine whether the nail, wax, and barber training programs should also be revised.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The proposed change will lower the cosmetology training hours from 1,500 to 1,000. The cosmetology curriculum will likely be revised, as may other curriculum under the Barbers and Cosmetology regulations. Revisions will be made that are determined necessary to ensure the training is no more burdensome than necessary while ensuring students are training to be minimally competent practitioners.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The Board considered taking no action, reducing hours to 892 hours, and another 1,000 hour proposal that would also incorporate an hours reduction for esthetics training.

Taking no action on the hours was rejected as not feasible. The RAP's analysis of the curriculum clearly indicated that 1,500 hours was greater than necessary to adequately protect the health, safety, and welfare of the public. The Board's statutory requirement in Code of Virginia §54.1-100 is to regulate no more than necessary to protect the health, safety, and welfare of the public. The Board consensus agreed with the RAP that 1,500 hours was more than necessary.

The Board rejected 892 hours as too little for the cosmetology license. Currently, the lowest amount of cosmetology training hours among the states is 1,000 hours (MA, VT, NY, TX, CA). Three of these states have lowered their hours to 1,000 over the past few years (CA, TX, VT). The Board considers license portability an important aspect of licensure. While several states will not accept a 1,000 hour training program (requiring these applicants to obtain additional hours in a school), many states currently do accept that amount, either by itself or in combination with experience. Training less than 1,000 hours would likely not be accepted by many other states, and would render the license substantially less portable than the 1,000 hours standard.

The Board rejected the 1,000 hours proposal that incorporated a change to esthetics as unnecessary. The impact of an hours change on the esthetics schools and students would be substantially higher than an hours change for cosmetology. Additionally, the RAP was more focused on cosmetology than esthetics training, and the recommendation was not directed at changing the hours of the esthetics license.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

INSERT:

The Board for Barbers and Cosmetology is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Stephen Kirschner, Executive Director, Board for Barbers and Cosmetology, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233. Telephone: (804) 367-8590, Fax: (866) 245-9693. Email barbercosmo@dpor.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.