



## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board for Barbers and Cosmetology
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 41 -30
<b>Regulation title</b>	HAIR BRAIDING REGULATIONS
<b>Action title</b>	Promulgation of regulations to incorporate amendments to Code of Virginia.
<b>Document preparation date</b>	May 13, 2004

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Preamble

*The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.*

- 1) Please explain why this is an “emergency situation” as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

Chapter 600 of the 2003 Acts of the Assembly mandated a separate licensing category for hair braiders under the Board for Barbers and Cosmetology. The legislation set forth conditions for the Board to waive the examination requirements for licensure as a hair braider for any individual making application for licensure between July 1, 2003, and July 1, 2004, and require

regulations effective July 1, 2004. The regulations contain the requirements for obtaining a license, safety and sanitation procedures, and standards of professional conduct.

Over 404 hair braider licenses have been issued since July 1, 2003 to individuals practicing in Virginia with no regulations. Emergency action is justified in this case due to the “imminent threat to public health or safety” (§ 2.2-4011.A of the Administrative Process Act) which would result from the failure of the Board to have regulations in place on July 1, 2004.

After July 1, 2004, without regulations the Board will be unable to process applications for licensure due to the inability to determine the eligibility of the applicants. The statutes require licensure for individuals (§§ 54.1-703 and 54.1-704), shops and salons (§ 54.1-704.1), and schools (§ 54.1-704.2). All of the qualifications for licensure for all licenses issued by the Board are contained in regulations, therefore, eligibility cannot be determined without regulations.

The Board does not have authority to take enforcement action including safety and sanitation procedures, and standards of professional conduct in regard to the licenses issued between July 1, 2003 and July 1, 2004 until regulation are effective.

This action is based on the mandate of the 2003 General Assembly that the health, safety and welfare of the public would be endangered without the issuance of licenses and enforcement of regulations of this occupation.

### Legal basis

*Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Enactment of Chapter 600 of the 2003 Act of the Assembly:

#### CHAPTER 600

*An Act to amend and reenact §§ 54.1-700, 54.1-701, 54.1-703, and 54.1-704.1 through 54.1-706 of the Code of Virginia, as they are currently effective and as they shall become effective, and to amend the Code of Virginia by adding a section numbered 54.1-703.2, relating to the Board of Barbers and Cosmetology; regulation of hair braiders.*

[H 1941]

Approved March 18, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ [54.1-700](#), [54.1-701](#), [54.1-703](#), and [54.1-704.1](#) through [54.1-706](#) of the Code of Virginia, as they are currently effective and as they shall become effective, are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered [54.1-703.2](#) as follows:

§ [54.1-700](#). (Effective until July 1, 2004) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

*"Braiding salon" means any commercial establishment, residence, vehicle, or other establishment, place, or event wherein hair braiding is offered or practiced on a regular basis for compensation.*

*"Braiding school" means a place or establishment licensed by the Board to accept and train students and which offers a hair braiding curriculum approved by the Board.*

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, *braids*, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, *braiding*, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

*"Hair braider" means a person who engages in the practice of hair braiding on a regular basis for compensation.*

*"Hair braiding" means the braiding, twisting, wrapping, weaving, extending, or locking of natural human hair by hand or mechanical device, provided that the service does not include hair cutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.*

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"Physical (wax) depilatory" means the wax depilatory product or substance used to remove superfluous hair.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"Wax technician" means any person licensed by the Board who removes hair from the hair follicle using a physical (wax) depilatory or by tweezing.

"Wax technician instructor" means a licensed wax technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of waxing.

"Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

"Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein waxing is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

§ [54.1-700](#). (Effective July 1, 2004) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

*"Braiding salon" means any commercial establishment, residence, vehicle, or other establishment, place, or event wherein hair braiding is offered or practiced on a regular basis for compensation.*

*"Braiding school" means a place or establishment licensed by the Board to accept and train students and which offers a hair braiding curriculum approved by the Board.*

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, *braids*, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, *braiding*, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

*"Hair braider" means a person who engages in the practice of hair braiding on a regular basis for compensation.*

*"Hair braiding" means the braiding, twisting, wrapping, weaving, extending, or locking of natural human hair by hand or mechanical device, provided that the service does not include hair cutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.*

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"Physical (wax) depilatory" means the wax depilatory product or substance used to remove superfluous hair.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

"Wax technician" means any person licensed by the Board who removes hair from the hair follicle using a physical (wax) depilatory or by tweezing.

"Wax technician instructor" means a licensed wax technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of waxing.

"Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

"Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein waxing is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

§ [54.1-701](#). (Effective until July 1, 2004) Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in the Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail

technicians, *hair braiders*, barber instructors, cosmetology instructors, wax technician instructors or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions;

4. Persons licensed as funeral directors or embalmers in the Commonwealth;
5. Gratuitous services as a barber, nail technician, cosmetologist~~or~~, wax technician, *or hair braider*;
6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, ~~or~~waxing, *or hair braiding*;
7. Persons working in a cosmetology salon whose duties are expressly confined to ~~the~~ *hair braiding or the* shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;
8. Apprentices serving in a barbershop, nail salon, waxing salon~~or~~, cosmetology salon, *or hair braiding salon* licensed by the Board in accordance with the Board's regulations; and
9. Schools of barbering, nail care, waxing~~or~~, cosmetology, *or hair braiding* in public schools.

§ [54.1-701](#). (Effective July 1, 2004) Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in the Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, *hair braiders*, barber instructors, cosmetology instructors, wax technician instructors or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions;
4. Persons licensed as funeral directors or embalmers in the Commonwealth;
5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, *hair braider*, tattooer, or body-piercer;
6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, waxing, *hair braiding*, tattooing, or body-piercing;
7. Persons working in a cosmetology salon whose duties are expressly confined to ~~the~~ *hair braiding or the* shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;
8. Apprentices serving in a barbershop, nail salon, waxing salon~~or~~, cosmetology salon, *or hair braiding salon* licensed by the Board in accordance with the Board's regulations; and

9. Schools of barbering, nail care, waxing~~or~~, cosmetology, *or hair braiding* in public schools.

§ [54.1-703](#). (Effective until July 1, 2004) License required.

No person shall offer to engage in or engage in barbering, cosmetology, nail care,~~or waxing~~, *or hair braiding* without a valid license issued by the Board, except as provided in § [54.1-701](#).

§ [54.1-703](#). (Effective July 1, 2004) License required.

No person shall offer to engage in or engage in barbering, cosmetology, nail care, waxing, *hair braiding*, tattooing, or body-piercing without a valid license issued by the Board, except as provided in § [54.1-701](#).

§ [54.1-703.2](#). *Waiver of examination; hair braiders.*

*The Board shall waive the examination requirements for licensure as a hair braider for any individual who (i) makes application for licensure between July 1, 2003, and July 1, 2004, or the effective date of hair braiding regulations of the Board, whichever comes first; (ii) otherwise complies with Board regulations relating to moral turpitude; and (iii) meets any of the following conditions:*

- 1. Has at least three years of documented work experience as a hair braider that is deemed satisfactory pursuant to guidelines issued by the Board;*
- 2. Has completed a training program that is deemed satisfactory pursuant to guidelines issued by the Board; or*
- 3. Holds an unexpired certificate of registration, certification, or license as a hair braider issued to him on the basis of comparable requirements by a proper authority of a state, territory, or possession of the United States or the District of Columbia.*

§ [54.1-704.1](#). (Effective until July 1, 2004) License required for barbershop, cosmetology salon, nail care salon, waxing salon, and hair braiding salon.

No individual or entity shall operate a barbershop, cosmetology salon, nail care salon~~or~~, *hair braiding salon*, or waxing salon without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, nail technician or waxing technician who does not have an ownership interest in a licensed barbershop, cosmetology salon, nail care salon~~or~~, waxing salon, *or hair braiding salon* in which he is employed.

§ [54.1-704.1](#). (Effective July 1, 2004) License required for barbershop, cosmetology salon, nail care salon, waxing salon, hair braiding salon, tattoo parlor, and body-piercing salon.

No individual or entity shall operate a barbershop, cosmetology salon, nail care salon, waxing salon, *hair braiding salon*, tattoo parlor, or body-piercing salon without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, nail technician, waxing technician, tattooer, or body-piercer who does not have an ownership interest in a

licensed barbershop, cosmetology salon, nail care salon, waxing salon, *hair braiding salon*, tattoo parlor, or body-piercing salon in which he is employed.

§ [54.1-704.2](#). (Effective until July 1, 2004) License required for schools of barbering, cosmetology, nail care, waxing, and hair braiding.

Except as provided in § [54.1-701](#), no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, nail care ~~or~~, waxing, *or hair braiding* unless licensed by the Board pursuant to its regulations.

§ [54.1-704.2](#). (Effective July 1, 2004) License required for schools of barbering, cosmetology, nail care, waxing, hair braiding, tattooing, or body-piercing.

Except as provided in § [54.1-701](#), no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, nail care, waxing, *hair braiding*, tattooing, or body-piercing unless licensed by the Board pursuant to its regulations.

§ [54.1-705](#). (Effective until July 1, 2004) Inspections.

Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, waxing salon ~~and~~, nail care salon, *and hair braiding salon* in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action. The Board may inspect barbershops, barber schools, cosmetology salons and schools, waxing salons and schools, ~~and~~ nail care salons and schools, *and hair braiding salons and schools* for compliance with regulations promulgated by the Board.

§ [54.1-705](#). (Effective July 1, 2004) Inspections.

A. Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, waxing salon, nail care salon, *hair braiding salon*, tattoo parlor, and body-piercing salon in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action.

B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, waxing salons and schools, nail care salons and schools, *hair braiding salons and schools*, tattoo parlors and schools, and body-piercing salons and schools for compliance with regulations promulgated by the Board.

C. The Board shall specify procedures for enforcement of compliance with the disease control and disclosure requirements of § [18.2-371.3](#), including unannounced inspections by appropriate personnel.

D. The Board or the Virginia Department of Health, or an affiliated local health department, may regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons.

§ [54.1-706](#). (Effective until July 1, 2004) Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology, nail care ~~and~~, waxing, *and hair braiding*.

§ [54.1-706](#). (Effective July 1, 2004) Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology, nail care, waxing, *hair braiding*, tattooing, and body-piercing.

2. That an emergency exists and this act is in force from its passage.

The legal authority to promulgate emergency regulations is in §§ 2.2-4011.A and 54.1-201.5 of the *Code of Virginia*:

Emergency regulations are promulgated under the general authority of Chapter 40 of Title 2.2 of the Code of Virginia. Section 2.2-4011(A) describes regulations that an agency finds are necessitated by an emergency situation:

**§ 2.2-4011. Emergency regulations; publication; exceptions.**

A. Regulations that an agency finds are necessitated by an emergency situation. For the purposes of this subsection, "emergency situation" means a situation (i) involving an imminent threat to public health or safety or (ii) in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt the regulations. Pursuant to § 2.2-4012, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. The regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with this article. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4011>

Regulations are promulgated under the general authority of Chapter 2 of Title 54.1 of the Code of Virginia. Section 54.1-201(5) provides the Board the authority to promulgate regulations to administer the regulatory system:

**§ 54.1-201. Powers and duties of regulatory boards.**

The powers and duties of regulatory boards shall be as follows:

5. 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.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-210>

The statement from the Office of the Attorney General certifying that the agency has the statutory authority to promulgate the emergency regulations and that it comports with applicable state and/or federal law is included.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

Promulgation of regulations governing the licensure and practice of hair braiding is mandated by Chapter 600 of the 2003 Acts of the Assembly.

The goals of the emergency regulations are to establish entry, renewal, reinstatement, and endorsement requirements and fees necessary to administer the licensure of hair braiding practitioners, braiding salons and braiding schools in the Commonwealth of Virginia to fulfill the Board's responsibility to protect the health, safety and welfare of the citizens of the Commonwealth.

### Substance

*Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

These emergency regulations are being promulgated to establish a separate licensing category for hair braiders under the Board for Barbers and Cosmetology as directed by Chapter 600 of the 2003 Acts of the Assembly.

The emergency regulatory action is necessary to ensure minimal competence of hair braiding practitioners. This regulatory action will establish qualifications for licensure, standards of practice and requirements for maintaining licensure as a hair braider, hair braiding salon, and

hair braiding schools in the Commonwealth of Virginia. This regulatory action will establish fees necessary to administer the licensure of hair braiding practitioners, hair braiding salons, and hair braiding schools in the Commonwealth of Virginia.

As directed by the 2003 General Assembly, this regulatory action is required to protect the health, safety and welfare of citizens of the Commonwealth in that it will provide for and ensure that licensees have met qualifications that demonstrate competency that protects the health, safety and welfare of citizens of the Commonwealth and that health and sanitary standards and safety are adequate in shops, salons and schools where hair braiding services are being provided.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
NA	<b><u>18 VAC 41-30-10.</u></b> <b><u>Definitions.</u></b>	NA	<p><u>The following words and terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.</u></p> <p><u>"Direct supervision" means that a Virginia licensed cosmetologist or hair braider shall be present in the hair braiding salon at all times when services are being performed by a temporary license holder.</u></p> <p><u>"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state or jurisdiction.</u></p> <p><u>"Licensee" means any individual, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.</u></p> <p><u>"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.</u></p> <p><u>"Renewal" means continuing the effectiveness of a license for another period of time.</u></p> <p><u>"Virginia state institution" for the purposes of this chapter means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.</u></p> <p>Defines the meaning of words and terms used within the chapter and establishes that all terms defined in § 54.1-700 et seq., of the Code of</p>

			Virginia are incorporated into the chapter.
NA	<p><b><u>18 VAC 41-30-20. General requirements for a hair braider license.</u></b></p>	NA	<p>A. <u>In order to receive a license as a hair braider, an applicant must meet the following qualifications:</u></p> <ol style="list-style-type: none"> <li>1. <u>The applicant shall be in good standing as a licensed hair braider in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a cosmetologist or hair braider. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a cosmetologist or hair braider.</u></li> <li>2. <u>The applicant shall disclose his physical address. A post office box is not acceptable.</u></li> <li>3. <u>The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia hair braiding license laws and the board's hair braiding regulations.</u></li> <li>4. <u>In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of cosmetology or hair braiding. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of hair braiding. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.</u></li> <li>5. <u>The applicant shall provide evidence satisfactory to the board that the applicant</u></li> </ol>

			<p><u>has passed the board-approved examination, administered either by the board or by independent examiners.</u></p> <p><u>B. Eligibility to sit for board-approved examination.</u></p> <p><u>1. Training in the Commonwealth of Virginia. Any person completing an approved hair braiding training program in a Virginia licensed cosmetology or hair braiding school, or a Virginia public school's hair braiding program approved by the State Department of Education shall be eligible for examination.</u></p> <p><u>2. Training outside of the Commonwealth of Virginia, but within the United States and its territories.</u></p> <p><u>Any person completing a hair braiding training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 170 hours of training to be eligible for examination. If less than 170 hours of hair braiding training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent hair braiding course and documentation of six months of work experience as a hair braider in order to be eligible for the hair braider examination.</u></p> <p>Establishes the general requirements for licensure as a hair braider to include applicant qualifications and eligibility to sit for board-approved examination.</p>
NA	<b><u>18 VAC 41-30-30. License by endorsement.</u></b>	NA	<p><u>Upon proper application to the board, any person currently licensed to practice as a hair braider or cosmetologist in any other state or jurisdiction of the United States and who has completed both a training program and a written and practical examination that is substantially equivalent to that required by this chapter, may be issued a hair braider license without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-30-20.A.</u></p> <p>Sets forth the requirements for obtaining a hair braider license by endorsement for applicants</p>

			currently licensed to practice as a hair braider or cosmetologist in another state or jurisdiction of the United States.
NA	<b><u>18 VAC 41-30-40. Exceptions to training requirements.</u></b>	NA	<p>A. <u>Virginia licensed cosmetologists shall be eligible for the hair braider examination.</u></p> <p>B. <u>Any hair braider applicant having been trained as a hair braider in any Virginia state institution shall be eligible for the hair braiding examination.</u></p> <p>C. <u>Any hair braider applicant having a minimum of two years experience in hair braiding in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the examination.</u></p> <p>Provides exceptions to the training requirements for eligibility to sit for the hair braiding examination.</p>
NA	<b><u>18 VAC 41-30-50. Examination requirements and fees.</u></b>	NA	<p>A. <u>Applicants for initial licensure shall pass a written examination approved by the board. The examination may be administered by the board or by a designated testing service.</u></p> <p>B. <u>Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.</u></p> <p>C. <u>The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225.00 per candidate.</u></p> <p>Prescribes that applicants for an initial hair braider license shall pass a written examination approved by the board. This section also states that any candidate for failing to appear for an examination shall forfeit the examination fee.</p>
NA	<b><u>18 VAC 41-30-60. Reexamination requirements.</u></b>	NA	<p><u>Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.</u></p> <p>Sets forth the requirements for any applicant</p>

			who does not pass a reexamination within one year of the initial examination.
NA	<b><u>18 VAC 41-30-70. Examination administration.</u></b>	NA	<p>A. <u>The examination shall be administered by the board or the designated testing service.</u></p> <p>B. <u>The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.</u></p> <p>Establishes the requirements for the administration of the hair braider examination.. This section also sets forth a standard of applicant conduct during the administration of an examination.</p>
NA	<b><u>18 VAC 41-30-80. Hair braider temporary licenses.</u></b>	NA	<p>A. <u>A temporary license to work under the supervision of a currently licensed hair braider or cosmetologist may be issued only to applicants for initial licensure that the board finds eligible for examination. There shall be no fee for a temporary license.</u></p> <p>B. <u>The temporary license shall remain in force for 45 days following the examination date. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.</u></p> <p>C. <u>Any person continuing to practice hair braiding services after a temporary license has expired may be prosecuted and fined by the Commonwealth under § 54.1-111.A.1 of the Code of Virginia.</u></p> <p>D. <u>No applicant for examination shall be issued more than one temporary license.</u></p> <p>Sets forth the conditions under which a hair braider temporary license can be issued.</p>
NA	<b><u>18 VAC 41-30-90. Salon license.</u></b>	NA	<p>A. <u>Any individual wishing to operate a hair braiding salon shall obtain a salon license in compliance with § 54.1-704.1 of the Code of</u></p>

			<p><u>Virginia.</u></p> <p><u>B. A hair braiding salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.</u></p> <p><u>C. In the event of a closing of a hair braiding salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.</u></p> <p>Establishes the requirements for obtaining a hair braiding salon license in compliance with § 54.1-704.1 of the Code of Virginia. This section also specifies actions to be taken by an owner of a salon in the event the facility closes.</p>
<p>NA</p>	<p><b><u>18 VAC 41-30-100. School license.</u></b></p>	<p>NA</p>	<p><u>A. Any individual wishing to operate a hair braiding school shall obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia. All instruction and training of hair braiders shall be conducted under the direct supervision of a certified cosmetologist instructor, or licensed hair braider.</u></p> <p><u>B. A hair braiding school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.</u></p> <p><u>C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.</u></p> <p><u>D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned.</u></p>

			<p>Sets forth the requirements for obtaining a hair braiding school license in compliance with § 54.1-704.2 of the Code of Virginia, and the qualifications for individuals providing instruction. This section also specifies actions to be taken by an owner in the event of a closing of a hair braiding school.</p>																																										
<p>NA</p>	<p><b><u>18 VAC 41-30-110. Fees.</u></b></p>	<p>NA</p>	<p>The following fees apply:</p> <table border="1" data-bbox="824 541 1422 1598"> <thead> <tr> <th><u>FEE TYPE</u></th> <th><u>AMOUNT DUE</u></th> <th><u>WHEN DUE</u></th> </tr> </thead> <tbody> <tr> <td colspan="3"><u>Individuals:</u></td> </tr> <tr> <td><u>Application</u></td> <td><u>\$55</u></td> <td><u>With application</u></td> </tr> <tr> <td><u>License by Endorsement</u></td> <td><u>\$55</u></td> <td><u>With application</u></td> </tr> <tr> <td><u>Renewal:</u></td> <td><u>\$55</u></td> <td><u>With renewal card prior to expiration date</u></td> </tr> <tr> <td><u>Reinstatement</u></td> <td><u>\$55</u></td> <td><u>With reinstatement application</u></td> </tr> <tr> <td colspan="3"><u>Salons:</u></td> </tr> <tr> <td><u>Application</u></td> <td><u>\$90</u></td> <td><u>With application</u></td> </tr> <tr> <td><u>Renewal</u></td> <td><u>\$90</u></td> <td><u>With renewal card prior to expiration date</u></td> </tr> <tr> <td><u>Reinstatement</u></td> <td><u>\$90</u></td> <td><u>With reinstatement application</u></td> </tr> <tr> <td colspan="3"><u>Schools:</u></td> </tr> <tr> <td><u>Application</u></td> <td><u>\$120</u></td> <td><u>With application</u></td> </tr> <tr> <td><u>Renewal</u></td> <td><u>\$120</u></td> <td><u>With renewal card prior to expiration date</u></td> </tr> <tr> <td><u>Reinstatement</u></td> <td><u>\$120</u></td> <td><u>With reinstatement application</u></td> </tr> </tbody> </table> <p>Establishes the fees for initial, renewal and reinstatement applications for individuals, salons, and schools that are licensed or certified under this chapter.</p> <p>All boards within the Department of Professional and Occupational Regulation must</p>	<u>FEE TYPE</u>	<u>AMOUNT DUE</u>	<u>WHEN DUE</u>	<u>Individuals:</u>			<u>Application</u>	<u>\$55</u>	<u>With application</u>	<u>License by Endorsement</u>	<u>\$55</u>	<u>With application</u>	<u>Renewal:</u>	<u>\$55</u>	<u>With renewal card prior to expiration date</u>	<u>Reinstatement</u>	<u>\$55</u>	<u>With reinstatement application</u>	<u>Salons:</u>			<u>Application</u>	<u>\$90</u>	<u>With application</u>	<u>Renewal</u>	<u>\$90</u>	<u>With renewal card prior to expiration date</u>	<u>Reinstatement</u>	<u>\$90</u>	<u>With reinstatement application</u>	<u>Schools:</u>			<u>Application</u>	<u>\$120</u>	<u>With application</u>	<u>Renewal</u>	<u>\$120</u>	<u>With renewal card prior to expiration date</u>	<u>Reinstatement</u>	<u>\$120</u>	<u>With reinstatement application</u>
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			operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies.
NA	<b><u>18 VAC 41-30-120. Refunds.</u></b>	NA	<u>All fees are nonrefundable and shall not be prorated.</u>  Establishes that all fees are nonrefundable and shall not be prorated.
NA	<b><u>18 VAC 41-30-130. License renewal required.</u></b>	NA	<u>All hair braider licenses, hair braiding salon licenses, and hair braiding school licenses shall expire two years from the last day of the month in which they were issued.</u>  Prescribes the dates for renewal of hair braider, hair braiding salon, and hair braiding school licenses.
NA	<b><u>18 VAC 41-30-140. Notice of renewal.</u></b>	NA	<u>The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.</u>  Sets forth that the Department of Professional and Occupational Regulation will mail a renewal notice to the licensee or certificate holder outlining the procedures for renewal, however, failure to receive this notice shall not relieve the licensee or certification holder of the obligation to renew.
NA	<b><u>18 VAC 41-30-150. Failure to renew.</u></b>	NA	<u>A. When a licensed individual or entity fails to renew its license within 30 days following its expiration date, the licensee shall apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.</u>

			<p><u>B. When a hair braider fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall pass the Board's current examination. Individuals applying for licensure under this section shall be eligible to apply for a temporary license from the board under 18 VAC 41-30-80.</u></p> <p><u>C. When a hair braiding salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.</u></p> <p><u>D. The application for reinstatement for a hair braiding school shall provide the reasons for failing to renew prior to the expiration date, and a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school by the Department of Professional and Occupational Regulation and if the school's records are maintained in accordance with 18 VAC 41-30-210 and 18 VAC 41-30-220. Pursuant to 18 VAC 41-30-160, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.</u></p> <p><u>When a hair braiding school fails to renew its license within two years following the expiration</u></p>
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			<p><u>date, reinstatement is no longer possible. To resume practice the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.</u></p> <p><u>E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.</u></p> <p><u>F. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.</u></p> <p><u>G. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.</u></p> <p><u>H. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.</u></p> <p>Establishes to criteria and procedures for reinstatement in the event that a licensee or certificate holder fails to renew their license or certification.</p>
NA	<b><u>18 VAC 41-30-160. Applicants for school license.</u></b>	NA	<p><u>A. Any person, firm, or corporation desiring to operate a hair braiding school shall submit an application to the board at least 60 days prior to the date for which approval is sought.</u></p> <p><u>B. Hair braiding schools under the Virginia Department of Education shall be exempted from licensure requirements.</u></p> <p>Sets forth the requirements for obtaining a license to operate a hair braiding school.</p>
NA	<b><u>18 VAC 41-30-170. General requirements.</u></b>	NA	<p><u>A hair braiding school shall:</u></p> <ol style="list-style-type: none"> <li><u>1. Hold a school license for each and every location.</u></li> <li><u>2. Hold a salon license if the school receives</u></li> </ol>

			<p><u>compensation for services provided in its clinic.</u></p> <ol style="list-style-type: none"> <li>3. <u>Employ a staff of licensed and certified cosmetology instructors or licensed hair braiders.</u></li> <li>4. <u>Develop individuals for entry level competency in hair braiding.</u></li> <li>5. <u>Submit its curricula for board approval. Hair braider curricula shall be based on a minimum of 170 clock hours and shall include performances in accordance with 18 VAC 41-30-190.</u></li> <li>6. <u>Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the salon in plain view of the public.</u></li> <li>7. <u>Classroom instruction must be conducted in an area separate from the clinic area where practical instruction is conducted and services are provided.</u></li> </ol> <p>Sets forth the general requirements for operating a hair braiding school to include minimum clock hours for hair braiding curricula.</p>
<p>NA</p>	<p><b><u>18 VAC 41-30-180. Curriculum requirements.</u></b></p>	<p>NA</p>	<ol style="list-style-type: none"> <li>1. <u>Professional Requirements:</u> <ol style="list-style-type: none"> <li>a. <u>Virginia licensing requirements;</u></li> <li>b. <u>Professional ethics and conduct;</u></li> <li>c. <u>Human relations, retailing and salesmanship; and</u></li> <li>d. <u>Salon management.</u></li> </ol> </li> <li>2. <u>Safety and Health:</u> <ol style="list-style-type: none"> <li>a. <u>Virginia laws and regulations;</u></li> <li>b. <u>Bacteriology, sanitation, and disinfection;</u></li> <li>c. <u>Diseases and disorders, recognition, transmission, and control; and</u></li> <li>d. <u>MSDS sheets, OSHA Rules and Regulations.</u></li> </ol> </li> <li>3. <u>Hair and Scalp Disorders and Diseases:</u> <ol style="list-style-type: none"> <li>a. <u>Dandruff;</u></li> <li>b. <u>Alopecia;</u></li> <li>c. <u>Fungal infections;</u></li> <li>d. <u>Infestations; and</u></li> <li>e. <u>Infections.</u></li> </ol> </li> </ol>

			<p>4. <u>Hair Analysis and Scalp Care:</u></p> <ul style="list-style-type: none"> <li>a. <u>Hair structure, composition, texture;</u></li> <li>b. <u>Hair growth patterns;</u></li> <li>c. <u>Effects of physical and chemical treatments on the hair;</u></li> <li>d. <u>Combing, brushing, detangling;</u></li> <li>e. <u>Shampoo products, composition and procedures;</u></li> <li>f. <u>Rinsing products, composition and procedures;</u></li> <li>g. <u>Conditioning products, composition and procedures;</u></li> <li>h. <u>Procedures for hair and scalp disorders;</u></li> <li>i. <u>Scalp manipulations; and</u></li> <li>j. <u>Braid removal and scalp care.</u></li> </ul> <p>5. <u>Client Preparation and Consultation:</u></p> <ul style="list-style-type: none"> <li>a. <u>Face and head shapes, facial features;</u></li> <li>b. <u>Client hair and scalp analysis; and</u></li> <li>c. <u>Client education, pre/post care, home care, follow-up services.</u></li> </ul> <p>6. <u>Hair Braiding, Locking, Weaving and Styling:</u></p> <ul style="list-style-type: none"> <li>a. <u>Basic styling knowledge, history;</u></li> <li>b. <u>Growth patterns, styles, textures, sectioning, partings;</u></li> <li>c. <u>Tools and equipment, types of combs, brushes, hooks, yarn, loops, hook needles, thread, coils;</u></li> <li>d. <u>Preparations for hair braiding, dryer equipment, decorations, beads, ribbons;</u></li> <li>e. <u>Types and patterns of braids, twists, knots, multiple strands, corn rows, hair locking;</u></li> <li>f. <u>Materials for extensions;</u></li> <li>g. <u>Hair braiding and cornrows with extensions;</u></li> <li>h. <u>Methods of hair weaving, glued, bonded, woven, sewn-in;</u></li> <li>i. <u>Artificial hair design and special effects;</u></li> <li>j. <u>Trimming of artificial hair, cutting of perimeter lines, braid ends; and</u></li> <li>k. <u>Braid removal and scalp care.</u></li> </ul> <p>Prescribes specific curriculum requirements for a hair braiding training program.</p>
<p>NA</p>	<p><b><u>18 VAC 41-30-190. Performances.</u></b></p>	<p>NA</p>	<p>A. <u>Curriculum and performance requirements for hair braiding shall be offered over minimum of 170 clock hours.</u></p> <p>B. <u>The curriculum requirements in 18 VAC 41-30-180.1 through 18 VAC 41-30-180.5. shall be offered over a minimum of 40 clock hours.</u></p>

			<p><u>C. The curriculum for hair braiding shall include the following minimum performances:</u></p> <table border="1"> <tr><td>Single braids</td><td>5</td></tr> <tr><td>Single braid with extensions</td><td>5</td></tr> <tr><td>Cornrows</td><td>5</td></tr> <tr><td>Cornrows with extensions</td><td>5</td></tr> <tr><td>Twists</td><td>5</td></tr> <tr><td>Knots</td><td>5</td></tr> <tr><td>Multiple strands</td><td>5</td></tr> <tr><td>Hair locking</td><td>5</td></tr> <tr><td>Weaving - glued</td><td>5</td></tr> <tr><td>Weaving - bonded</td><td>5</td></tr> <tr><td>Weaving - sewn-in</td><td>5</td></tr> <tr><td>TOTAL</td><td>55</td></tr> </table> <p><u>D. A licensed hair braiding school or cosmetology school with an approved hair braiding program may conduct an assessment of a student's competence in hair braiding and, based on the assessment, give a maximum of 130 hours of credit towards the requirements specified in 18 VAC 41-30-180.6 and 18 VAC 41-30-190. No credit shall be allowed for the 40 hour minimum curriculum requirements in 18 VAC 41-30-180.1 through 18 VAC 41-30-180.5.</u></p> <p>Establishes the curriculum and performance requirements for a hair braiding training program. Also establishes that a licensed hair braiding school or cosmetology school with an approved hair braiding program may conduct an assessment and give a student credit towards the curriculum and performance requirements in order that person with previous training and experience may through demonstration of their competency receive credit toward curriculum and performance requirements.</p>	Single braids	5	Single braid with extensions	5	Cornrows	5	Cornrows with extensions	5	Twists	5	Knots	5	Multiple strands	5	Hair locking	5	Weaving - glued	5	Weaving - bonded	5	Weaving - sewn-in	5	TOTAL	55
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Weaving - sewn-in	5																										
TOTAL	55																										
NA	<b>18 VAC 41-30-200. School identification.</b>	NA	<p><u>Each hair braiding school approved by the board shall identify itself to the public as a teaching institution.</u></p> <p>Sets forth that each hair braiding school licensed by the board shall identify itself to the public as a teaching institution.</p>																								
NA	<b>18 VAC 41-30-210. Records.</b>	NA	<p><u>A. Schools are required to keep upon graduation, termination or withdrawal, written records of hours and performances showing what instruction a student has received for a period</u></p>																								

			<p><u>of five years after the student terminates or completes the curriculum of the school. These records shall be available for inspection by the department. All records must be kept on the premises of each school.</u></p> <p>B. <u>For a period of five years after a student completes the curriculum, terminates or withdraws from the school, schools are required to provide documentation of hours and performances completed by a student upon receipt of a written request from the student.</u></p> <p>C. <u>Prior to a school changing ownership or a school closing, the schools are required to provide to current students documentation of hours and performances completed.</u></p> <p>D. <u>For a period of one year after a school changes ownership, schools are required to provide documentation of hours and performances completed by a current student upon receipt of a written request from the student.</u></p> <p>Establishes requirements for hair braiding schools to keep records of the hours and performances of students upon graduation, termination or withdrawal. This section also sets forth a retention period of five years for these records.</p>
NA	<b><u>18 VAC 41-30-220. Hours reported.</u></b>	NA	<p><u>Within 30 days of the closing of a licensed hair braiding school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.</u></p> <p>Prescribes a timeframe upon which a licensed hair braiding school shall provide a written report on the performances and hours of each of its students to the board in the event that the school closes.</p>
NA	<b><u>18 VAC 41-30-230. Display of license.</u></b>	NA	<p>A. <u>Each salon owner or school owner shall ensure that all current licenses and temporary licenses issued by the board shall be displayed in the reception area of the salon or school in plain view of the public. Duplicate licenses or temporary licenses shall be posted in a like manner in every salon or school location where the regulant provides services.</u></p> <p>B. <u>Each salon owner or school owner shall ensure</u></p>

			<p><u>that no licensee or student performs any service beyond the scope of practice for the hair braider license.</u></p> <p><u>C. All licensees and temporary license holders shall operate under the name in which the license or temporary license is issued.</u></p> <p>Establishes the standards of practice for hair braiding salons and hair braiding schools to include the proper display of all licenses and certifications issued by the board.</p>
<p>NA</p>	<p><b><u>18 VAC 41-30-240.</u></b>  <b><u>Sanitation and safety standards for salons, and schools.</u></b></p>	<p>NA</p>	<p><u>A. Sanitation and safety standards:</u></p> <ol style="list-style-type: none"> <li><u>1. Any salon or school where hair braiding services are delivered to the public must be clean and sanitary at all times.</u></li> <li><u>2. Compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.</u></li> <li><u>3. Licensees shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and shall insure that all employees likewise comply.</u></li> </ol> <p><u>B. General sanitation and safety requirements:</u></p> <ol style="list-style-type: none"> <li><u>1. All furniture, walls, floors, and windows shall be clean and in good repair;</u></li> <li><u>2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords;</u></li> <li><u>3. Walls and ceilings in the immediate work area must be in good repair, free of water seepage and dirt. Any mats shall be secured or shall lay flat;</u></li> <li><u>4. A fully functional bathroom with a working toilet and sink must be available for clients. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. If there is a window, it must</u></li> </ol>

			<p><u>have a screen. There must be antibacterial soap and clean individual towels for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals;</u></p> <p>5. <u>General areas for client use must be neat and clean with a waste receptacle for common trash;</u></p> <p>6. <u>Electrical cords shall be placed to prevent entanglement by the client or licensee;</u></p> <p>7. <u>Electrical outlets shall be covered by plates;</u></p> <p>8. <u>The salon area shall be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air; and</u></p> <p>9. <u>Adequate lighting shall be provided.</u></p> <p><u>C. Equipment sanitation:</u></p> <p>1. <u>Service chairs, wash basins, shampoo sinks and workstations shall be clean. Floors shall be kept free of hair, and other waste materials. Combs, brushes, towels, scissors, and other instruments shall be cleaned and sanitized after every use and stored free from contamination;</u></p> <p>2. <u>The top of workstands or back bars shall be kept clean;</u></p> <p>3. <u>The work area shall be free of clutter, trash, and any other items which may cause a hazard;</u></p> <p>4. <u>Heat producing appliances and equipment shall be placed so as to prevent any accidental injury to the client or licensee; and</u></p> <p>5. <u>Electrical appliances and equipment shall be in safe working order at all times.</u></p> <p><u>D. Articles, tools and products:</u></p> <p>1. <u>Any multi-use article, tool or product which cannot be cleansed or sanitized is prohibited from use;</u></p> <p>2. <u>Soiled implements must be removed from</u></p>
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			<p><u>the tops of work stations immediately after use:</u></p> <ol style="list-style-type: none"> <li>3. <u>Clean spatulas, other clean tools, or clean disposable gloves shall be used to remove bulk substances from containers;</u></li> <li>4. <u>A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use;</u></li> <li>5. <u>All sharp tools, implements, and heat-producing appliances shall be safely stored;</u></li> <li>6. <u>Pre-sanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle;</u></li> <li>7. <u>Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or pre-sanitized;</u></li> <li>8. <u>No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator shall be used to check bleeding; and</u></li> <li>9. <u>Any disposable material making contact with blood or other body fluid shall be disposed of in a sealed plastic bag and removed from the salon or school in accordance with the guidelines of the Department of Health.</u></li> </ol> <p><u>E. Chemical storage and emergency information:</u></p> <ol style="list-style-type: none"> <li>1. <u>Salons and schools shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used;</u></li> <li>2. <u>Salons and schools shall have a blood spill clean-up kit in the work area;</u></li> <li>3. <u>Flammable chemicals shall be stored in a non-flammable storage cabinet or a properly ventilated room; and</u></li> <li>4. <u>Chemicals that could interact in a</u></li> </ol>
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			<p><u>hazardous manner (oxidizers, catalysts and solvents) shall be separated in storage.</u></p> <p><u>F. Client health guidelines:</u></p> <ol style="list-style-type: none"> <li><u>1. All employees providing client services shall cleanse their hands with an antibacterial product prior to providing services to each client;</u></li> <li><u>2. No salon or school providing hair braiding services shall have on the premises hair braiding products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in hair braiding products;</u></li> <li><u>3. No product shall be used in a manner that is disapproved by the FDA; and</u></li> <li><u>4. All regulated services must be performed in a salon that is in compliance with current local building and zoning codes.</u></li> </ol> <p><u>G. In addition to any requirements set forth in this section, all licensees and temporary license holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational and Safety Division of the Virginia Department of Labor and Industry.</u></p> <p><u>H. All salons and schools shall immediately report the results of any inspection of the salon, or school by the Virginia Department of Health as required by Virginia Code Section 54.1-705.</u></p> <p><u>I. All salons and schools shall conduct a self-inspection on an annual basis and maintain a self-inspection form on file for 5 years, so that it may be requested and reviewed by the board at its discretion.</u></p> <p>Sets forth the sanitation and safety standards for salons and schools to include disinfection and storage of implements, sanitation of equipment, articles, tools, and products. This section also establishes safety standards pertaining to the use of chemical products, the proper handling of blood spills, and client health guidelines.</p>
NA	<b><u>18 VAC 41-30-</u></b>	NA	<u>A. The board may, in considering the totality of the</u>

	<p><b><u>250. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.</u></b></p>		<p><u>circumstances, fine any licensee or temporary license holder, and to suspend or revoke or refuse to renew or reinstate any license or temporary license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:</u></p> <ol style="list-style-type: none"> <li><u>1. The licensee, temporary license holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a hair braider; or</u></li> <li><u>2. The licensee, temporary license holder or applicant is convicted of fraud or deceit in the practice or teaching of hair braiding; or</u></li> <li><u>3. The licensee, temporary license holder or applicant attempting to obtain, obtained, renewed or reinstated a license or temporary license by false or fraudulent representation; or</u></li> <li><u>4. The licensee, temporary license holder or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any hair braider may practice or offer to practice; or</u></li> <li><u>5. The licensee, temporary license holder or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with this chapter; or</u></li> <li><u>6. A licensee or temporary license holder fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license or temporary license. The board shall not be responsible for the licensee's or temporary license holder's failure to receive notices, communications and correspondence caused by the licensee's or temporary license holder's failure to promptly notify the board in writing of any change of name</u></li> </ol>
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			<p><u>or address or for any other reason beyond the control of the board; or</u></p> <p>7. <u>The licensee, temporary license holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading; or</u></p> <p>8. <u>The licensee, temporary license holder or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license or temporary license in connection with a disciplinary action in any other jurisdiction or of any license or temporary license which has been the subject of disciplinary action in any other jurisdiction; or</u></p> <p>9. <u>In accordance with § 54.1-204 of the Code of Virginia, the licensee or temporary license holder has been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of hair braiding or cosmetology. The board shall have the authority to determine, based upon all the information available, including the regulant's record of prior convictions, if the regulant is unfit or unsuited to engage in the profession of hair braiding. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The regulant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the regulant to the board within 10 days after all appeal rights have expired.</u></p> <p>B. <u>In addition to Subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:</u></p> <p>1. <u>An instructor of the approved school fails to teach the curriculum as provided for in this chapter; or</u></p> <p>2. <u>The owner or director of the approved</u></p>
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			<p><u>school permits or allows a person to teach in the school without a current cosmetology instructor certificate or hair braider license; or</u></p> <p>3. <u>The instructor, owner or director is guilty of fraud or deceit in the teaching of hair braiding.</u></p> <p>C. <u>In addition to Subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any hair braiding salon or impose a fine as permitted by law, or both, if the board finds that:</u></p> <p>1. <u>The owner or operator of the salon fails to comply with the sanitary requirements of hair braiding salons provided for in this chapter or in any local ordinances; or</u></p> <p>2. <u>The owner or operator allows a person who has not obtained a license or a temporary license to practice as a hair braider.</u></p> <p>D. <u>In addition to Subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of hair braiding.</u></p> <p>Establishes the grounds for license revocation or suspension, denial of application, renewal or reinstatement, or imposition of monetary penalties for licensees or certificate holders.</p>
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**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

The essential purpose of the emergency regulatory action is to comply with the statutory mandate to promulgate regulations governing the licensure and practice of hair braiding as directed by Chapter 600 of the 2003 Acts of the Assembly.

The rationale used by the agency to select the least burdensome or intrusive alternative to meet the essential purpose of regulating the licensure and practice of hair braiding was based on the following:

### Training Requirements for Hair Braiding License/Registration/Certification

#### A. National Research Findings

The following seven states offer a separate license for hair braiding:

1. Michigan – 400 hours of training required
2. Mississippi – 300 hours of training required
3. New York – 300 hours of training required
4. Ohio – 450 hours of training required (consist of 50 hours for electives)
5. Oklahoma – 600 hours of training required
6. Tennessee – 300 hours of training required
7. Texas – 300 hours of training required

Louisiana, has established a separate licensing for hair braiding and the regulations are being promulgated. The grandfathering period began 4/03.

Florida, offers a registration for hair braiding.

The cosmetology regulations for two states, California and Maryland, specifically exempt hair braiding from their licensing requirements.

The remaining states require that a person be licensed as a cosmetologist in order to provide hair braiding services. The training requirements for the cosmetology programs in these states range from 1000 to 2100 hours.

#### B. Curriculum Content Requirements

An analysis of the curriculum content requirements for the 7 states with established curriculum for separate hair braiding licenses revealed the following:

##### Two Major Curricula Content Areas

1. General Content – Sanitation, sterilization, bacteriology, histology, anatomy, disorders of the hair and scalp, shampooing, conditioning, and salon management

##### Required Training Hours for General Content

Michigan	-	145
Mississippi	-	75

New York	-	80
Ohio	-	210
Oklahoma	-	300
Tennessee	-	120
Texas	-	130
Average	-	151

2. Technical Content – Braiding, Extensions, and Weaving techniques

Required Training Hours for Technical Content

Michigan	-	255
Mississippi	-	225
New York	-	220
Ohio	-	190
Oklahoma	-	300
Tennessee	-	180
Texas	-	170
Average	-	220

3. Total Average for Curriculum Training Hours Required - 371

This information indicates that there is consistency in the distribution of hours spent on general subject matter and braiding techniques.

These curricula were utilized, in part, as a basis for the curriculum content contained in the proposed regulations for hair braiding.

In addition, an analysis was conducted of the 1500 hour cosmetology curriculum for randomly selected Virginia licensed cosmetology schools. This analysis revealed that the allocation of hours for general content (sanitation, sterilization, bacteriology, histology, anatomy, disorders of the hair and scalp, shampooing, conditioning, and salon management) for the 1500 hour cosmetology program are substantially equivalent to the allocation of hours for the same general content contained in the hair braiding programs reviewed from the seven states offering a separate hair braiding license.

**Family impact**

*Please assess the impact of the emergency regulatory action on the institution of the family and family stability.*

The proposed regulatory action is not expected to have any significant impact on families.