



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 41-50 – Tattooing and Body-Piercing Regulations Department of Professional and Occupational Regulation July 31, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Pursuant to Chapter 869 of the 2002 Acts of the General Assembly, the Board for Barbers and Cosmetology (board) proposes to establish Tattooing and Body-Piercing Regulations. The proposed regulations address: 1) requirements in order to obtain tattooer or body-piercer licensure, 2) requirements for a tattooing or body-piercing apprenticeship sponsor, 3) tattoo parlor and body-piercing salon licensure, 4) requirements for tattooing and body-piercing school licensure, 5) fees, 6) license renewal, and 7) grounds for licensure revocation, etc.

Estimated Economic Impact

Obtaining licensure

Section § 54.1-703 of the Code of Virginia requires that no person engage in tattooing or body piercing for pay without a valid license issued by the board.¹ The proposed regulations require that individuals pass a board-approved examination in order to obtain licensure.² The board proposes four methods by which applicants can become eligible to sit for a board-approved examination: 1) completing a board-approved tattooing or body-piercing apprenticeship program in a Virginia licensed tattoo parlor or body-piercing salon, 2) completing a board-approved tattooing or body-piercing training program in a Virginia licensed tattooing or body-piercing school, 3) completing a tattooing or body-piercing training or apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia, and 4) qualifying under a “grandfather clause.”

The “grandfather clause” states that persons who (i) apply for licensure between July 1, 2004 and July 1, 2005, and (ii) have completed three years of documented work experience as a tattooer or body-piercer respectively, and (iii) have completed medical education related to tattooing and body-piercing respectively that is acceptable to the board are eligible to sit for a board-approved examination. The proposed regulations provide no specifics on the subject matter and length of medical training that would be approved by the board.

For those who apply after July 1, 2005, completion of an apprenticeship or training program is required. In addition, before July 1, 2005, even those people who are highly knowledgeable and skilled in safely working with needles (a nurse, for example) must complete an apprenticeship or training program since they do not have the requisite work experience in the fields of tattooing and body piercing.

¹ Section § 54.1-701 of the Code of Virginia states that “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 ...” Read literally, Section § 54.1-701 exempts physicians, registered nurses and others from the requirement that they obtain a license issued by the board in order to engage in tattooing or body-piercing for pay (Section § 54.1-703). The Department of Professional and Occupational Regulation has interpreted the General Assembly’s intent to be that no person shall engage in tattooing or body piercing for pay without a tattooing or body-piercing license, respectively.

² Licensure by endorsement is available for applicants who are currently licensed to practice as a tattoo artist or body-piercer in another state and who complete an apprenticeship or training program that is substantially equivalent to those required for initial licensure in Virginia.

Licensure of tattoo artists and body-piercers can be beneficial to the public in that transmission of disease and occurrences of injury may be reduced. The U.S. Food and Drug Administration (FDA) considers tattooing and body-piercing to bear a strong risk of infection; the FDA currently prohibits persons who obtain a tattoo or body-piercing from donating blood for one year, due to the infection risk.³ A review of the medical literature on body piercing in the *Journal of General Internal Medicine* found that 24% of ear piercing result in infection.⁴ Licensure applicants who cannot demonstrate the necessary knowledge and skill to practice in a sanitary and safe matter can be denied licensure until they obtain the necessary knowledge and skills.

If someone can conclusively demonstrate their knowledge and skill in safely working with either tattooing or body-piercing instruments, respectively, through a rigorous examination, then requiring years as an apprentice or attendance and completion of a training program at a tattooing or body-piercing school is unnecessary and economically wasteful. It is costly to individuals seeking licensure and is not necessary to ensure that the applicant can use the tools of their trade in a safe manner. The Department of Professional and Occupational Regulation (department) has indicated that board-approved apprenticeships will have to be at least three years long and that the first six months of tattooing apprenticeships consist of grunt work (mopping, etc.) unrelated to actual tattooing. A national certification that requires experience currently exists. Those that possess it are free to advertise that they have it.

Also, according to the department, there are currently no known tattooing or body-piercing schools in Virginia. Therefore, this method of qualifying to take the licensure examination is not currently available. The proposed regulations do not specify what is necessary in terms of coursework, credits, etc., for programs at potential tattooing and body-piercing schools to become board approved. Thus, the costs in time and fees are unknown and cannot be reasonably estimated.

If no approved school programs exist after the grandfathering opportunity expires (July 1, 2005), then apprenticeship will be the only method by which an individual can qualify to take the licensure examination. The proposed requirement that after July 1, 2005, all licensure

³ Source: Martel, S., and J. E. Anderson, "Decorating the 'human canvas': Body art and your patients; tattoos and body piercing have caught on as teenage, and even preteen, fashion statements. Here's how to help your patients avoid the pitfalls of this form of self-expression," *Contemporary Pediatrics*, August 2002 v19 i8 p86 (10).

applicants complete an apprenticeship (or potentially a school training program) potentially increases costs for consumers, as well as licensure applicants. For example, it is very likely that some individuals who could practice competently, and would offer tattooing or body-piercing services without the apprenticeship requirement, will choose not to offer their services due to the significant cost of the requirement. Fewer individuals offering the services will likely result in higher market prices for the services.

Fewer professional practitioners offering services and higher prices may encourage more individuals, particularly teenagers, to obtain tattoos and piercing from friends or other amateurs. According to a recent article in the journal *Contemporary Pediatrics*,

Teenagers often obtain tattoos from friends or other amateurs or tattoo themselves using straight pins, pencils, or pens and mascara, charcoal, or dirt as pigments. In one study of 464 high school students in Western Australia, more than 13% had a tattoo, and most were self-administered. These types of tattoos carry a high risk of infection and reactions to the materials used as pigments.⁵

Thus, by significantly adding to the cost of obtaining licensure in a manner that is not necessary to ensure that the applicant can use the tools of their trade in a safe manner, it is probable that fewer competent practitioners will offer their services, and more individuals will obtain tattoos and piercing from amateurs in a non-sanitary manner.

Fees

As stated above, the Code of Virginia requires that no person engage in tattooing or body piercing for pay without a valid license issued by the board. Section § 54.1-704.1 prohibits tattoo parlors and body-piercing salons from operating without a board-issued license; and section § 54.1-704.2 of the Code prohibits schools of tattooing or body piercing from operating without a board-issued license.

⁴ Source: Koenig, L.M., and M. Carnes, "Medical concerns with cutting edge fashion," *Journal of General Internal Medicine*, 1999; 14:379.

⁵ Source: Martel, S., and J. E. Anderson, "Decorating the 'human canvas': Body art and your patients; tattoos and body piercing have caught on as teenage, and even preteen, fashion statements. Here's how to help your patients avoid the pitfalls of this form of self-expression," *Contemporary Pediatrics*, August 2002 v19 i8 p86 (10).

In order to pay for the administrative costs of licensing and otherwise regulating these individuals and entities, the board must assess fees. The proposed fees are listed in the following table. The fees do not differ between tattooing and body piercing.

<u>Licensure Fee Type</u>	<u>Amount Due</u>
Individual:	
Initial	\$55
Renewal	\$55
Reinstatement	\$110 (includes \$55 renewal fee and \$55 reinstatement fee)
Parlor and Salon:	
Initial	\$90
Renewal	\$90
Reinstatement	\$180 (includes \$90 renewal fee and \$90 reinstatement fee)
School:	
Initial	\$120
Renewal	\$120
Reinstatement	\$240 (includes \$120 renewal fee and \$120 reinstatement fee)

Individual, parlor, and salon licenses expire two years from the last day of the month in which they were issued. School licenses expire on December 31 of each even numbered year. The fee for examination or re-examination 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.

The fees charged to individual practitioners, parlors, salons, and schools will reduce the net worth of these entities. The benefit to required licensure is the potential for reduced risk to public health and safety. Both tattooing and body piercing involve the risk of transmitting blood-borne and other diseases, as well as physical injury.

Businesses and Entities Affected

The department estimates that 700 individuals and entities will seek licensure as a tattooer, body-piercer, tattoo parlor, or body-piercing salon. Purchasers and potential purchasers of tattooing and body-piercing services are affected as well.

Localities Particularly Affected

All Virginia localities are affected by these proposed regulations.

Projected Impact on Employment

The costs imposed by the proposed regulations will likely discourage some individuals from pursuing tattooing or body-piercing as a profession. Thus, total employment in these professions is likely to be lower.

Effects on the Use and Value of Private Property

The fees charged to individual practitioners, parlors, salons, and schools will reduce the net worth of these entities. The proposed requirement for a lengthy apprenticeship or training school program will likely discourage some individuals from pursuing tattooing or body-piercing as a profession. While this will tend to increase the value of already existing businesses, it will do so by discouraging competition. This will, in turn, lead to higher consumer prices and a net reduction in economic well-being. Less draconian training requirements can protect public health and safety while encouraging the entry of more businesses into this field. That would result in higher net economic benefits for the Commonwealth.