



## Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 41-20 Board for Barbers and Cosmetology Rules and Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 5615/9085**  
October 30, 2020

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### **Summary of the Proposed Amendments to Regulation**

The Board for Barbers and Cosmetology (Board) is proposing amendments to improve licensure reciprocity by allowing individuals who have five years of licensed experience in another state to substitute their experience for the current requirement of “substantially equivalent training.” The board would also define this term as well as “substantially equivalent exam.”

### **Background**

The Board’s Standing Committee on Training received several comments regarding the difficulty faced by individuals with out-of-state training who seek to obtain a Virginia cosmetology license. Individuals who have practiced cosmetology in other states for an extended period of time have been unable to qualify for the Virginia license because their training has not been considered “substantially equivalent,” even though this term has not been defined in the regulation. Thus, the Board seeks to make a number of changes that largely serve to clarify the requirements out-of-state licensees must meet in order to obtain licenses in Virginia.

As per the current regulation, there are two main pathways by which an applicant with an out-of-state license may obtain a Virginia license as a barber, master barber, cosmetologist, nail technician, or wax technician: either by endorsement or by exam. To qualify by endorsement, an applicant must have a current license to practice (from another state), complete a “substantially equivalent training” program, and complete a “substantially equivalent exam.” To obtain licensure by exam, applicants must first qualify to sit for a Board-approved exam and then

complete the exam. In order to qualify to sit for the exam, the applicant has to either complete an approved training program or else demonstrate they have previously obtained “substantially equivalent training” that provided a certain number of required training hours based on their profession.<sup>1</sup> If an applicant’s prior training provided fewer training hours than the regulation required, they can instead submit documentation of six months of work experience.<sup>2</sup>

Although the term “substantially equivalent” is used in multiple instances, it is not currently defined in the regulation. To clarify the Board’s interpretation of “substantially equivalent,” the Board established a policy on May 13, 2013, to define “substantially equivalent training” as it applies to licensure by endorsement as follows: (i) a substantially equivalent training program, (ii) a substantially equivalent exam, (iii) 80 percent of required training hours, and (iv) six months experience in the past 3 years.<sup>3</sup> The Board then issued a guidance document on August 11, 2014, that defines “substantial equivalence in relation to licensure endorsement” as “80% of the required hours in Virginia; this definition applies to all four professions.”<sup>4</sup> The guidance document provides further clarifications on the requirements, including more detail for barber and cosmetologist licenses in particular. Finally, effective April 1, 2019, the minimum number of hours required for a barber to qualify for the exam was reduced from 1500 to 1100.<sup>5</sup>

The Board’s proposed changes would supersede any requirements contained in the guidance document and are intended to simplify the process for applicants with out-of-state licenses (for all four professions). Specifically, the Board proposes to:

1. Define “substantially equivalent training” to mean at least 80% of the required hours in Virginia, and also curriculum content that covers Virginia's scope of practice for that

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<sup>1</sup> The regulation requires a minimum of 1100 training hours for a barber, 1500 for a master barber and cosmetologist, 150 for a nail technician, and 115 for a wax technician.

<sup>2</sup> Although the regulation establishes the minimum number of required hours, it does not clarify how many hours would be acceptable to qualify if the applicant is under the required hours. It states that if under the required hours, the applicant would need six months of work experience and would need to have completed a “substantially equivalent training program.”

<sup>3</sup> See

[https://www.townhall.virginia.gov/L/GetFile.cfm?File=Meeting%5C134%5C18569%5CMinutes\\_DPOR\\_18569\\_v2.pdf](https://www.townhall.virginia.gov/L/GetFile.cfm?File=Meeting%5C134%5C18569%5CMinutes_DPOR_18569_v2.pdf), pages 15 and 16.

<sup>4</sup> For the guidance document, see <https://townhall.virginia.gov/L/ViewGDoc.cfm?gdid=5503>.

<sup>5</sup> These reductions were only made for barbers as part of the introduction of two-tier licensing for the profession. See <https://townhall.virginia.gov/L/ViewStage.cfm?stageid=8318> and <https://townhall.virginia.gov/l/viewmandate.cfm?mandateid=898>.

- profession;
2. Define "substantially equivalent exam" to mean an examination administered by the licensing entity which covers Virginia's scope of practice for that profession;
  3. Allow out-of-state applicants for endorsement and for exam to meet the training hour requirement if they have five years' work experience in the U.S.;
  4. Reduce the minimum training hours for an out-of-state applicant to qualify for the exam with no work experience from 1500 to 1200 for a master barber and cosmetologist, 1100 to 880 for a barber, 150 to 120 for a nail technician, and, 115 to 92 for a wax technician; and
  5. Eliminate the option for an out-of-state barber, cosmetologist, and master barber to qualify for the exam with a minimum of 1200 hours and 6 months experience OR with a minimum of 1000 hours and 6 months experience if they have completed the 'general' or 'intro' portions of the curriculum of an approved Virginia program.

### **Estimated Benefits and Costs**

The proposed amendments would primarily benefit barbers, cosmetologists, and nail and wax technicians from other states who seek to obtain licensure and practice in Virginia by reducing the minimum training hours for an out-of-state applicant to qualify for the exam with no work experience and making the requirements easier to understand and follow. Although it may appear that the number of options for demonstrating training equivalency have been reduced, any individuals who qualified under any of the options previously listed in guidance documents would also qualify under the current requirements.

The proposed amendments do not appear to impose any new costs on applicants for licensure, either within the state or from outside the state. The Board expects roughly 20 such applicants each year initially, potentially increasing to 50 applicants per year in the future across all four types of licensees. The Board reports that 324 barbers, 2,509 master barbers, 41,762 cosmetologists, 8,803 nail technicians, and 1,575 wax technicians are currently licensed in Virginia, for a total of 54,973.<sup>6</sup> The number of out-of-state applicants each year is thus likely to be a small fraction (0.04% to 0.09%) of the total number of current licensees, and thus would not

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<sup>6</sup> As of October 1, 2020. See [http://www.dpor.virginia.gov/uploadedFiles/MainSite/Content/Records\\_and\\_Documents/REG\\_POP\(1\).pdf](http://www.dpor.virginia.gov/uploadedFiles/MainSite/Content/Records_and_Documents/REG_POP(1).pdf).

significantly increase competition, and is unlikely to impose any indirect costs to other applicants or current licensees.

### **Businesses and Other Entities Affected**

The proposed amendments primarily benefit the individual barber, cosmetologist, nail technician, and wax technician applicants who have been licensed by other states, or hold licenses in other countries and are seeking licensure in Virginia. The Board reports that approximately 20 applicants per year would be affected by the regulatory change. The number of potential applicants who are affected by these proposed changes may increase in the future; the Board expects the number out-of-state applicants to increase to roughly 50 per year. The proposed amendments could also benefit businesses that employ barbers, master barbers, cosmetologists, nail technicians, and wax technicians by increasing the supply of qualified individuals from which these firms may hire.

### **Small Businesses<sup>7</sup> Affected**

Small businesses that employ barbers, cosmetologists, or nail technicians, or wax technicians may be positively affected by the proposal in that there may be a moderate increase in the supply of qualified individuals from which to hire.

### **Localities<sup>8</sup> Affected<sup>9</sup>**

The proposed amendments would not likely disproportionately affect any particular localities, nor introduce costs for local governments.

### **Projected Impact on Employment**

The proposed amendments would directly contribute to the employment of those who have a license from another state or country and seek to become licensed in Virginia. The Board expects roughly 20 such applicants each year initially, potentially increasing to 50 applicants per year in the future.

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<sup>7</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>8</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>9</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

## Effects on the Use and Value of Private Property

The proposed amendments may moderately increase the supply of barbers, master barbers, cosmetologists, nail technicians, and wax technicians, making it perhaps moderately easier for firms that offer these services to find qualified staff. Consequently, the proposal may moderately increase the value of such firms. Real estate development costs would not be affected.

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.