



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

18 VAC 41-20 Barbering and Cosmetology Regulations
18 VAC 41-70 Esthetics Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 5719/9547
April 1, 2022; updated July 27, 2023.

The Department of Planning and Budget (DPB) 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). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Board for Barbers and Cosmetology (Board) proposes to unify the instructor certification training curriculum for professionals who are licensed under the Board's *Barbering and Cosmetology Regulations* (18 VAC 41-20) and *Esthetics Regulations* (18 VAC 41-70). The proposed changes would establish a uniform instructor curriculum and practical training requirement for student instructors regardless of their profession. The proposed changes would also specify that certified instructors may only teach in a profession in which they hold the underlying license. That is, only licensed barber instructors could provide instruction in a barber training program.²

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² Two exceptions are allowed in 18 VAC 20-200: licensed and certified cosmetology instructors may instruct in nail and wax technician programs, and licensed and certified esthetics instructors may instruct in wax programs. These exceptions would be preserved by this action.

Background

The barbering and cosmetology regulation currently does not contain any curriculum hours or topics for instructor training programs or certification.³ In contrast, the esthetics regulation currently requires instructor programs to provide 400 credit hours of training covering a specific list of topics (18 VAC 41-70-190 E), and also maintains separate requirements for instructor certification. (More specifically, 18 VAC 41-70-100 addresses the requirements for esthetics instructor certification, and 18 VAC 41-70-110 addresses the requirements for master esthetics instructor certification.)⁴ Generally, the required topics in the instructor curricula cover course development, lesson planning, teaching techniques, learning styles, recordkeeping, and other topics that pertain to teaching, rather than the underlying material being taught.

Under the status quo, barber and cosmetology schools offer four separate instructor training programs that lead to a certificate: a barber instructor, a cosmetologist instructor, a nail technician instructor, and a wax instructor. In addition, each instructor training program is taught by a certified instructor who holds the corresponding professional license; in other words, instructor training programs for barbers are taught by a certified instructor who is licensed as a barber. Lastly, students in an instructor program must hold a professional license and be in good standing in the same profession in which they seek instructor certification. As a result, schools must submit separate applications to the Board for each instructor certification program, and professionals who hold multiple licenses are required to (a) undertake separate instructor training programs, (b) obtain separate instructor certifications to teach in each area, and (c) be licensed in good standing in each area in which they wish to be certified as an instructor.

The Board seeks to unify the requirements for barber, cosmetology, nail technician, and wax technician instructor certifications by specifying that instructor training programs cover the same topics currently required of esthetics instructors and include student teaching. In addition, the professional license held by a certified instructor teaching the instructor program and the professional licenses held by students in the instructor program would no longer be a

³ The Department of Professional and Occupational Regulation reports that most instructor programs are currently around 400 hours, but they can range from 200 to 600 hours. See Agency Background Document (ABD), page 5. https://townhall.virginia.gov/l/GetFile.cfm?File=134\5719\9547\AgencyStatement_DPOR_9547_v3.pdf.

⁴ The master esthetician license is cumulative; applicants for a master esthetician license must first obtain an esthetics license. (Per the definition of master esthetician in code § 54.1-700.)

consideration. This would be accomplished by making the following changes to 18 VAC 41-20 *Barbering and Cosmetology Regulations*:

- Section 20-100 would be amended to establish a single instructor certification program by removing references to profession-specific instructor programs. The requirements to undertake instructor training would similarly be amended so that students would be required to hold any (one or more) of the barber-cosmetology professional licenses and be in good standing in the profession(s) in which they are licensed.
- Section 20-110 would be amended to remove references to the specific professional license held by the instructor of the instructor training program. The amended language would require student instructors to practice teaching under the supervision of a certified instructor. (The implication here is that the specific professional license held by that instructor would be moot, as long as it was one of the barber-cosmetology licenses.)
- Section 20-200 would be amended to add that instructor programs shall include student teaching and to specify that the instructor training program be taught by a certified instructor. (The implication here is that the specific professional license held by that instructor would be moot, as long as it was one of the barber-cosmetology licenses.)
- Section 20-210 would be amended to add curriculum requirements for the instructor training program. These requirements largely match the existing requirements for esthetician instructors in section 70-190 and focus on how to provide instruction rather than the subject matter that would be taught. The following topics that are not currently in 70-190 would be added: introduction to teaching, professional ethics, supervision of clinic floor, and practicum teaching.

The Board also proposes to amend section 20-220 to remove redundant language regarding hours of instruction that can be found in 20-200, and to amend 20-260 to remove outdated references to apprenticeship cards that are no longer utilized.

The Board similarly seeks to unify the requirements for esthetician and master esthetician instructor certifications by making the following changes to 18 VAC 41-70 *Esthetics Regulations*:

- Repeal section 70-110 and combine the requirements for esthetics and master esthetics instructor certification under section 70-100 by replacing “esthetician” with “esthetician and

master esthetician.” This would allow a certified instructor with either an esthetician license or a master esthetician license to teach an instructor training program for licensed estheticians and licensed master estheticians.

- Amend section 70-180 to specify that instructor programs must be taught by a certified instructor. (The implication being that the specific professional license held by that instructor would be moot, as long as it was either of the esthetician licenses.)
- Amend section 70-190 so that the instructor curriculum requirements match those being added to 20-210. Specifically, the following topics would be added to the curriculum: introduction to teaching, professional ethics, supervision of clinic floor, and practicum teaching.

Estimated Benefits and Costs

The proposed changes primarily benefit barber, cosmetology, nail technician, and wax technician schools that currently offer instructor training programs and will also benefit esthetician schools that offer instructor training programs. These instructor programs would potentially benefit from higher enrollment by being able to enroll students with other professional licenses that fall under the same regulation. They would also benefit from greater flexibility in hiring instructors to instruct and supervise the student instructors, since the professional license held by that instructor would no longer be a consideration. The barber-cosmetology instructor programs may face some initial costs in reworking their curriculum to meet the requirements that would be added to sections 20-200 and 20-210 and resubmitting it for Board approval. Although the Department of Professional and Occupational Regulation (DPOR) has indicated that they will not have to pay any fees relating to the Board review and approval process, these schools will likely incur some one-time costs from developing a new curriculum.⁵ However, the benefits in terms of higher enrollment and lower hiring costs, would accrue over time and thereby would likely exceed the one-time costs associated with curriculum

⁵ DPOR reports that some of these schools are accredited and may face some administrative costs from getting changes to their instructor program and curriculum approved by the accrediting body. (See ABD, page 5.)

development. Furthermore, these one-time costs would be minimized since the curriculum requirements would be explicitly spelled out in section 20-210.

DPOR reports that 20 schools already offer multiple profession-specific instructor training programs; these schools would be able to replace them with a single instructor training program and thereby may be able to hire fewer instructors to teach and supervise student instructors. These schools would benefit the most in terms of reduced administrative costs once their new unified instructor curriculum is approved by the Board. They may also benefit from increased enrollment by being able to enroll students with professional licenses other than the ones for which they currently offer instruct training.⁶

DPOR currently charges a \$100 fee per program for schools that add a program of instruction and anticipates that they may forego new program fees for two or three instructor program applications per year from schools that specifically seek to add profession-specific instructor programs. However, consolidating the instructor programs may also make it cost-effective for some barber-cosmetology schools that do not currently offer any instructor training programs to do so. Schools newly seeking to offer an instructor training program would benefit from only having to pay the new program fee once and only having to submit one curriculum for Board approval. This could offset any loss in new program fees for DPOR. An increase in the availability of instructor training programs would lower the cost of obtaining instructor certification, which would increase the supply of certified instructors in the state, making it easier and cheaper for other barber-cosmetology and esthetician schools to hire instructors.

Lastly, the proposed changes would also benefit practitioners who have multiple licenses and want to instruct in all the fields in which they are licensed, since they would only have to undergo instructor certification once to be able to teach in all the fields in which they are licensed instead of undertaking separate instructor certification for each field.

Barber-cosmetology and esthetics schools that do not currently offer an instructor program, and that do not start offering an instructor program after the proposed changes go into

⁶ School license renewals are charged a flat fee per-school and not per-program, so consolidating multiple instructor training programs into one would not reduce their license renewal fees. (Email dated March 8, 2022.)

effect, would only be affected indirectly, to the extent that the proposed changes affect the supply of certified instructors who hold the requisite professional licenses in the local market.

Businesses and Other Entities Affected

The proposed amendments primarily affect barber-cosmetology and esthetician schools that offer instructor programs. DPOR reports that as of January 1, 2022, there are 87 schools with instructor programs, of which 20 schools have more than one instructor program, and 32 are accredited.⁷ As mentioned previously, consolidating the instructor program requirements across professions may make it cost-effective for some barber-cosmetology schools to start offering instructor training programs in addition to their existing barber-cosmetology training programs. Thus, the proposed amendments could lead to a growth in instructor certification programs, which could lead to greater employment for currently certified instructors. DPOR reports that as of January 1, 2022, there are 345 barber instructors, 2,430 cosmetology instructors, 253 nail instructors, 25 wax instructors, and 70 esthetics instructors. There are approximately 60 individuals that have an instructor certificate in more than one profession. The proposed amendments would also benefit individuals with more than one professional license under the barber-cosmetology regulations who are interested in instructing in both (or all) the fields in which they are licensed; the number of such individuals is unknown.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposed amendments benefit schools offering instructor programs by standardizing requirements and allowing greater flexibility with respect to who can teach and enroll in an instructor program. Although these schools may face costs to rework their curriculum and get it approved by the Board (and by the accrediting body, where applicable) these one-time costs are unlikely to exceed the ongoing benefits of increased enrollment. Thus, an adverse impact is not indicated.

⁷ See ABD, pages 5 and 7.

⁸ 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

Small Businesses⁹ Affected:¹⁰

The proposed amendments do not appear to adversely affect small businesses.

Types and Estimated Number of Small Businesses Affected

All 87 schools with instructor programs would be considered small businesses. Other barber-cosmetology and esthetics schools that do not currently offer instructor programs, but may choose to in the future, would likely also be considered small businesses.

Costs and Other Effects

As mentioned previously, the proposed amendments would require a one-time administrative time cost for these schools because they would have to change their instructor curriculum to match the requirements that would be added to section 20-210. However, they would also potentially have higher enrollment and greater flexibility and/or lower costs in hiring instructors to teach the instructor programs. Since the permanent benefits likely outweigh the one-time costs, an adverse economic impact¹¹ on small barber-cosmetology and esthetics schools is not indicated.

Alternative Method that Minimizes Adverse Impact

Although the Board proposes these changes at its discretion, there are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

⁹ 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.”

¹⁰ 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.

¹¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

Localities¹² Affected¹³

The proposed amendments would impact all barber-cosmetology and esthetics schools that offer teaching programs, regardless of their location. The proposed amendments do not introduce costs for local governments.

Consequently, an adverse economic impact¹⁴ is not indicated for localities.

Projected Impact on Employment

The proposed amendments could lead to a growth in instructor certification programs, which could lead to greater employment for currently certified instructors as well as increased supply of certified instructors in the future. More than 3,000 currently certified instructors could benefit from this change. However, since instructor programs would no longer be program specific, some certified instructors currently teaching in schools with multiple instructor program may lose their jobs if the schools decide to unify the programs and only retain one instructor.

Effects on the Use and Value of Private Property

The proposed amendments may increase the value of barber-cosmetology and esthetics schools that have an instructor program by potentially increasing their enrollment and lowering teaching and administrative costs. The proposed amendments do not affect real estate development costs.

¹² “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.

¹³ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

¹⁴ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.