



Periodic Review / Retain Regulation Agency Background Document

Agency name	Board for Barbers and Cosmetology
Virginia Administrative Code (VAC) citation	18VAC41-70
Regulation title	Esthetics Regulations
Document preparation date	December 27, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Code of Virginia § 54.1-201.5 gives authority to the Board for Barbers and Cosmetology to promulgate regulations. It states, in part, that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board."

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapters 2 and 7 of Title 54.1 of the *Code of Virginia*. Further, the regulation is necessary to ensure that the Board's statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Ginger Vassar	Currently preparing for the master esthetic exam. The practical exam will be redundant in terms of sanitation. Testing may include demonstration of other practical competencies, however, without the proper equipment, competency cannot be properly determined. Passed the Professional Esthetic Practical exam with a very high score and feels qualified to perform the functions of a Master Esthetician without the need of an unnecessary master practical exam.	The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments taken under advisement. Current examination requirements and administration will be reviewed and may be considered in future regulatory review.
Margaret LaPierre	Regulations are necessary for the protection of the public. A minimum of 10-12 hours of continuing education should be required.	Board concurs that regulations should protect the health, safety, and welfare of Virginians. Comments taken under advisement. The suggestion to require continuing education will be reviewed and may be considered in future regulatory review.
Susie Galvez	Current esthetics licensing requirements are excessively rigid and extremely limiting to both esthetic school candidates as well as currently state licensed Estheticians from other states. Suggests allowing currently licensed estheticians from other states to practice in full, all capacities as currently in place for Master Estheticians. Going from no regulation for Estheticians to requiring 600 hours for a basic esthetic license without the ability to fully practice esthetics even if licensed from another state for years, while allowing all estheticians in the state of Virginia to be grandfathered in with or without any formal training during	Comments taken under advisement. Current general requirements for licensure and license by endorsement will be reviewed and may be considered in future regulatory review. The <i>Code of Virginia</i> provided provisions for the Board to waive the licensing examination requirements for eligible individuals from July 1, 2007 until July 1, 2008 and March 23, 2009 until July 31, 2009.

	the initial licensing period is going from one extreme to the other.	
Lynn Pickett	Practical exam for Master Estheticians is both demeaning and futile in terms of providing protection to the public. Given the already strict regulations for obtaining a Master Esthetician's license, the practical master esthetics exam is a sham and undignified to the profession.	The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments taken under advisement. Current examination requirements and administration will be reviewed and may be considered in future regulatory review.
Elizabeth Kirkland	Simulations used in the master esthetics practical exam are a waste of time and the written exam should suffice. Recommends continuing education requirements in lieu of the practical master esthetics exam.	The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments taken under advisement. Current examination requirements and administration, in addition to the suggestion to require continuing education will be reviewed and may be considered in future regulatory review.
Sandra S. Shaw	<p>The practical exam for Master Estheticians uses substandard, non-esthetic items to test. Students should be tested in theory only.</p> <p>Concerned that experience and continuing education from other states are not considered for master esthetic applicants applying through endorsement.</p> <p>Inquires why all courses need to be taught by Estheticians. Business and other topics should be able to be taught by instructors with advanced degrees in their subject matter.</p> <p>Recommends the need for a definition of "supervised instruction." Some schools send part of their hours home or conduct via email, rather than have them in the classroom.</p>	<p>The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments taken under advisement. Current examination requirements and administration, in addition to the suggestion to require continuing education will be reviewed and may be considered in future regulatory review.</p> <p>Guest lecturers who may be subject matter experts may provide instruction under the supervision of a properly licensed esthetics instructor.</p> <p>18 VAC 41-70-180 of the Esthetics Regulations requires all practical instruction to be completed in the school's clinic area.</p>
Pam Eminger	<p>The hours required to become a licensed esthetician are excessive and as a result, make the cost excessive.</p> <p>Testing procedures do not assist in ensuring the competent and safe practice of esthetics. Additionally,</p>	<p>Comments taken under advisement. Current general requirements for licensure and license by endorsement will be reviewed and may be considered in future regulatory review.</p> <p>The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments</p>

	testing procedures are extremely secretive and if one has a complaint, the same testing service are the individuals to contact. There is no oversight. Results of the test are not shared, instead candidates are given only the number of procedures marked incorrectly making improvement difficult.	taken under advisement. Current examination requirements and administration will be reviewed and may be considered in future regulatory review. The Office of Education and Examinations, within the Department of Professional and Occupational Regulation, is available to answer inquiries and review complaints about any exam.
Lucia A. Kaestner	Recommends continuing education requirements for estheticians. Recommends CPR requirement for estheticians.	Comments taken under advisement. The suggestion to require continuing education and general entry requirements will be reviewed and may be considered in future regulatory review.
Ruby Morse	Recommends repealing the requirement for master esthetics practical exam. Disagrees with the use of simulations in the master esthetics practical exam. States that the written exam alone is sufficient.	The Board is responsible for establishing entry-level competence in order to protect the health, safety, and welfare of the public. Comments taken under advisement. Current examination requirements and administration will be reviewed and may be considered in future regulatory review.
Christine Smith Shaw	Concerned that experience and continuing education from other states are not considered for master esthetic applicants applying through endorsement.	Comments taken under advisement. Current requirements for license by endorsement will be reviewed and may be considered in future regulatory review.

The above noted comments were received during the public comment period following publication of the Notice of Periodic Review. An informal advisory group was not formed for purposes of assisting in the period review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation meets the criteria set forth in Executive Order 14 (2010). The regulation contains the requirements for obtaining a license, renewal and reinstatement of licenses, safety and sanitation procedures, standards of professional conduct, to ensure competence and integrity of all licensees and that the health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where esthetics services are provided, and administer the regulatory program in accordance with Chapter Chapters 2 and 7 of Title 54.1 of the *Code of Virginia*. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Code of Virginia § 54.1-201.5 mandates the Board for Barbers and Cosmetology to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The Board for Barbers and Cosmetology provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals that meet specific criteria set forth in the statutes and regulations are eligible to receive an esthetician, master esthetician, esthetics instructor, master esthetics instructor, esthetics spa, esthetics school, or temporary permit. The Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations.

Comments received during the public comment period revolved around a select few points, mainly; (1) the master esthetics practical exam; (2) the desire for the Board to require continuing education. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

The most recent evaluation occurred in 2007.

The Board discussed the regulation and, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

No impact on the institution of the family and family stability has been identified.