

**BOARD FOR BARBERS & COSMETOLOGY  
BODY-PIERCING REGULATIONS  
PUBLIC HEARING**

**MINUTES**

The Board for Barbers & Cosmetology Public Hearing on the body-piercing proposed regulations was held on Tuesday, March 7, 2006, at the Offices of the Department of Professional and Occupational Regulation, 3600 West Board Street, 4<sup>th</sup> Floor, Conference Room 4W, Richmond, Virginia. The following DPOR staff members were present:

William H. Ferguson, II, Executive Director  
Zelda W. Dugger, Board Administrator  
Rashaun K. Minor, Administrative Assistant

Also in attendance was:           Derick Ackelson  
  Joe Hegarty  
  Cristena Morrow  
  Kathleen Russell  
  Jessica Weaver

Mr. Ferguson, Executive Director, called the public hearing to order at Call to Order  
10:07 a.m.

Mr. Ferguson introduced DPOR staff, Ms. Zelda Dugger, Board Introduction  
Administrator and Ms. Rashaun Minor, Administrative Assistant.

Mr. Ferguson stated the procedures of the hearing: speakers are allowed Procedures of the  
5 minutes to give comment regarding the body-piercing proposed Hearing  
regulations; to assist the speakers the time lights will indicate  
remaining time: green light will signal to start, the yellow light will  
indicated 1 minute remaining, and the red light will indicated the  
allotted time has passed.

Mr. Ferguson stated, anyone may speak in rebuttal to the comments of  
another speaker and those comments will also be limited to 5 minutes.  
The panel may ask questions to clarify statements. However, the public  
hearing is not the proper forum for questions to the Board. Any  
speaker, who wishes to provide a written statement in addition to his  
oral testimony, or lieu of oral testimony, may do so until Friday, March  
10, 2006.

Mr. Ferguson called the first speaker, Derick Ackelson. Public Comment

Derick Ackelson, owner of Totally Naked Tattoos and Body Piercing,  
commented on health and safety issues in the proposed body-piercing

regulations specifically:

- page five, 18 VAC 41-60-20.C.1. General requirements. Ear only piercers should be held to same the health education requirements as body-piercers. Mr. Ackelson stated ear only piercers come in contact with the same health concerns regarding blood borne pathogens and cross contamination.
- page six, 18 VAC 41-60-30. License by endorsement. Mr. Ackelson stated, this section should be removed from the regulations, other state requirements do not require proof of training; it's a matter of paying a fee for licensure.
- page seven, 18 VAC 41-60-60.C Examination administration. Mr. Ackelson stated who is responsible for the exam and re-examination and the exam fee requirements.
- page eight, 18 VAC 41-60-80. Salon license. Mr. Ackelson stated as the regulations are written he would have to obtain two licensures, a tattoo parlor license and a body-piercing salon license, for each location, this is means of licensure is financially taxing. Consider a parlor license that covers both professions.
- page 14, 18 VAC 41-60-160.6. Body-Piercing Apprenticeship curriculum requirements. Mr. Ackelson stated a more in depth definition needs to be provided for the HIPPA standards and what the acronym HIPPA means.
- page 15, 18 VAC 41-60-160.7.b. Body-Piercing Apprenticeship curriculum requirements. Mr. Ackelson stated that the client health form needs to be defined and 'i' needs to add to include grade of jewelry or metal to be used.
- page 16, 18 VAC 41-60-170.A.3. Body-Piercing hours of instruction and performances. Mr. Ackelson stated that in rural areas it would take a considerable about of time to obtain the proposed requirement for the male and female genitalia performances. This type of procedure is not in demand.
- page 19, 18 VAC 41-60-190.K. Physical facilities. Mr. Ackelson stated this section needs to provide clarity on unobstructed access; is a lever door knob accessible by using the elbow to open or a door with a foot pedal to open the door in compliance with this regulation.
- page 20, 18 VAC 41-60-200. Body-Piercer and body-piercer-ear only responsibilities. Mr. Ackelson stated that many of the ear piercing only salons are located in malls and Wal-Mart where they can't be in a separate room, in his opinion this type of set-up poses a danger to society with exposure to blood borne pathogens and cross contamination and are usually staffed by untrained teenagers.
- Mr. Ackelson stated body-piercing should be done in a body-piercing studio.

- page 22, page 20, 18 VAC 41-60-200.Q.Body-Piercer and body-piercer-ear only responsibilities. Mr Ackelson stated there is another type of autoclave, a steamclave, which does not use a pouch and is the best on the market and needs to be mentioned in the regulations.

Mr. Ackelson concluded by stating that he does not want over regulating and at the same time not wanting the profession to be under regulated; it is in the best interest of all involved it be done right and with safety at the forefront.

Kathleen Russell, Corporate Counsel with Inverness Corporation: Ear Piercing Manufacturer submitted comment in writing as well as provided oral comments. Ms. Russell asked that the ear piercing industry as distinct and separate from the body-piercing industry. Ms. Russell stated she does not agree that ear piercing, when done by trained staff and performed not with needles, but with an FDA regulated medical device utilizing pre-sterilized, encapsulated earrings, poses a danger to the public. Ms. Russell stated from a business that's been in place over 30 years, they do provide a service to the public and that there is value to the malls and Wal-Mart ear piercing services. There is a value for a mother to bring her child to a mall or to a Wal-Mart if they so choose for an ear piercing. Ms. Russell stated there is a misconception that they are not regulated, that there are in fact heavily regulated. Ms. Russell pointed out she is not referring to the ear piercing stud guns but specifically to encapsulated earrings; there is a distinction between ear piercing instrument and the stud gun, which she does not endorse. Ms. Russell concluded that there is a value to their services and that the distinction between ear piercing and body-piercing be recognized. As clarification, Ms. Russell stated she is the regulatory liaison for those stores in the malls and Wal-Mart, etc. and asks that Virginia regulations be consistent with other state requirements where the distinction is made between ear piercing and body-piercing and separate from body-piercing. Mr. Russell concluded by stating the regulations are not clear on training requirements for ear piercing and that needs to be defined.

Joe Hegarty, owner of Alex's New Tattoo, requested the Board hold off on the regulations because there is no representative on the Board to represent the industry; someone needs to be on the Board that understands the profession. Mr. Hegarty stated that the waiver of exam requirement of five years of work experience to be "grandfathered" is too excessive and will put a lot of piercers out of business. Mr. Hegarty asked that the Board lower the years of work experience for the "grandfather" requirement. Mr. Hegarty also stated that he would like to see health inspectors making inspections of establishments to

enforce the regulations. Mr. Hegarty stated that he likes the idea of pre-sterilized, encapsulated earrings device and does not support the use of the stud guns. Mr. Hegarty stated that some of the ear piercings are the hardest piercing to perform and the regulations needs to specifically state for ear piercing, piercing of the ear lobe only; other piercing of the ear, industrial piercing inside and the outer portions require more skill and needles, piercing the cartilage she never be attempted with a gun. Mr. Hegarty said although he is not familiar with pre-sterilized, encapsulated earrings device he would not use this device for ear piercings outside of the ear lobe. Mr. Hegarty concluded by stating he hopes the Board, very soon get artists on the Board; it is very important that industry has representation from its peers.

Mr. Ferguson opened the floor for rebuttal of comments received.

### Rebuttal

Cristena Morrow, of Richmond, Virginia, stated she does not agree that the male and female genitalia performances are too high. Ms. Morrow stated, if you're not going have the performances you should not be performing the piercings and for those persons in rural areas where the demand is very low they can seek their performances hours by traveling outside of there area to other shops where the demand is more prevalent. Ms. Morrow stated the male and female genitalia is a very dangerous area to perform piercing and does not feel that the proposed 12 performances hours are enough and lowering the hours could result in limited skill for such a delicate area where a variety of problems could occur. Ms. Morrow concluded by reiterating the importance of having training in performing the male and female genitalia piercings and not lowering the performances hours.

Derick Ackelson, commented on the ear piercing only profession being limited to piercing the ear lobe only, stating that piercing the ear where cartilage is found with a blunt object or jewelry can result in cracking the cartilage. Ear piercing outside of the ear lobe requires a needle for effective and safe practice and training.

Joe Hegarty, commented on the ear piercing only profession, stating that the way he is reading the regulations, the stud gun is an illegal device, because it is not a pre-sterilized ear-piercing system and does not support their use.

Kathleen Russell, reiterated her concern of the separation of the ear piercing and body-piercing industries and asks that the professions be recognized as two distinct professions.

Jessica Weaver, commented on the pre-sterilized, encapsulated earrings device, stating she is familiar with its use and pediatricians recommend

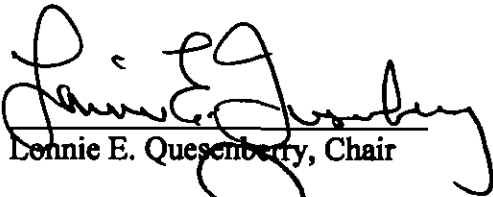
its use for ear lobe piercings. Ms. Weaver stated that using any type of gun is poor for use where cartilage is concerned; a surgical needle should always be used where cartilage is found for optimum results.

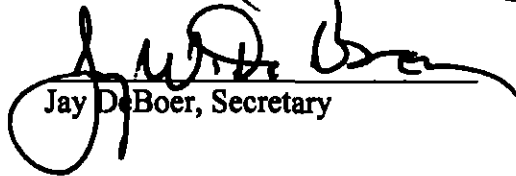
Mr. Ferguson thanked the participants for taking their time to express their opinions and advised them that the Board would take their comments under consideration.

Mr. Ferguson also stated that the board office will accept public comment until Friday, March 10, 2006, should there be additional comments.

The public hearing adjourned at 11:00 a.m.

**Adjourn**

  
Lonnie E. Quesenberry, Chair

  
Jay DeBoer, Secretary

**COPY TESTE:**

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Custodian of the Records