



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

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### **18 VAC 41-30 – Hair Braiding Regulations Department of Professional and Occupational Regulation July 22, 2004**

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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 600 of the 2003 Virginia Acts of Assembly, the Board for Barbers and Cosmetology (board) propose to promulgate hair braiding regulations that contain the requirements for obtaining a license, renewal and reinstatement, 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 hair braiding services are provided.

### **Estimated Economic Impact**

Chapter 600 of the 2003 Virginia Acts of Assembly defined hair braiding, clarified that hair braiding is part of the protected scope of practice of cosmetologists in Virginia, and authorized the "subregulation" of hair braiders, braiding salons, and braiding schools. Hair braiding is defined as, "the braiding, twisting, wrapping, weaving, extending, or locking of natural human hair by hand or mechanical device." Braiding does not include hair cutting or the

application of dyes, reactive chemicals, or changing the color of the hair or straightening, curling, or altering the structure of the hair.

Commercial hair braiding salons exist in many areas of Virginia. In some instances, the individuals performing hair braiding in these salons are not licensed cosmetologists. Since the practice of cosmetology includes the “arranging” of human hair (§ 54.1-700), many of these salons are arguably operating in violation of § 54.1-703 of the Code, which prohibits the practice of cosmetology without a license. In 2002, a braiding salon in the Tidewater area was forced to close because the individuals braiding hair in the salon did not have a cosmetologist license and the salon itself did not have a license.<sup>1</sup>

Under the 2003 law, unlicensed individuals may braid hair provided they do so under the direct supervision of a cosmetologist or barber. In addition, the legislation provided for the licensure of hair braiders, braiding salons, and braiding schools. The legislation set forth conditions for the board to waive the examination requirements for licensure as a hair braider for any individual making application for licensure between July 1, 2003, and July 1, 2004, and required regulations to be effective no later than July 1, 2004.

Under the proposed regulations an individual can become a licensed hair braider by becoming eligible to sit for a board-approved written examination, paying the examination fee,<sup>2</sup> passing the exam, and paying a \$55 application fee. An individual can become eligible to sit for a board-approved written examination via one of the following methods: 1) completing a board-approved hair braiding training program in a Virginia licensed cosmetology or hair braiding school, 2) completing a hair braiding training program outside of Virginia that the board deems to meet or Virginia’s standards for an approved program, 3) completing a Virginia public school hair braiding training program approved by the Virginia Department of Education, 4) completing hair braiding training in a program approved by the Virginia Department of Corrections, 5) having had a minimum of two years hair braiding experience in the United States armed forces, 6) or possessing a Virginia cosmetology license.

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<sup>1</sup> Source: Department of Professional and Occupational Regulation.

<sup>2</sup> Per the proposed regulations, “The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated . . . . The fee shall not exceed \$225.00 per candidate.”

Board-approved hair braiding programs must consist of curriculum and performances over at least 170 clock hours. The curriculum instruction must last a minimum of 40 hours. “A licensed hair braiding school or cosmetology school with an approved hair braiding program may conduct an assessment of a student’s competence in hair braiding and, based on the assessment, give a maximum of 130 hours of credit towards” the required hours of performances. Thus, an individual with previous hair braiding skills and knowledge will be required to go through 40 to 170 hours of training, depending on the scale and scope of their previous skills and knowledge.

This represents a substantial cost savings versus the situation prior to the 2003 legislation. Prior to that legislation one could only legally sell hair-braiding services by obtaining a cosmetology license. In order to earn a cosmetology license the applicant must have 1,500 clock hours of training versus the 170 hours required for the hair-braiding license. A 1,500-hour cosmetology program costs students about \$4,000; while a 170-hour program on hair braiding will cost approximately \$1,500.<sup>3</sup> If the student can obtain the maximum of 130 hours of credit due to demonstrated competence, then the cost will be about \$500.<sup>4</sup> Much of the cosmetology program training contributes little to the future competence of a hair braider. Thus, the 2003 law and the proposed regulations make it easier and less costly for an individual to become a licensed hair braider without reducing the relevant training and display of knowledge and skills to gain licensure.

Many hair braiders learn their skills in informal settings such as the home. The proposed regulation acknowledges this by allowing applicants to “test out” of the braiding skills portion of the training. Thus, those who learn braiding in informal settings will not be required to take costly redundant training. In addition, people who wish to learn hair braiding may choose to learn these skills outside of formal classroom settings before taking the minimum of 40 hours of classroom training. This provision allows individuals increased flexibility in how they obtain their braiding skills. For example, one could serve as an apprentice in a cosmetology salon, observe work in a braiding salon, watch videos, practice on friends and family. Ultimately, the only thing that matters is the ability to demonstrate the mastery of the basic braiding skills.

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<sup>3</sup> Source: His & Her Academy, Richmond Virginia.

<sup>4</sup> Ibid.

On the other hand, there is doubt that that even the 170 hours of required training under the proposed regulations are necessary to protect the health and safety of the public. The core 40 hour curriculum is intended by the board to address mostly health and safety issues. However, the risk to the public from receiving hair-braiding services from an individual who has little or no formal training is very small. For example, there is no evidence that unlicensed hair braiders transmit disease. One potential concern is that braiding too tightly near the scalp could result in hair loss. Repeated and prolonged tight braiding of hair can result in permanent damage to hair follicles.

While having licensed braiders aware of the potential problems of prolonged tight braiding of hair would probably be helpful in avoiding some cases of permanent hair loss, it is not at all clear to what extent this would be the case. The effects of the training would largely come through the braider's advice to the client. A customer who wishes to alternate unbraided hair with braided hair is at little risk of hair loss. Such a customer may rationally choose tight braids for their more stylish appearance. Also, a customer may choose a sequence of different braiding salons, in which case, no single braider would be in a position to prevent follicle damage. The braiders would only be able to affect customer behavior through their advice to clients.

Braiders have a clear incentive not to be responsible for hair loss. A braider causing hair loss is likely to develop a poor reputation, may have difficulty keeping and obtaining new clients, and would probably be at risk of legal action. While some training to help advise customers about hair loss due to tight braiding may be justified, this same end could likely be accomplished at lower cost by having braiders offer their customers a pamphlet with current information about how to avoid hair loss.

Most of the remaining required curriculum proposed by the board is not supported by any evidence that it is likely to protect public health and safety. It is unlikely that most of this core curriculum will have any economic benefit.

As already discussed, the additional 130 hours of practical training is optional and amounts to a requirement that braiders demonstrate a minimal competency at the craft before sitting for the licensing exam. While such a requirement is probably not necessary to protect the public health and safety, it is envisioned in the statutory provisions. This provision will not

likely have a large economic impact since it is unlikely that many people lacking minimum competency at braiding would apply for a braiding license. It is likely that a significant portion of the individuals potentially interested in offering hair-braiding services are of modest means. Given that the cost of required training will likely range from \$500 to \$1,500,<sup>5</sup> some individuals of modest means will be discouraged from legally offering hair-braiding services. Discouraging these individuals from entering a profession for which they may already have the requisite skills produces significant economic costs in lost labor productivity and possibly increased expenditures on public assistance. It is not clear that the benefits of the required training exceed the cost of reduced employment and income for some low-income Virginians.

There appears to be little economic justification for subjecting hair braiding to any licensing requirements. The minimal potential for significant harm to the consuming public, the long tradition of the craft, and the very extensive informal provision of hair braiding services among friends and family all provide reason to believe that hair braiding services is a profession in little need of regulatory oversight.

## **Businesses and Entities Affected**

The proposed regulations affect all individuals who wish to provide hair-braiding services, hair braiding training programs, and their clients. The Department of Professional and Occupational Regulation expects to license at least 150 hair braiders.

## **Localities Particularly Affected**

Localities with larger African-American populations will be particularly affected.

## **Projected Impact on Employment**

If the requirement that individuals needed to possess a cosmetology license in order to sell hair braiding services had been strictly enforced, the proposed hair braiding license would likely have a positive impact on employment since the cost of obtaining a hair braiding license is substantially less than obtaining a cosmetology license. But since the requirement that hair braiders have a cosmetology license was not strictly enforced, the proposed regulations are unlikely to have a positive impact on employment. If the requirement that hair braiders have a hair-braiding license in order to sell their services is enforced more strictly than the cosmetology

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<sup>5</sup> Ibid.

license requirement was enforced for hair braiders, then the introduction of these regulations may reduce employment in hair braiding since the cost of obtaining a hair braiding license will likely discourage some entry into the profession. It is likely that a significant portion of the individuals potentially interested in offering hair braiding services are of modest means. Given that the cost of required training will likely range from \$500 to \$1,500,<sup>6</sup> some individuals of modest means will be discouraged from legally offering hair-braiding services.

### **Effects on the Use and Value of Private Property**

The cost for salons to hire hair braiders who may legally provide their services for compensation will be reduced since it will be significantly less costly to obtain a hair-braiding license than a cosmetology license. Lower costs will result in higher value for these salons. Since it is likely that many hair braiders have sold their services without a cosmetology license, if the proposed regulations are strictly enforced the cost for these individuals and their employers to offer hair-braiding services will increase. Higher costs will result in lower value for these salons.

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<sup>6</sup> Ibid.