



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Barbers and Cosmetology
Virginia Administrative Code (VAC) citation(s)	18 VAC 41-50 18 VAC 41-60
Regulation title(s)	Tattooing Regulations Body-Piercing Regulations
Action title	General Review
Date this document prepared	June 1, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board for Barbers and Cosmetology (the Board) seeks to amend its current regulations governing tattooing and body-piercing to ensure they are as least intrusive and burdensome as possible, while still protecting the health, safety, and welfare of the public. The regulations will be reviewed to make sure that they accurately reflect current professional and industry standards and are consistent, clearly written, and easily understandable.

The Board will also consider amending current regulations to allow the tattoo and body-piercing apprenticeships to be administered by the Virginia Department of Labor and Industry. The Board may make other changes it identifies as necessary during the regulatory review process.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Subsection A.5 of § 54.1-201 of the *Code of Virginia* states 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. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.”

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

Changes in the body art industry, and the time elapsed since the last regulatory changes, warrant review. The Tattooing Regulations have not been amended since their initial promulgation in 2006 (other than purely fee-related changes). Several sections appear appropriate for being brought into alignment with other Board-regulated professions to reduce the regulatory complexity for tattooers and body-piercers without compromising the health, safety, or welfare of the public.

Additionally, the Board believes that allowing the tattoo and body-piercing apprenticeships to operate under the Virginia Department of Labor and Industry will provide a more standardized apprenticeship, improve training and minimum competency, and ensure apprenticeships are conducted in compliance with state and federal labor laws. Reviewing the regulations for clarity will facilitate increased compliance and, ultimately, better protection of the public’s health, safety, and welfare.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Any proposed changes to existing regulations, or proposals for new regulations, will comply with §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, as well as the principles of Executive Order 17 (2014). The intent of the general review of existing tattooing and body-piercing regulations is to improve clarity; ensure consistency with current professional and industry standards; and minimize regulatory burdens. The Board will strive to ensure any changes are as least intrusive and burdensome as possible, while protecting the public’s health, safety, and welfare.

The Board will also consider amending current regulations to allow the tattoo and body-piercing apprenticeships to be administered by the Virginia Department of Labor and Industry. Other changes which may be necessary may also be considered.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Although no alternatives have been identified at this time, the Board may make other changes to the regulatory action under consideration if alternative proposals are identified during the regulatory review process, and after consideration of any public comment submissions.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including: ideas to be considered in the development of this proposal; the costs and benefits of any alternatives to this regulatory action; and the potential impacts of the regulation. Additionally, public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is also seeking information specific to any impacts on small businesses (as defined in § 2.2-4007.1 of the Code of Virginia). Such information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so by one of the following methods:

- Via the **REGULATORY TOWN HALL website** at <http://townhall.virginia.gov/>

OR send to the attention of:

Demetrios J. Melis, Executive Director
Board for Barbers and Cosmetology

By E-MAIL to:

barbercosmo@dpor.virginia.gov

By FAX to:

(866) 245-9693

By U.S. Mail to:

Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the *proposed* stage of this regulatory action. Notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.