



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 41-50 – Tattooing Rules and Regulations Department of Professional and Occupational Regulation October 14, 2004

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 869 of the 2002 Acts of the General Assembly, the Board for Barbers and Cosmetology (board) proposes to establish Tattooing Regulations. The proposed regulations address: 1) requirements for obtaining a tattooer license, 2) requirements for a tattooing apprenticeship sponsor, 3) tattoo parlor licensure, 4) fees, 5) license renewal, 6) client qualifications, disclosures, and records, and 7) grounds for licensure revocation, etc.

Estimated Economic Impact

Currently tattooists and tattoo parlors are not licensed or certified by the Commonwealth. Pursuant to Chapter 869 of the 2002 Acts of the General Assembly, the board proposes to establish regulations that require that providers of tattooing services be licensed, and detail how licensure may be obtained. Licensure of tattoo artists and tattoo parlors can be beneficial to the public in that transmission of disease and occurrences of injury may be reduced due to required instruction concerning disease transmission and safety procedures, and physical facility and

operations requirements that are designed to minimize such risks. The U.S. Food and Drug Administration (FDA) considers tattooing to bear a strong risk of infection; the FDA currently prohibits persons who obtain a tattoo from donating blood for one year, due to the infection risk.¹

Also, clients will receive their tattoos from either an experienced artist, or from a new artist who is supervised and trained by an experienced artist. Without licensure the artist could be someone with very little experience who is receiving no supervision or training. The requirement that tattooists be either experienced or supervised and trained by someone who is experienced may reduce the frequency that inexperience-related substandard tattoos are provided by professionals.

On the other hand, introducing required licensure will likely reduce the supply of tattooing services and increase the market prices for those services. As will be detailed below, the costs for an individual to offer tattooing services, who has not become licensed via a “grandfather clause,” will increase significantly with the introduction of the licensure requirement. Some potential tattoo artists who would have chosen to sell their services without the licensure requirement will likely chose not to sell tattooing services if they must face the time and dollar costs associated with obtaining licensure. Reduced competition for those that do offer services will likely result in higher market prices for those services.²

Fewer professional practitioners offering services and higher prices may encourage more individuals, particularly teenagers, to obtain tattoos from friends or other amateurs. According to a recent article in the journal *Contemporary Pediatrics*,

Teenagers often obtain tattoos from friends or other amateurs or tattoo themselves using straight pins, pencils, or pens and mascara, charcoal, or dirt as pigments. ... These types of tattoos carry a high risk of infection and reactions to the materials used as pigments.³

To the extent that potential higher prices and reduced numbers of professionals induce some price sensitive and distance sensitive⁴ individuals to obtain their tattoos from friends or other

¹ Source: Martel, S., and J. E. Anderson (2002).

² Source: Kleiner, M. M. (2000).

³ Source: Martel, S., and J. E. Anderson (2002).

⁴ A reduced supply in professional tattoo artists will result in fewer tattoo parlors and increased average distance to a tattoo parlor for potential clients.

amateurs rather than from professionals, the benefit of potential reduced unsanitary and unsafe practices by professionals may be partially offset.

Tattooer licensure

Section § 54.1-703 of the Code of Virginia requires that no person engage in tattooing without a valid license issued by the board.⁵ The board proposes three methods by which individuals can become licensed tattooists in Virginia:⁶ 1) passing a board-approved examination, 2) holding current licensure in another U.S. jurisdiction that has substantially equivalent licensure requirements, or 3) qualifying under a “grandfather clause.” In order to become eligible to sit for a board-approved tattooist licensure examination, the applicant must first successfully complete a board-approved apprenticeship program. In order to become eligible to enroll in a board-approved apprenticeship program, the applicant must first satisfactorily complete a course in health education to include but not limited to blood borne disease, sterilization, and aseptic techniques related to tattooing, first aid, and CPR.

The proposed regulations specify that an approved apprenticeship program must consist of:⁷

- . At least 350 hours devoted to theory pertaining to microbiology, immunization, safety, blood borne pathogen standards, and professional standards.
- . At least 150 hours devoted to theory pertaining to sanitation and disinfection.
- . At least 1,000 hours devoted to practical training, including at least 100 performances.

⁵ Section § 54.1-701 of the Code of Virginia states that “The provisions of this chapter shall not apply to: 1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic; 2. Registered nurses licensed to practice in the Commonwealth ...” Read literally, Section § 54.1-701 exempts physicians, registered nurses and others from the requirement that they obtain a license issued by the board in order to engage in tattooing or body-piercing for pay (Section § 54.1-703). The Department of Professional and Occupational Regulation has interpreted the General Assembly’s intent to be that no person shall engage in tattooing for pay without a tattooing license.

⁶ Applicants must also: 1) have received the full series of Hepatitis B vaccine or provide proof of immunity by blood titer, 2) be in good standing as a tattooer in every jurisdiction where licensed, certified, or registered, 3) disclose their physical address, 4) certify that they have read and understood the Virginia tattooing license laws and the board’s tattooing regulations, and 5) not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of tattooing.

⁷ The proposed regulations also specify that a combined maximum of 700 hours of credit may be granted towards the theory pertaining to microbiology, immunization, safety, blood borne pathogen standards, and professional standards requirements and the practical training requirements for an apprentice who is assessed to already possess competence in those areas.

All of the above training must be provided by an approved apprenticeship sponsor. To become an approved apprenticeship sponsor individuals must hold a current Virginia tattooer license and have had at least seven years of legal practice as a tattooist. No demonstration of knowledge or skill through testing or otherwise is required to become an apprenticeship sponsor. Initially most approved apprenticeship sponsors will have received their Virginia tattooer license via the “grandfather clause.” Potentially a small number of sponsors may obtain Virginia licensure via holding current licensure in another U.S. jurisdiction that has substantially equivalent licensure requirements.

The “grandfather clause” states that persons who (i) apply for licensure between July 1, 2004 and July 1, 2005, and (ii) have completed five years of documented work experience as a tattooer, and (iii) have completed health education to include blood borne disease, sterilization, and aseptic techniques related to tattooing and first aid and CPR that is acceptable to the board, are not required to take the licensure examination. Since individuals that obtain licensure through this method are not required to take the licensure examination, they consequently do not need to complete an apprenticeship either.⁸

In a 2001 study published in the journal *Public Health Reports*,⁹ researchers found that “Tattooists have an understanding of the risks associated with exposure to blood, but this knowledge is not fully operationalized in the workplace. Interventions should focus on needle disposal, handwashing, cross-contamination, and cleaning prior to sterilization. Tattooists with (at least) 10 years of experience are most in need of intervention.” Thus this study found that tattooists with 10 years or more of experience were more likely to practice in an unsafe manner than less experienced practitioners.

Since most initial apprenticeship sponsors will have obtained their license via the “grandfather clause” which does not require the passing of an examination or any other demonstration of knowledge or skill, and the available research does not provide confidence that all or most experienced tattooists are competent to teach proper procedures to mitigate health and

⁸ For those who apply after July 1, 2005, completion of an apprenticeship program and a passing grade on the licensure examination are required. In addition, before July 1, 2005, even those people who are highly knowledgeable and skilled in safely working with needles (a nurse, for example) must complete an apprenticeship program since they do not have the requisite work experience in the field of tattooing.

⁹ Source: Raymond, M. J., P.L. Pirie and L.I. Halcon (2001).

safety risks, the potential benefit of requiring licensure applicants to complete an apprenticeship program may not be large.

Tattoo parlor licensure

Section § 54.1-704.1 of the Code of Virginia prohibits tattoo parlors from operating without a board-issued license. In order for a tattoo parlor to be licensed, its physical facilities and operations must meet numerous requirements designed to minimize the transmission of disease and occurrences of injury. Requirements include (but are not limited to):

- . General cleanliness.
- . Physical facilities kept in good repair.
- . Blood spill clean-up kit in the work area.
- . Disinfecting of surfaces that come in contact with blood with an EPA registered germicide solution.
- . Cabinets for the storage of instruments, dyes, pigments, single use articles, carbon stencils, and other utensils for each tattooer.
- . Disposal of all materials applied to the human skin after each use.
- . Tattooing area be constructed of smooth, hard surfaces that are non-porous, free of open holes or cracks, light colored, and easily cleaned.
- . Lighting of at least 50 foot-candles of illumination in the tattooing and sterilization areas.
- . Adequate mechanical ventilation.
- . Hand-cleaning facilities with unobstructed access to the tattooing area such that the tattooer can return to the tattooing area without having to touch anything with his hands. The hand-cleaning facilities must be equipped with: 1) hot and cold (or tempered) running water under pressure and liquid germicidal soap, or with a sanitizing solution to clean hands, 2) single-use towels or mechanical hand drying devices, and 3) a covered refuse container.
- . No animals in the tattooing or sterilization areas.

No use of tobacco or alcoholic beverages in the tattooing or sterilization areas.

Compliance with each of these proposed requirements will likely reduce the probability of either disease transmission or injury occurring during the operation of the tattoo parlor. No accurate estimates of the reduced probability of disease transmission or injury are currently available. Thus, a useful comparison of the estimated value of such a reduced probability of disease transmission or injury to the costs of complying with the requirements cannot be currently made.

Fees

In order to pay for the administrative costs of licensing and otherwise regulating tattooists and tattoo parlors, the board must assess fees. The proposed fees are listed in the following table.

<u>Licensure Fee Type</u>	<u>Amount Due</u>
Individual:	
Initial	\$55
Renewal	\$55
Reinstatement	\$110 (includes \$55 renewal fee and \$55 reinstatement fee)
Parlor:	
Initial	\$90
Renewal	\$90
Reinstatement	\$180 (includes \$90 renewal fee and \$90 reinstatement fee)

Individual and parlor licenses expire two years from the last day of the month in which they are issued. The fee for examination or re-examination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§2.2-4300 et seq. of the Code of

Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225.00 per candidate.

Businesses and Entities Affected

The department estimates that 500 individuals and entities will seek licensure as a tattooer or a tattoo parlor. Purchasers and potential purchasers of tattooing services are affected as well.

Localities Particularly Affected

All Virginia localities are affected by these proposed regulations.

Projected Impact on Employment

The costs imposed by the proposed regulations will likely discourage some individuals from pursuing tattooing as a profession. Thus, total employment in this profession is likely to be lower than it would be without licensure.

Effects on the Use and Value of Private Property

The proposed requirement for a lengthy apprenticeship will likely discourage some individuals from pursuing tattooing as a profession. The fees charged to practitioners and parlors may discourage entry of tattooers and tattoo parlors as well. On the other hand, the reduced competition should enable practicing tattooers and tattoo parlors to charge higher prices for their services. This will tend to increase the value of already existing businesses, and may very well exceed the increased costs of paying licensure fees and other costs associated with licensure (such as meeting some physical facility requirement that would not have been met without licensure requirements, for example).

References

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